
Minutes of the **Regular Meeting** of the **Riverdale City Council** held Tuesday, **December 5, 2006** 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
Doug Peterson, Councilor
Shelly Jenkins, Councilor

Others Present: Larry Hansen, Chief Administrative Officer; Steve Brooks, City Attorney; Lynn Moulding, Public Works Director; Lynn Fortie, Business Administrator; Doug Illum, Fire Chief; Marilyn Hansen, City Recorder; other city staff and approximately 5 citizens.

A. Welcome & Roll Call

Mayor Burrows called the meeting to order and welcomed all those present.

B. Pledge of Allegiance

Councilor Griffiths offered the Pledge of Allegiance. Mayor Burrows read a quote from an article published in 1639 from a New Jersey newspaper.

C. Moment of Silence

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

D. Open Communications

None

E. Presentations and Reports

1. Presentation of Proclamation to Riverdale Elementary PTA proclaiming January 2007 as Children's Internet Safety Month.

Mayor Burrows read the proclamation proclaiming January 2007 as Children's Internet Safety Month. Sherrie Fazzio, President of the Riverdale Elementary PTA, accepted the proclamation. Ms. Fazzio reported that an internet safety group is coming to Riverdale Elementary on January 23, 2007 to hold grade level assemblies and conduct a parent training later that evening. She stated that they are grateful for the opportunity to partner with the City to help children and parents understand the risks of the internet.

2. Mayor's Report

Mayor Burrows discussed a newspaper article concerning the Riverdale bingo operation. He stated that they voluntarily closed down their operation and asked that any questions or comments be directed to the City Attorney as the investigation is ongoing. He reported that the WACOG annual dinner will be held on January 8, 2007 at the Eccles Conference Center.

3. Recorder's Report (*Review status of Council requested follow-up items*)
None

F. Consent Items

1. **Approval of meeting minutes from:**
November 21, 2006 Council Work Session
November 21, 2006 Regular City Council
November 21, 2006 Closed Executive Session
2. **Accept the 2007 City Council Annual meeting schedule.**

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

Call the Question

The motion passed unanimously.

G. Action Items

1. **Consideration of Resolution #33-2006 amending the Riverdale City Personnel Policies & Procedures Handbook Section 3-3, Anti-Nepotism.**

Stacey Comeau presented the item. Councilor Jenkins reported that she had a concern with exception #2, "The person is employed by Riverdale City before the relative is elected as mayor or a member of the City Council." She discussed that it would still be nepotism under those circumstances and if they adopt the ordinance regarding undue influence, the anti-nepotism language should apply to everyone in order to be fair. She stated that if someone runs for Council and currently has a relative working for the City, that is nepotism. Larry Hansen stated it is fair to an employee and anyone who is elected as the issue is up to the voters. Councilor Jenkins stated that opens up the door for negative campaigning by asking the voters to determine whether or not they are good with these employee relationships. Councilor Haws stated that he feels that if staff wants to have no undue influence with relatives working for the City, he can't see how an elected officials family member working for the City, whether before or after they are elected, would not cause the problem they are trying to prevent with this policy. Councilor Gibby reported that this exception is important as it allows someone who might be a good candidate for office to run without forcing a good employee to resign if their relative wants to run for office. Councilor Peterson reported that because we are a small city, to prevent someone from seeking office, who is qualified, is unfair. He stated that when someone is already working for the City has a relative that wants to run for City Council, that person who works for the City has already shown their merit. He stated that the Councilman or Mayor then needs to prove their merit through campaigning and the voters will decide. Councilor Griffiths inquired if these changes are to help the City be more in line with state code. City Attorney, Steve Brooks reported that the state code exempts employees who were previously employed, who subsequently have a relative run for office. He stated that there are arguments on both sides of this topic, but that it is a matter of what the Mayor and Council want to accept for our City.

Motion: Councilor Gibby moved to approve Resolution #33-2006 adopting amendments to the Riverdale City Personnel Policies & Procedures Handbook. Councilor Peterson seconded the motion.

Councilor Haws reported that the issue is not that Councilmembers will use undue influence. He stated that by being elected, people know who you are and just being a Councilmember has undue influence on staff, couple that with the fact that this is a small city, and he stated that he cannot support this policy. Mayor Burrows reported that everyone gets treated with a certain amount of respect after they are elected. He stated that the employees and staff of the City are determined to make this City better and have a large respect for anyone who is willing to do what we do to make decisions and study the issues. He discussed that is where the differentiation comes from, not the undue influence. Mayor Burrows explained that the new policy added cohabitating partner, and common law marriages that were not previously part of our policy. Councilor Jenkins voiced her concern about making this a one sided policy where the Council is held to a higher standard but the employee isn't. Councilor Haws stated that with the addition of the Ordinance he doesn't see how anyone could say that any Councilmember could extend undue influence to get their relative hired. Councilor Gibby asked to call the question. Mayor Burrows called for a vote to call the question.

Call the Question

Roll Call Vote: Councilor Peterson, Yes; Councilor Griffiths, Yes; Councilor Gibby, Yes; Councilor Haws, No; Councilor Jenkins, No. The motion failed with three in favor and two opposed as a 2/3 vote was needed.

Mayor Burrows called for debate to continue. There being no further debate Mayor Burrows called for a vote on the motion.

Call the Question

Roll Call Vote: Councilor Griffiths, Yes; Councilor Gibby, Yes; Councilor Haws, No; Councilor Jenkins, No; Councilor Peterson, Yes. The motion carried with three in favor and two opposed.

2. Consideration of Ordinance #672 amending the Riverdale City Code by adding a new section in Title 1, Section 7, Officers and Employees.

Stacey Comeau reported that Ordinance 672 accompanies the policy that they just voted upon. Councilor Haws asked if the policy that they just implemented, allows the City to hire the relative of a Department Head. Ms. Comeau replied no. Councilor Haws asked if a supervisor's relative could be hired. Ms. Comeau replied no. She then reported that she was wrong as the policy states that a relative shall not be hired or employed into the same department as their relative if the relative has direct supervision over the employee. Councilor Haws asked why would we allow other officials, department heads, or supervisors to hire family members if we are still worried about undue influence when a relative of an elected official cannot be hired. Steve Brooks reported that the distinction is made regarding the chain of command. He stated that as long as the supervisor or department head doesn't have direct authority over a relative, the relative can be hired into another department. He noted that a Councilmember has different authority as they have influence on the budget. Mayor Burrows clarified that the Council cannot vote on any one individual but on an overall package of compensation. Councilor Peterson asked if there is a difference between our policy and state law. Mr. Brooks stated that he doesn't think that state code addresses this issue. Councilor Griffiths reported that the chain of command is really the issue and this ordinance addresses that.

Motion: Councilor Gibby moved to approve Ordinance #672 amending the City Code of Ordinances by adding a new section in Title 1, Chapter 7, Officers and Employees, to

establish a prohibition against undue influence in hiring practices within the City, establishing a penalty for violations, providing for severability and an effective date. Councilor Peterson seconded the motion.

Councilor Haws stated that it is his feeling that this ordinance doesn't do what they think that it does. Councilor Jenkins reported that as long as there is a provision that allows nepotism to occur, as a matter of policy, undue influence will exist. Councilor Gibby noted that this isn't speaking to existing employees, but hiring employees. Councilor Griffiths reported that there is an exception in state law for legislators that the employment of relatives is prohibited and is a misdemeanor, except in small towns and rural areas. He feels that we are re-aligning ourselves with state law and elected officials. Councilor Jenkins stated that the issue was brought up regarding undue influence if an elected official is related to a supervisor or department head within the city, there is still undue influence of their vote. She discussed that nepotism will still be a part of the staff and Council relationship and there will still be a bias, whether intentional or not. Mr. Brooks explained that in order for a Councilmember to commit undue influence and be in violation of this section, there would have to be an affirmative act.

Call the Question

Roll Call Vote: Councilor Gibby, Yes; Councilor Haws, No; Councilor Jenkins, No; Councilor Peterson, Yes; Councilor Griffiths, Yes. The motion carried with three in favor and two opposed.

3. Consideration of disposal of the previously surplused van.

Lynn Fortie reported that this van was the previously surplused van that was to go to the Senior program but they later wrote a letter declining the van. He explained that they originally received a bid and that he needs direction on where to go from here. He noted that the executive summary outlines the possibility of accepting the previous bid or placing the van with an auction company to seek the best possible price and sell it.

Motion: Councilor Haws moved to accept the high bid, if they still wants to purchase it, or if not, sell it at the auction. Councilor Gibby seconded the motion.

Call the Question

The motion passed unanimously.

4. Consideration of Advanced Paving contract materials adjustment request.

Lynn Moulding reported that Advanced Paving had previously addressed the Council requesting a contract materials adjustment request due to an increase in oil prices. He reported that the price of oil increased \$5.00/ton resulting in an increase of \$17,860.15 for asphalt and \$25,478.31 for the chip & seal portion of the 2006 and 2007 Roadway Improvement Project. Mr. Moulding explained that if they were to complete the contract, as it was originally bid, there wouldn't be any additional cost for the chip & seal portion but that there would be an increased cost for the asphalt. He reported that there have been some changes to decrease the scope of the project since it was bid. Councilor Gibby stated that as a businessman he puts out bids and if the price for materials increases, he doesn't go back and change the bid. Councilor Jenkins stated that while in the past they have tried to be fair and sympathetic in these types of situations, she doesn't see that there is any additional money in the budget to fund this request. She explained that had they known earlier about the increased costs, perhaps they could have scaled back the project or made a different agreement.

Motion: Councilor Jenkins moved to remove this item from the table. Councilor Gibby second the motion.

Call the Question

The motion passed with three in favor and two opposed.

Councilor Jenkins stated that the City doesn't have the budget to pay this request. Mayor Burrows explained that they have paid change orders in the past, but haven't gone back and paid for a cost overrun at the end of the project that was not associated with a change order. Mr. Hansen discussed that it would have been more appropriate to have this request come before the Council in the form of a change order and wondered if the other bidders saw the increase coming and bid the contract accordingly. He noted that there isn't a budget for this additional amount and that the attorney for the City is worried about the precedence that awarding this increase might set.

Motion: Councilor Gibby moved to disapprove consideration of the payment adjustment to Advanced Paving. Councilor Peterson seconded the motion.

Call the Question

The motion passed unanimously.

H. Discretionary Items

None

I. Adjournment

With no further business to come before the Council at this time, Councilor Gibby moved to adjourn the meeting. Councilor Haws seconded the motion. The motion passed unanimously. The meeting adjourned at approximately 7:32 p.m.

Attest:

Approved: December 19, 2006

Marilyn Hansen, City Recorder

Bruce Burrows, Mayor