

Minutes of the **Regular Meeting** of the **Riverdale City Council** held Tuesday, **October 11, 2005** at 6:00 pm at the Riverdale Civic Center, 4600 South Weber 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, City Administrator  
Randy Daily, Community Development Director  
Lynn Moulding, Public Works Director  
Lynn Fortie, Business Administrator  
Paige Ansley, Public Safety  
Stevin Brooks, City Attorney (arrived at 7:20 p.m.)  
Jan Ukena, City Planner  
Cindi Mansell, City Recorder

Noelle Maki	Rob Goodwin	Sherry Goodwin
Ashley Emerson	Caitlin Ansley	Tyler Schwaneverdt
Gary Griffith	Janae Humphrey	Brent Litz
Elisa Poyraz	Norm Frost	Kathy Tanner
Jamie Stoddard	Rose Lund	Karen Parks
James Parker	Alan Grinnell	Ted Combe

Mayor Burrows called the meeting to order and welcomed those present. Councilor Hadden led the Pledge of Allegiance. Mayor Burrows then offered a quote from Christopher Columbus; followed by a Moment of Silence.

### **Consent Items**

#### **Approval of Minutes**

Mayor Burrows stated that the Council has the minutes from the Work Session and Regular Meeting of September 20, 2005. Several amendments to the minutes were proposed.

**Motion** Councilor Gibby moved to approve the Common Consent items with the amendments to the minutes as proposed. Councilor Haws seconded the motion. The motion passed unanimously.

### **Litz & Company - FY 2005 Annual**

Mr. Fortie explained the City Auditors have completed the FY2005 audit. He stated they are here to present their findings and entertain any questions concerning the audit. He also referenced the additional chart of accounts information as requested by the City Council.

Brent Litz, Litz & Company, addressed the Council. He made introduction of Janae Humphrey as well.

Mr. Litz stated he would like to convey his appreciation to the Finance Department and all Department Heads during the audit process. He stated he would like to provide a quick review of the audit.

Mr. Litz stated a clean opinion on the financial statements was issued; meaning Litz. & Co. feels they properly reflect the activities and balances in accounts at the end of the year. He referenced page 45, opinion report on internal control and compliance. He stated there are no items to discuss.

Mr. Litz referenced page 47, Independent Auditors' State Legal Compliance Report. He stated this relates to the State Auditor requirements and requires the review of certain items as listed. He stated one question that was raised is the rate of tax certified with Weber County is not the same rate as was utilized in the internal budget process.

Mr. Litz distributed several illustrations, and addressed General Fund Revenue Sources; General Fund Expenditures; Revenue and Expense Analysis & Comparison. He discussed, for example, that Riverdale City rates highest on their sales tax revenue (59%); which most likely correlates to the high expenditure in Public Safety (52%). He explained most other municipalities are below in their expenditure for Public Safety; thus obviously, the two come together. He stated the sales tax does not come free, and this documentation to analyze and compare Riverdale to other local cities is a good source to determine where money is coming from as well as spending resources.

Mr. Litz referenced the Management recommendation items: including the encouragement of semi-annual review and resolve of old stale checks that linger on the bank reconciliation. He stated there is also the encouragement to add the new premium to the existing Treasurer's Bond policy to increase the limit to meet State requirements. Mr. Litz continued the program and dollars expended to date on the Housing Loan Repair Program do not become significant in terms of the financial statement; however, as that particular program increases, the discount interest rate or delinquency rate may have an effect. He stated it is recommended to check the loan loss reserves and value of future cash flows, which will become a bigger part of financial reporting future.

Mr. Litz stated in conjunction with Employee Associations or organizations, and fund raising activities; it is not quite clear whether those are City sponsored or City endorsed. He stated the recommendation has been made for terms and arrangements by Public Safety Employees be clarified in terms of City involvement. He stated this may involve exposure that may not have even been thought about; and provided the example of a City-sponsored event and the resulting need for anticipated insurance coverage to equipment, worker's compensation, etc. He stated an internal control system to collect money and flow out would flow through normal City operations. He stated if these activities are not City sponsored, there is the need to clarify the relationship and determine if City insurance is going to be needed. He stated there is ultimately the need for proper internal controls.

Councilor Haws expressed concern that page 5, total net assets, does not match the total net assets ending on page 7. He stated some are the same and others are not within the

governmental activities column. Mr. Litz explained there are sets of governmental accounting that do not include fixed assets or even full accrual accounting. He stated these numbers could result from different reports and accounting; relative to Gasby 34 rules.

Councilor Haws inquired if the end-of-year budget amendment is not viewed as a budget amendment. He stated the report indicates only one budget amendment, yet he is aware of one amendment as well as the budget amendment and clean-up at the end of the budget year. Mr. Fortie stated he would have to look into this issue.

Councilor Hadden inquired if City employees were asked if they were aware of any mishandling of funds. Mr. Litz explained the City Council, Administration, Finance Department, and Community Services employees were all questioned and nothing came to attention. Councilor Hadden stated he feels it to be good practice to at least ask.

Councilor Haws referenced page 24, subsection (c), "The City applies only the applicable FASB pronouncements issued on or before November 30, 1989". Mr. Litz explained the authoritative body that sets standards for the government has gone through an overhaul; and were setting policy as relating to enterprise activities through that particular time. He stated the current body may not set policies and procedures; and this statement is merely a requirement for listing.

Councilor Haws referenced page 29, Note 9, Retirement Plans. He stated the plan description section talks about with and without; yet both are left in. Mr. Litz explained the State of Utah is the sponsor for this plan; and certain municipalities may or may not choose to adopt certain provisions. He stated this basically reflects the terms the state has adopted for those particular plans.

Councilor Haws further inquired as to the reference of communications to an audit committee. Mr. Litz stated by default, if the City Council does not create an Audit Committee; they become the Audit Committee. He stated the audit is obligated to report specific items to the City Council; and discussed unbooked or past entries. He stated although the dollar amount is not enough to change, the first section were entries booked from the original trial balance to the final financial statements; and are included in the documents presented this evening.

Councilor Haws inquired as to compensated absences being changed to reserved. Mr. Litz explained this is a reversal from debit to credit; to remove this from a negative asset to a true liability and to reflect presentation purposes. He stated this was more of a reclassification.

Mr. Litz stated it has been a pleasure working with Riverdale City.

**Motion** Councilor Gibby moved to accept the FY2005 Audit Report as presented. Councilor Haws seconded the motion. The motion passed unanimously.

**Proposed Amendments - Nonresidential Development Landscape Requirements**

**Public Hearing**

Mayor Burrows explained a public hearing is necessary to receive comments from the citizens of Riverdale concerning the proposed amendments to Title 10, Chapter 14, Section 12, Nonresidential Development Landscape Requirements. He then opened the public hearing for public comment at approximately 6:41 p.m. He affirmed proof of publication.

Mrs. Ukena explained staff wanted to clean up some areas in the landscape ordinance that were not consistent or that did not make sense. She stated some of these requirements, when they were done - they were not done to standard (such as setback area provisions).

Inquiry was raised as to why residential was added to this particular section. Mrs. Ukena explained that Chapter 28 is the residential landscape plan that mandates the requirement of landscape in a residential area. She stated it includes items such as fencing and hardscape requirements. She explained that Chapter 28 is a general guideline, but staff is proposing to add residential/non-residential landscaping that is going to be required up front for residential yards to be landscaped prior to approval of occupancy. She stated Chapter 28 is a general guideline for the entire area, and she feels this item should remain in Chapter 14 but could possibly be included in Chapter 28 (similar to fencing provisions).

**Motion** There being no public comment, Councilor Haws moved to close the Public Hearing at 6:43 p.m. Councilor Jenkins seconded the motion. The motion passed unanimously.

Councilor Jenkins expressed concern as to the clarity of the legal notice. She stated although it may have been posted legally, there is a residential aspect and she feels those changes could matter to the public. She stated this proposes to mandate a new requirement on the residential side prior to occupancy, and she feels the amendments should be moved back into residential. Mrs. Ukena stated although these provisions could be located in both places; she does not feel the entire proposal should be moved into residential.

Councilor Jenkins expressed concern as to public concern relative to not being informed or notified. She stated this change includes residential as well as non-residential. Ms. Mansell assured the Council they were in proper compliance with legal noticing requirements. Councilor Jenkins expressed further concern this includes a new addition to the ordinance as well as a title change. Mayor Burrows stated he feels this to be a valid concern that would perhaps preclude someone from coming in and thinking they did not have commercial property; and therefore, did not have to be concerned with this new landscaping requirement. There appeared to be Council consensus in agreement to this concern.

Mayor Burrows stated he feels the need to start over with the process to ensure notification; should the Council determine to leave the residential reference part of this ordinance. He stated one option could be for removal at this point; and to put it back into residential. Councilor Jenkins stated she can see this ordinance as being valid when talking two-family, condominium, and townhouses that may not be covered in the residential landscaping ordinance. She expressed concern as to having the same information in two

places; stating any change would require amendment to both sections of the code. She inquired if it would be easier to remove it for right now.

Councilor Gibby stated he feels the need to include the same language in both ordinances; and would recommend moving ahead and passing the ordinance. He stated staff can then proceed to amend the residential landscaping ordinance.

Councilor Brough stated she would concur there is a big difference between single family residential areas, and apartments, condos and townhouses. She stated as a result, she would have a problem with this being in this section; as well as issues with wording. Mr. Daily suggested removal from this ordinance; and combining into the residential landscaping ordinance. He stated this can be returned to the Planning Commission; and they can then hold a public hearing based on residential landscaping ordinance amendments. Mr. Hansen stated should the Council determine they can live with apartments, condos and townhouses in this section, perhaps the single family and two family language could be removed and everything else remain the same.

It was noted that apartments, condos and townhouses are technically residential. Mr. Daily explained the residential landscaping ordinance does deal with multiple types residential. Mr. Hansen stated for purposes this evening, would striking the reference to single and two-family language remove any issues. He stated the residential side could be revisited later with the proper public process.

Councilor Jenkins stated the only difference from the residential landscaping ordinance is that it does not hold anyone building to landscaping being done. She stated would not the regular building process force this anyhow. Mr. Daily stated it would not; however, it would mitigate that issue by having that wording remain. Mrs. Ukena stated to make this cleaner, she would suggest removing the residential and keeping it intact; holding public hearings, and then putting in the residential.

Councilor Gibby stated he would like to follow Mr. Hansen's recommendation. Councilor Haws referenced the concept of this ordinance going into effect immediately upon signing, posting, etc. He inquired if a home already under construction would have to adhere to these requirements. Mr. Daily stated it would not apply if a building permit has already been issued and a home is already in the construction phase. He stated this is a new requirement. Councilor Haws stated he would prefer to pull out the entire section. ***There appeared to be Council consensus to send this item back to the Planning Commission for rework.***

Councilor Jenkins referenced new development; and the requirement for 20% of all lot area to be landscaped. She stated there is also reference to the Planning Commission having discretion as to floodways, wetlands and undisturbed hillsides counting up to 5% of the landscape requirement. She expressed concern that neither the City Council nor the Planning Commission would have jurisdiction over floodways or wetlands; and therefore, offering landscape value seems odd.

Mrs. Ukena stated this same issue was addressed during the Planning Commission, She stated although there may be a wetland that the City does not control, providing credit for making this part of a landscaping plan would be better than just fencing it off. She stated typically, this type of property is owned by the people doing the development. She stated if they are paying taxes, they should be given credit. Mrs. Ukena stated she has seen these types of areas that are incredibly aesthetic; enhance the overall business appearance, as well as the utility of the property.

Councilor Jenkins made reference to a PRUD development, and a common area that was given as wetlands. She stated she had thought everything that the Army Corp either mitigates or determines as federally protected does require a seven-foot fence. She stated she is not sure anyone has the latitude to grant credit for these types of areas; as they appear to have their own set of guidelines. Councilor Hadden then discussed the difference between federally recognized wetland and engineered wetlands.

Mrs. Ukena explained that anything under an acre of wetlands is not regulated. She stated this concept mainly would adhere to smaller pieces.

Councilor Brough expressed concern that this type of credit would mean the City is getting overall less landscaping than what would be required. She referenced the strikethrough of the 20% not including nonbuildable on site areas. Discussion followed regarding the proposed ordinance before the Council, with concern being expressed that it is hard to follow because the ordinance only contains the sections being amended. Councilor Jenkins expressed concern that her intent is not for people NOT to landscape setback areas; stating it is difficult to provide consideration without viewing the entire code section.

Further discussion followed regarding floodways, with Councilor Jenkins stating these types of differing appropriate landscaping throw a totally different twist on things. She stated then staff will have to ensure these areas are kept appropriate; and how much do they want to perform these types of responsibilities. Mayor Burrows stated the Planning Commission would be responsible; and they would bring these back to the City Council.

Mr. Daily offered clarification that the government has given approval for the City to regulate floodways. He stated because floodways sometimes are vast areas, the best thing that can be done is to landscape. He stated they are intended to take peak flows during a flood event; and it is not a bad thing to allow credit for these areas. He stated they cannot build, cannot be parking, etc. because they have to plan for the area to be underwater.

Councilor Gibby expressed the need for the City Council to trust the Planning Commission and their use of discretion in what they will determine is or is not appropriate. Mayor Burrows stated the issue would come back before the City Council for final approval and massaging. He stated he would recommend adhering to the original consensus.

Councilor Haws referenced Nonresidential; Section (A); stating the last paragraph does not read grammatically with the changes as proposed. Further discussion followed regarding

the use of Planning Commission discretion for floodways, and *there was apparent consensus they may offer "credit for UP to 5%" of the required 20%.*

Mr. Brooks offered legal opinion to remove Planning Commission discretion and replace with the wording "may". Mrs. Ukene stated she feels this concept applies to other areas, and has noted to inform the Planning Commission regarding these particular issues.

Further discussion followed regarding the ordinance as proposed, with grammatical and spelling changes being offered. Councilor Haws stated the code never defines xeriscape; yet refers to both xeriscape and hardscape. He inquired if there is a difference. Discussion followed regarding this concept, with Mr. Daily stating he would recommend removal of xeriscape. He stated this has typically been treated differently from hardscape. Councilor Gibby stated he feels both are utilized together to achieve a particular effect; and to enhance each other.

Councilor Hadden referenced floodway areas. He explained that energy is removed from the water through plantings. He stated if an allowance of plantings is allowed within these areas, he feels wording should include "based on approval by the State Engineer's Office". He stated these are the individuals that have control over rivers, bridges, water flow, etc.; and if the Council is going to permit activity within these areas - they should have someone with knowledge of what happens when interfering with a river, floodplain, or floodway. *There appeared to be Council consensus to include wording relative to consulting with the appropriate agency.*

**Motion** Councilor Haws moved to send this ordinance as proposed back to the Planning Commission with the recommendations as given. Councilor Jenkins seconded the motion. The motion passed unanimously.

### **Public Hearing Procedures & Amendments**

#### **Public Hearing**

Mrs. Ukena explained that Senate Bill 60 has mandated many changes. She stated the requirement is now that public hearings for any land use changes, ordinances, zoning, roadways, etc. are to be held in Planning Commission. She stated staff has tried to address each area within the code wherein a public hearing was required to be held by the City Council. She stated these have all been amended to reflect the Planning Commission.

Mayor Burrows explained a public hearing is necessary to receive comments from the citizens of Riverdale concerning the proposed amendments. He then opened the public hearing for public comment at approximately 7:39 p.m. He affirmed proof of publication.

**Motion** There being no public comment, Councilor Gibby moved to close the Public Hearing at 7:40 p.m. Councilor Haws seconded the motion. The motion passed unanimously.

Councilor Haws expressed concern as to the modifications, additions and deletions to 10-1-15. He stated how it ends up as shown is not what it started out to be; and inquired if these

changes were noticed. Discussion followed regarding procedure if something were to be left out, with Ms. Mansell stating this would require a 15-day notice. Mrs. Ukena offered clarification that a sentence was moved, but was not highlighted in yellow to indicate it was an amendment.

Councilor Haws inquired as to removal of the provision "failure of the Planning Commission to take action on the proposed amendment within the prescribed time". Mrs. Ukena explained this is not applicable. She stated before the Planning Commission was required to hold a public hearing - even if they did not act - the issue went on to the City Council for action. She stated now because they will be the body holding the public hearing, they must make a determination for the issue to proceed.

Councilor Haws stated Senate Bill 60 went into effect the first part of May. He stated thus, according to State law, which overrides local law, the public hearing should be at the Planning Commission level. He inquired if a public hearing to make these amendments would be required by the Planning Commission; and stated if there were not one - would it be proper for the Council to proceed.

Mr. Daily stated the City Council has to agree to make the change to not conduct public hearings. He stated the Planning Commission cannot make this determination. Inquiry was raised as to whether it would be legal for the City Council to approve the ordinance, subject to the Planning Commission conducting a public hearing. Mr. Brooks stated this would not be appropriate.

**Motion** Councilor Haws moved to send this issue back to the Planning Commission to conduct a public hearing; and then the issue be returned to the City Council for approval. Councilor Brough seconded the motion. The motion passed unanimously.

**Resolution #31-2005 authorizing agreement with Sizzling Platter, Inc.**

Mr. Hansen explained for some time, the development in the area adjacent to Ruby River, Discount Tire, and the stub road at 550 West, has been partially completed on the east side of Riverdale Road. He stated the property owner, operator/partner of Ruby River have been dealing with difficult issues; some of which are still not in agreement.

Mr. Hansen stated in consideration of critical issues to Riverdale, there have been recent negotiations wherein the City is now dealing directly with the property owner and operator of the restaurant. He stated they have indicated a willingness to make some accommodations to the City that would serve long-term interests as well as mitigate a public safety and parking problem that has existed in this location for a number of years. Mr. Hansen staff would request they be allowed to continue their work to take care of lighting and paving of the parking lot; to be able to increase on-site parking and alleviate patrons parking on Riverdale Road. He stated due to weather conditions, there is the need to complete the pavement as soon as possible.

Mr. Hansen discussed the long term interest and desire, in accordance to UDOT's corridor preservation plan, to have a signalized intersection plan at 550 West. He stated with the current discussions taking place on the west side of Riverdale Road, it has become reasonably imminent that design work and completion of that signalized intersection will be underway within 12 months. He stated that being the case, the City met with the property owners to draft a letter of understanding, or memorandum of agreement.

Alan Grinnell, Sizzling Platter, Inc. stated he agrees with Mr. Hansen's opening statement.

Councilor Haws expressed concern there had not been adequate staff signoff on the Executive Summary sheet for this issue. It was stated this had been put together at the last minute, and there simply had not been adequate time for routing. Councilor Haws stated this issue originally came before the Planning Commission on October 12, 2004; and it is now a year later and something must be done tonight? He stated he feels this could have been accomplished in a more timely manner, and not having had time to look over the memorandum agreement, would like to have time to understand what Riverdale would be agreeing to.

Councilor Haws stated it would appear the City is going to end up having to pay for construction of the last lane of 550 West; and why is this case when it was Ruby River who held up initial completion of the road. He stated had they just agreed at that time, Ruby River Plaza would have completed the road and would have paid for it. Mayor Burrows stated this is all water under the bridge at this time. He stated there was still fair compensation for the property that Sizzling Platter is in control of that the City needs. He stated the values being discussed in this scenario are far less than values originally placed on that property. He stated from an Administrative opinion, this is a better deal for the City than trying to go to litigation and condemnation procedures to acquire this piece of property.

Mr. Hansen explained the development to the north was approved, yet indicated that Ruby River was on board and in approval of that particular plan. He stated in fact, the proposal showed use of property the developer did not own. He stated the build out roadway as accepted by UDOT was not accommodated in the plan that was City approved. Mr. Hansen stated it is known the City wants the intersection built out; and with that in mind, the situation now places the City in a position of requiring that property and acquiring that property.

Mr. Hansen stated the eminent domain process could prove to be time consuming and costly; and without regard to incidental costs relative to parking and site work. He stated with this in mind, the owner of the property and principal operator of the restaurant has now come to the table to enter into good faith negotiations.

Mr. Hansen stressed the need to mitigate this public safety issue; as well as receive buildout at the 550 West intersection. Inquiry was raised as to prospective costs to the City. Mr. Hansen stated although there is no precise number at this point, it is similar to what it would have cost to acquire the property through eminent domain. He explained that

some years ago, this developer had an agreement through the RDA to receive tax increment back in the amount of \$50,000. He stated for reasons unknown, said agreement was never completed by the property owner. In the meantime, during the interim period of time from then until now, Ruby River as a restaurant and through the property owner, have contributed tax increment to the City in excess of \$100,000. He stated none of this was returned to Ruby River; as has been done with other businesses in the City. He stated Ruby River is a good corporate citizen of Riverdale.

Councilor Jenkins stated for the record, the recommendation that came from the Planning Commission originally was to only approve the development if the developer had the property to complete the road. She further referenced provision #6, Ruby River looking at the City to somewhat negotiate a type of agreement with Discount Tire. She inquired if this is even an amenable offer. Mr. Daily stated he had contacted Paul Witherspoon at Discount Tire. He is working with Steve Lowe, they are happy about the completion; and would like to enter into some type of parking after hours agreement.

Councilor Gibby expressed concern that this project is nearing the middle of October; and the fact the paving period will be over within a month. He stated it will take time to prep the site, and expediting this project is important.

Mr. Grinnell stated he would like to speak to the timing issue. He stated although Ruby River has been considered a "stick in the spoke", the developers did try to come up with an agreement but did not. He stated they misrepresented Ruby River; and were sent letters speaking about it as they were trying to get that approval process done. He stated as working through them, it became clear what was being asked for the property was unreasonable and they would not budge. He stated Ruby River did not feel comfortable negotiating until they had more information and felt more comfortable. He stated Ruby River has expended funds to demolish the house and offer more parking; and it has become an urgent need.

**Motion:** Councilor Gibby moved to adopt Resolution #31-2005 authorizing execution of a Memorandum Agreement with Sizzling Platter, Inc. as proposed. The motion was seconded by Councilor Brough.

Roll call vote: Councilor Hadden, Yes; Councilor Brough, Yes; Councilor Jenkins, Yes; Councilor Haws, No; and Councilor Gibby, Yes. The motion passed 4-1.

The Council took a short break at this time (8:15 p.m.)  
The meeting reconvened at 8:20 p.m.

#### **Boundary Adjustment - 4425 South 300 West**

Mr. Hansen addressed the proposed resolution to adjust a common municipal boundary with Washington Terrace. He explained the 300 West project has been ongoing for approximately 8-10 years, and federal funding has granted a 93/7 grant for this project. He stated the entire project is over \$4,000,000 in value; the City's portion - already submitted, is about \$300,000 on deposit with UDOT.

Mr. Hansen stated in order for this project to continue through the different phases, there became the need to acquire construction easements and right-of-way acquisitions. He referenced the area in question, stating it is on the top of 300 West on the southern Washington Terrace border. He stated there are two small businesses; one is a dance studio and one a convenience store. He stated there has been a problem when UDOT tried to deal with right-of-way acquisition; and there were issues of having to purchase these businesses which could unreasonably increase the costs of the project.

Mr. Hansen stated as staff met with representatives of UDOT, Gilson Engineering, and Washington Terrace, they looked at what kind of accommodation could be made to help the project survive. The proposal was to allow for a relocation of some parking for the dance studio to the immediate north of the structure; as the road widening would have taken the parking out in front of the facility. Mr. Hansen stated with regard to the convenience store, the widening project would have eliminated the drive-up window. The proposal is to relocate the window to the back side of the building.

Mr. Hansen stated to provide for these concessions, the boundaries between Riverdale and Washington Terrace are proposed to be slightly modified to allow the convenience store property owner to utilize some of the back side of his property; and to allow the dance studio to utilize property that has already been acquired by UDOT and which they are prepared to offer for parking on the north side of the dance studio.

Mr. Hansen explained both of these businesses are located in Washington Terrace; and they do not want to lose them. He stated in order to salvage the 300 West project, staff felt like this boundary adjustment and subsequent accommodations was a good move and would be a clean change. He stated the Executive Summary indicates this is essential to the completion of the 300 West project because of commitments made to business owners to allow them to continue to operate without having to acquire their businesses. He stated staff would therefore recommend approval of the boundary change as proposed.

Councilor Jenkins expressed concern as to the map, and the proposed boundary line appearing to chop off part of a residential lot. Mr. Daily stated he did not think that anyone else was to be affected but the dance studio and convenience store. Mr. Hansen stated it is not the intent to impact that residential lot. Discussion followed, with Mr. Daily stating he had thought the boundary adjustment would go on a diagonal to the corner to take in the entire residential portion. It was stated that the legal description contained in the proposed resolution must agree with the drawing.

Councilor Jenkins expressed further concern as to past relations with the convenience store owner; and the fact that area residents are not happy with his business. She expressed concern that this business will be given commercial designation in Washington Terrace; and stated she would hate to further impact these residents by having to deal with this. She stated Riverdale is supposed to care about protecting residential neighborhoods, and for her to agree to the concept of disconnect, she would stipulate that the business owner would have to fence, screen, berm, etc. to protect area residents. Councilor Jenkins stated

if Riverdale does not make these types of requirements, it would be up to Washington Terrace to protect a Riverdale residential area.

Mr. Hansen stated he does not feel these types of requirements or provisions to be negotiable. He stated although it can be requested, the business owner is already impacting residents now. Councilor Jenkins stated this adjustment would then allow him to move back 40 feet closer to the residential area. Mr. Hansen stated he has not personally walked the site, which is currently being utilized as a mobilization site during the construction period.

Mr. Hansen stated staff has discussed this issue with Washington Terrace, and they recognize the desire not to adversely impact residents. He stated they have stressed the need to remain committed with zoning and land use requirements. He stated Washington Terrace would be the entity to require these types of stipulations. Councilor Jenkins stated she would require a screen of 100 feet between the lot lines of the Riverdale residences; as they are still in an R-1 zone. She stated this owner has already encroached for a commercial use on a residential piece of property. She stated he has already approached the Planning Commission with this same request; and now he will pave 40 feet and push his stuff back anyway.

Mrs. Ukena stated the nuisance ordinance could enforce the fact that the area is residential. It was stated this has not been effective in the past with this particular business owner.

Rose Lund, area resident, stated this business is a huge factor in the lives of local residents. She stated he has not held up his end of the bargain; and does nothing but move his junk and dirt around. She stated they can all see his junk from their backyards. Ms. Lund expressed concern that this affects their lives, yet all Riverdale cares about is the 300 West project. She stated this man and his business have literally ruined the area. She stated he has brought in so much dirt that she can stand on top of his piles and actually touch a wire on the power line. She stated there is not a retaining wall to hold this amount of dirt, and at some point, it is going to come down into their yards.

Mayor Burrows assured those present that Riverdale is concerned about its residents. He stated as a result, they have spent over \$300,000 to provide for traffic flow into this area. It was stated that area residents do not feel that Washington Terrace will enforce the appropriate regulations on this business. Councilor Gibby stated Riverdale can cite him now and take care of it.

Sherry Goodwin, area resident, stated neighbors have complained time and time again, and nothing has been done for three years ongoing. She stated this area has become a safety hazard.

Mayor Burrows discussed the Council's desire to come to a win/win situation and at least have some leverage with the business owner to get him to fulfill his promises. He stated that is why Riverdale has never allowed him to legally do all the things he has requested. He explained the 300 West project has been looked at closely for about 5 years; and has been

in progress since 1998. He stated even on a percentage basis, the City has invested a considerable amount of funding. He stated it is hoped the project will benefit everyone; but not at the resident's expense.

Councilor Brough inquired if there is any way to retain these properties within Riverdale. Mr. Hansen explained the right-of-way has been acquired by UDOT. Councilor Brough stated she is talking about the ability to allow the businesses to have their parking lots. Mr. Hansen stated Riverdale zoning would not allow parking in a residential zone, and the only option is to change the boundary lines.

Councilor Gibby stated this should not involve the entire piece of property, but just a sufficient amount to let the business continue. He stated the remaining will continue as residential; and the situation can be enforced. Councilor Jenkins stated 41 feet to the west will be paved to retain access to the drive-up window; and Riverdale would have absolutely no control over this area if it were adjusted to Washington Terrace. She stated they would have to deal with the zoning issue to allow the business to continue. She stated there are residential lots behind this business; and there should be the ability for recourse during these negotiations. Mr. Hansen stated with respect to comments about intrusion and behavior, staff will pursue how to handle the situation as a nuisance and deal with it accordingly.

Mrs. Goodwin inquired why nothing has been done in the past - yet can be done now. Mr. Daily stated the owner was cited and does have a court date. He explained the owner basically complies with Riverdale by moving his equipment onto the Washington Terrace side. Then Washington Terrace cites him and he moved it onto the Riverdale side. The owner claims to use the equipment to improve his property. Mr. Daily stated the use of his property during construction is being allowed as a staging area for the roadwork. Concern was expressed regarding the dirt and what will happen in the rain and snow. Mr. Daily stated the City does not regulate dirt. It was pointed out that area resident homes sit well below these piles of dirt.

Councilor Jenkins stated she feels staff should look at trying to mitigate this issue in conjunction with the boundary adjustment. She stated the owner does not appear to care what impact he has to this neighborhood. She stated there may be federal funding granted for the project, but the Council cannot ignore the entire community. She stressed the need for some type of retaining wall or fencing. She stated Riverdale would ask any business to screen a residential area; and she would like to make that a part of this approval.

Mr. Hansen explained Mr. Awadah is not a party to this decision. He stated staff would be receptive to the direction accompanying the approval to step up efforts to deal with the issue on a nuisance basis and work with Washington Terrace to cooperate as well. Councilor Gibby stated the Council could direct staff to look at all options to resolve this problem.

Mr. Daily stated the legal description is not correct. He suggested the Council table the decision until he can get with Gilson Engineering to resolve the legal dispute; and perhaps direct staff to pursue options with the business owner.

Councilor Jenkins suggested the concept of retaining into Riverdale and rezoning to commercial to ensure control. She stated in both cases, there would not be the need for a disconnect and Riverdale retains control over that portion of property in Riverdale City and being zoned commercial with any paving or use on the west side of that convenience store. She suggested the concept of not putting the owner out of business, yet not liking to do business in Riverdale should he not comply. Mr. Daily stated the property does tie into a commercial Washington Terrace piece of property; and the drive-up window would not meet Riverdale commercial ordinance requirements. Discussion followed regarding the concept of spot-zoning, along with how involved Riverdale wants to be in mandating uses on this property.

Mr. Hansen stated in order to get the 300 West project done, something has to happen in these particular boundaries. He suggested a potential course of action in exchange for some reassurance or understanding be reduced to writing as to how to mediate this issue.

Rob Goodwin, area resident, inquired if there is a limit as to how far the property owner can pave. He stated there is already an existing problem with cars cutting across the car wash and through his property to get to the convenience store.

**Motion:** Councilor Haws moved to table the proposed boundary adjustment Resolution of Intent until such time as the legal description is corrected; and to direct staff to work creatively to come to a solution to prevent further intrusion of this business onto residential property. Seconded by Councilor Jenkins. The motion passed unanimously.

**Further discussion - Combe property development**

Mr. Hansen stated in looking back at the minutes from previous Council discussion, there were different comments made as to where Washington Terrace was in this particular issue relative to development of the Combe parcel. He stated representations have since been made that perhaps Washington Terrace is willing to work together with Riverdale. He stated according to their City Manager, Washington Terrace has no desire to facilitate any kind of land taking as long as Riverdale has options of working through this development process. He explained their Council did not want to be portrayed as aggressively pursuing this property as an addition to their city.

Mr. Hansen stated the City Manager did say that where there are issues relative to the provision of services (particularly water and sewer); and Washington Terrace has proposed something similar to existing cooperative agreements with South Ogden where they have had adjoining properties and utilities to cross through. He stated they are willing to provide Riverdale City the ability to then engage the property owners and their developer here in Riverdale City in the process; and would prefer Riverdale exhaust alternatives before considering disconnect. Mr. Hansen stated this development is then becoming more of a worthy consideration.

Mayor Burrows stated as far as the petitioners are concerned, Riverdale City has no desire to hold up the process and desire to be accommodating.

Mr. Norm Frost, petitioner, stated neither he nor Mr. Combe has any other desire but to remain in Riverdale City. He expressed concern as to the slow process involved of approximately eight months. He stated although he would applaud the conversation between Riverdale and Washington Terrace, he would implore the need to move the process along and allow him to present his conceptual proposal.

Mr. Hansen stated Mr. Daily and Mr. Moulding would be the point of contact to begin to pursue the necessary steps, considerations, and requests that may need to be made of Washington Terrace in order to expedite this process.

**Motion:** Councilor Gibby moved to direct staff to work with Washington Terrace to mitigate any issues and expedite this project. Seconded by Councilor Brough. The motion passed unanimously.

**Resolution #32-2005 adopting the Amended Water Conservation Plan**

Mr. Moulding explained the Council has previously adopted a Water Conservation Plan, which was submitted to the State last year. He stated they sent back a letter indicating there were certain omissions. He stated the Amended Water Conservation Plan is followed after a model plan they have recommended; and includes Riverdale data and information.

Inquiry was made as to the changes made. Mr. Moulding explained there were no substance changes, except for the goals. He stated the previous goals did not include a timeline to reduce per capita consumption down to the State's wish (or dream) of 150 gallons per capita per day. He stated he did not put in this amount because he does not feel it is achievable - at least not until Riverdale is ready to say they do not need lawn anymore.

Discussion followed regarding water shares, with Mr. Moulding stating the City pays an annual assessment fee. Councilor Gibby inquired if these shares can be leased back out. Further discussion followed regarding water shares, with Mr. Moulding stating these all hinge on buildout and privatization of HAFB areas in Riverdale. He stated once the City purchases water, they cannot sell it. He stated it has to be traded. He stated if Riverdale were ever in a situation, he is confused as to what they could trade it for that would do any good to the City.

**Motion:** Councilor Haws moved to adopt Resolution #32-2005 adopting the Amended Water Conservation Plan as proposed. The motion was seconded by Councilor Gibby.

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

**Payment of Claim - Roto-Rooter Sewer Service**

Mr. Moulding explained payment of claim is requested to Roto-Rooter in the amount of \$35,000 for annual sewer cleaning. He stated they cleaned 81,780 feet of sanitary sewers.

**Motion:** Councilor Brough moved to authorize payment of claim in the amount of \$35,000 and payable to Roto-Rooter as proposed. The motion was seconded by Councilor Hadden.

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

**Payment of Claim - Gilson Engineering**

Mr. Moulding explained payment of claim is requested to Gilson Engineering in the amount of \$27,771.22 for payment for engineering to date of the roundabout project. He then provided a brief update on the roundabout project.

Inquiry was raised as to whether these engineering fees include the Traffic Engineering fees from Bill Baranowski. Mr. Moulding stated those fees are about \$1000 or less and not included in the Gilson fee. He stated there will be another billing coming forth to total the amount of \$40,580.28.

**Motion:** Councilor Jenkins moved to authorize payment of claim in the amount of \$27,771.22 payable to Gilson Engineering as proposed. The motion was seconded by Councilor Brough.

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

**2005 Pre-Emptive Action Plan**

Mr. Hansen referenced the 2005 Pre-emptive Action Plan, stating he would like to propose a method of prudent preparatory action planning to deal with a variety of uncontrollable scenarios which might evolve following adverse legislative changes. He explained this is an effort on behalf of the staff to try to provide some assistance to the elected body as well as to Administration to understand that while one cannot predict exactly the outcome of things that may happen - there does not need to be insecurity and anxiety for things beyond control.

Mr. Hansen discussed the Plan, stating because Riverdale is fiscal in nature, change is inevitable. He stated as one sees different signals on the horizon, the decision makers then has areas that can be controlled and influenced. He stated there is the need to respond in effort to avoid negative impact. He stated rather than thinking the hold harmless scenario will do Riverdale in, he is confident that this type of planning will allow staff to exhaust every effort in trying to avoid any losses. He encouraged the City Council to have confidence to work through this issue, regardless of the scenario.

Mayor Burrows expressed his appreciation towards Mr. Hansen's ability to think outside the box and be prepared in an economic emergency area. He stated he feels this to be a well thought out plan, as well as a doable and useable template in moving forward.

**Closed Executive Session**

Mayor Burrows asked for a motion to go into an executive session for the purpose of conducting a strategy session to discuss pending or reasonably imminent litigation pursuant to Utah Code Annotated §52-4-5(1)(a)(iii).

**Motion** Councilor Brough moved to enter into Closed Executive Session for purpose of conducting a strategy session to discuss pending or reasonably imminent litigation pursuant to Utah Code Annotated §52-4-5(1)(a)(iii). Councilor Brough seconded the motion.

Roll call vote: Councilor Brough, Yes; Councilor Jenkins, Yes; Councilor Hadden, Yes; Councilor Haws, No; and Councilor Gibby, Yes. The motion passed 4-1.

Minutes of the **Executive Session** of the **Riverdale City Council** held **October 11, 2005** at 9:50 p.m. at the Riverdale Civic Center.

Present:	Mayor Bruce Burrows	Councilor Brough
	Larry Hansen	Councilor Gibby
	Randy Daily	Councilor Hadden
	Lynn Moulding	Councilor Haws
	Stevin Brooks	Councilor Jenkins

Those present conducted a strategy session to discuss pending or reasonably imminent litigation.

**Motion** Councilor Gibby moved to close the executive sessions and to reconvene the open City Council meeting. Councilor Jenkins seconded the motion. The motion passed unanimously.

The Regular Meeting convened at 10:19 p.m.

**Discretionary Business**

**Addition to Recorder's Report**

Councilor Jenkins requested an item be placed on the Recorder's Report relative to issues on the east bench as far as getting interlocal agreements on paper that supposedly exist while dealing with the water/development situation.

**Use for Tree Stumps in Riverdale Park**

Councilor Brough stated Master Gardner Dennis Miller has come up with a creative idea for the tree stumps in the park. She stated he carved a bear out of a stump, and would like to continue to do this to the remaining tree stumps. She stated this type of concept may perhaps add interest in the park.

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 10:23 p.m.

Attest:

Approved: November 1, 2005

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Cindi Mansell, City Recorder

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Bruce Burrows, Mayor