
Minutes of the **Regular Meeting** of the **Riverdale City Council** held Tuesday, **September 7, 2010** at 6:00 p.m. at the Riverdale Civic Center, 4600 South Weber River Drive.

Members Present: Bruce Burrows, Mayor
David Gibby, Councilor
Shelly Jenkins, Councilor
Don Hunt, Councilor
Norm Searle, Councilor
Alan Arnold, Councilor

Others Present: Larry Hansen, City Administrator; Steve Brooks, City Attorney; Randy Daily, Community Development Director; Dave Hansen, Police Chief, Marilyn Banasky, City Recorder; and 8 citizens.

A. Welcome & Roll Call

Mayor Burrows called the meeting to order and welcomed all those present. He noted that all Councilmembers were present.

B. Pledge of Allegiance

Councilor Jenkins offered the Pledge of Allegiance. Mayor Burrows read a quote from Benjamin Franklin.

C. Moment of Silence

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

D. Open Communications

None

E. Presentations and Reports

1. Mayor's Report

Mayor Burrows asked Larry Hansen to give an update on the Veteran's Memorial dedication. Larry Hansen reported that there will be a dedication ceremony on Thursday, November 11, 2010 with the time to be determined. He stated that they are working on a speaker and that the Veteran's Committee will be an integral part of the dedication ceremony.

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

None

F. Consent Items

- Approval of meeting minutes from:
August 17, 2010 Work Session
August 17, 2010 Regular City Council**

2. **Review and Comment by September 15, 2010 on Ordinance # 770 amending Title 1, Chapter 9, Section 7 - Donated Property.**
3. **Review and Comment by September 15, 2010 on Ordinance # 771 creating Title 1, Chapter 13, Citations and Complaints.**

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

Call the Question: The motion passed unanimously.

G. Action Items

1. **Consideration of Ordinance # 769 rezoning property located at 4707 S. 900 W. from C-3 - Regional Commercial Zone to RCP - Retail/Commercial Park Overlay Zone.**

Randy Daily reported that the Planning Commission held a public hearing and that the Planning Commission forwarded with a favorable recommendation to the City Council to rezone the property from C-3 to RCP. Councilor Jenkins stated that Councilor Hunt inquired during the work session on the correct amount of acreage as the ordinance states 17 acres in one place and .542 in another. Steve Brooks replied that the correct amount of acreage is .542 acres and that he will change it in the Ordinance.

Motion: Councilor Gibby moved to approve Ordinance #769 amending the Riverdale City zone district map by changing the zoning of .542 acres of land located at approximately 999 W. Riverdale Road, from C3 (Commercial) to C3 with a Retail Commercial Park Overlay (RCP), otherwise known as Jiffy Lube Project with changes as noted. Councilor Searle seconded the motion.

Call the Question:

Roll Call Vote: Councilor Gibby, Aye; Councilor Jenkins, Aye; Councilor Hunt, Aye; Councilor Searle, Aye; Councilor Arnold, Aye. The motion passed unanimously.

2. **Consideration of Ordinance # 766 amending Title 10, Chapter 21, Section 11, Improvements, (f) Curbs, Gutters and Sidewalks.**

Randy Daily reported that the Planning Commission held a public hearing and that the Planning Commission forwarded with a favorable recommendation to the City Council to amend Title 10, Chapter 21, Section 11, Improvements (f) Curbs, Gutters and Sidewalks. He stated that the City's practice has been to require curb, gutter, and sidewalks in all developments. He explained that requirement can be waived by the City Council or UDOT, but not by staff or by the Planning Commission. He stated that Councilor Gibby's comment in the work session regarding allowing sidewalks to be placed at the rear of properties to accommodate walking trails could be addressed under the development aspect of a proposal. Councilor Hunt inquired who is responsible to install the curb, gutter, and sidewalk as the ordinance states either the subdivider or contractor. Mr. Daily replied that typically the contractor is responsible for a residential development and the developer in a commercial development. Councilor Hunt stated concern as there are situations where discrepancies come up between the property purchaser and contractors regarding who is responsible. He feels that it should be spelled out in the ordinance who pays for the improvements. Mayor Burrows stated that the City requires that the curb, gutter, and sidewalk be in place before the Certificate of Occupancy is issued. Steve Brooks stated that this is not a legal issue for the City but would be a civil issue between the two parties if there is a dispute about who pays for the

improvements between a property owner and a contractor. He stated that the main thing is that it is required. Councilor Arnold stated that adding the word contractor throws the question in place. He suggested deleting the word “contractor” and inserting “developer or property owner”. Councilor Jenkins stated that she feels the developer should put in the curb, gutter, and sidewalk to make the lot improved. Mr. Daily replied that putting in the curb, gutter, and sidewalks first causes a problem as they don’t know where driveways will be. He stated that is why the sidewalks are put in last. Councilor Gibby stated that he was the first home in his subdivision and they didn’t put in the sidewalks until the other homes were built and it was a mess until the sidewalks were completed. He likes the term developer and feels it could be interpreted to be a homeowner or a developer. Councilor Arnold suggested deleting the phrase “subdivider or contractor” and leaving it up to the department as they can’t get a Certificate of Occupancy until the improvements are in. Councilor Jenkins stated that she thinks whoever subdivides the property and has an approved site plan that requires curb, gutter, and sidewalks is who should put it in. She stated that would provide for continuity of sidewalks. She stated that even if they have to replace a section of sidewalk here and there, it would be the cleaner way to deal with it. Councilor Searle suggested clarifying it by stating that it would be required by a developer in all subdivisions. Councilor Arnold stated that he doesn’t know if it is the City’s place to say who is responsible for that and can control it with the Certificate of Occupancy. Councilor Hunt stated that he feels it leaves it open to who is responsible and that they should get a finished product. Mr. Daily stated that if the improvements are required up front then it is a moot point and the contractor would be responsible to fix any sidewalks that they broke during development. Councilor Hunt stated that it is not reasonable to expect the contractor to be responsible for other sub-contractor’s equipment if the sidewalks are put in up front. Councilor Gibby stated that some projects are done in phases and wondered if improvements should be required before starting another phase.

Motion: Councilor Jenkins moved to approve Ordinance #766 amending Title 10, Chapter 21, Section 11, Improvements, (f) Curbs, Gutters and Sidewalks with the following amendment to delete the word “subdivider” and replace with “developer of the property”. Councilor Gibby seconded the motion.

Mr. Daily stated that if they want the curb, gutter, and sidewalks to be in place prior to the sale of any subdivision or phase that would need to be stated in the motion.

Amended Motion: Councilor Jenkins moved to add that the sidewalks must be put in prior to the sale of the subdivision or phase. Councilor Gibby agreed as second.

Call the Question:

Roll Call Vote: Councilor Jenkins, Aye; Councilor Hunt, Aye; Councilor Searle, Aye; Councilor Arnold, Aye; Councilor Gibby, Aye. The motion passed unanimously.

3. Consideration of Ordinance # 767 amending Title 10, Chapter 19, Section 9: Temporary Structures for Seasonal Sales.

Randy Daily reported that the Planning Commission held a public hearing and that the Planning Commission forwarded with a favorable recommendation to the City Council to amend Title 10, Chapter 19, Section 9, Temporary Structures for Seasonal Sales. He stated that he felt it was good to place a limit on portable structures for seasonal sales in any commercial area. He stated that the suggested time frame for a seasonal sale is 12 weeks, but that he is open to any timeframe. Councilor Arnold stated that they could add language allowing for a four week extension as

Memorial Day to Labor day is a more than 12 weeks. He inquired about the ability of a seller to sell only one commodity and wondered if they could sell items related to their primary commodity. Mr. Daily replied that he was looking at someone who sold something not related to the primary commodity.

Motion: Councilor Gibby moved to approve Ordinance #767 amending Title 10, Chapter 19, Section 9: Temporary Structures for Seasonal Sales and amending paragraph (C)(11) from twelve (12) weeks to fifteen (15) weeks. Councilor Hunt seconded the motion.

Call the Question:

Roll Call Vote: Councilor Hunt, Aye; Councilor Searle, Aye; Councilor Arnold, Aye; Councilor Gibby, Aye; Councilor Jenkins, Aye. The motion passed unanimously.

4. Consideration of Ordinance # 768 amending Title 10, Chapter 10A, Section 4, Commercial Uses.

Randy Daily reported that the Planning Commission held a public hearing and that the Planning Commission forwarded with a favorable recommendation to the City Council to amend Title 10, Chapter 10A, Section 4, Commercial Uses. He stated that the C-1 zone is the least diverse commercial zone and that he found uses that were allowed as conditional in a C-1 zone but were not permitted in C-2 zones. He stated that the proposed language cleans up those areas. Councilor Gibby inquired why the Food Service sub-categories in the C-1 were not all Conditional uses. He feels that they should be conditional uses. Mr. Daily stated that he viewed those as having the potential to become more of a regional type use that would bring a lot of outside people in. Councilor Jenkins stated that she hoped for more comments from the Planning Commission on this ordinance and felt they should look at the setback requirements from one zone to the next. She felt they should look at an overlay map with this ordinance. Mr. Daily replied that all the setback requirements are the same in the C-1, C-2, and C-3 zones.

Motion: Councilor Gibby moved to approve Ordinance #768 amending Title 10, Chapter 10A, Section 4: Commercial Uses with the caveat that the C-1 categories under Food Services be Conditional uses (C) instead of Not Allowed (N). Councilor Arnold seconded the motion.

Call the Question:

Roll Call Vote: Councilor Searle, Aye; Councilor Arnold, Aye; Councilor Gibby, Aye; Councilor Jenkins, Nay; Councilor Hunt, Aye. The motion passed with four in favor and one opposed.

5. Consideration of Resolution # 2010-35 amending the General Plan, section Implementation.

Randy Daily reported that the Planning Commission held a public hearing and that the Planning Commission forwarded with a favorable recommendation to the City Council to amend the General Plan, Section Implementation.

Motion: Councilor Hunt moved to approve Resolution #2010-35 amending the General Plan, Section Implementation. Councilor Arnold seconded the motion.

Call the Question:

Roll Call Vote: Councilor Arnold, Aye; Councilor Gibby, Aye; Councilor Jenkins, Aye; Councilor Hunt, Aye; Councilor Searle, Aye. The motion passed unanimously.

6. Discussion and consideration of action regarding code enforcement issues.

Councilor Searle reported that during his election campaign the second greatest voiced concern was that of Code Enforcement regarding unkempt yards and lack of the City doing anything to correct it. He stated that he forwarded several addresses to the City and that the City did a good job to correct them, but that he still has concerns. He discussed a property on Parker Drive that has vehicles parked on landscaping. He stated that he submitted this complaint last Fall and was told that legal action was pending. He inquired what happens if the City is unable to contact the occupant to cite them. Police Chief, Dave Hansen replied that the Code Enforcement Officer has to go back several times to find out who has responsibility for it and if she cannot make a contact, then they have the court send them a summons in the mail. Councilor Searle stated that Ogden City sends a ticket in the mail with a ladder of penalties. Chief Hansen stated that they might want to look at something like that. He explained that sometimes when the Code Enforcement Officer cite them, the offender pays the ticket without cleaning up the problem, and the process starts all over again. Councilor Searle stated that he thought we had a new program to cite repeat offenders immediately.

Councilor Searle discussed another property which had many vehicles parked on the landscape, but reported that the number of vehicles is now reduced to a motor home. He stated that the motor home is parked on a small amount of gravel that the City said it is now a hard surface because they have gravel. He feels that this doesn't meet the intent of the ordinance. Chief Hansen reported that he just drove past it today and they were out pouring cement on that corner. Councilor Searle inquired if the Code Enforcement Officer needs help on this and if Code Enforcement just responds to complaints or does she go out and look for problems and cite them. Chief Hansen replied that he spoke with Lt. Brenkman, who is over Code Enforcement and he reported that the last few complaints that were submitted by Councilmembers were already being looked into by the Code Enforcement Officer. Chief Hansen reported that the Code Enforcement Officer does drive around and initiates complaints but stated that she is alone and also has a lot to do with animal control and serving the City's legal papers. Councilor Searle stated that he feels a resident doesn't need to spend a lot in their yard but that it should be neat and clean. He stated that the City's goal should be to have neat and clean neighborhoods and thinks that Code Enforcement should be fair and consistent as this is a continuing issue.

Councilor Jenkins discussed Ordinance 771 that on the Consent Agenda for Review and Comment and thinks it is good to give other departments authority to issue citations. She inquired if there was an EPA issue with allowing vehicles to be parked on gravel. Mr. Daily replied that there is always the potential for contamination but doesn't believe there is an EPA issue as they haven't made the City aware of it. Councilor Jenkins thinks that Councilor Searle covered most of the complaints they get and stated that she cannot stress enough that the equal enforcement side of this is the biggest concern. She stated that she feels the Code Enforcement Officer does a fabulous job. Mayor Burrows stated that some of the problems are finding the owners of foreclosed or abandoned properties and having them clean it up. Councilor Jenkins inquired if the City's ordinance allows the title owner to be billed if the City cleans up the property. Mr. Hansen replied that it does in theory, but that the lien process can be difficult on foreclosures. He stated that he wants fair and equitable enforcement of the code. He stated that the City hasn't been that intrusive but that they have tried to set standards. He stated that there are some rural components to the City and that they want to apply the ordinances fairly for both old and new developments. Mayor Burrows stated that the City does both proactive or reactive code enforcement. He stated that they should make sure they are enforcing the ordinances to their best ability and that they have found some things that have been

overlooked as far as the court system and that those won't be done the same way in the future. He stated that if someone has been caught in the past, they should be cited and not just be given a fix it ticket. He stated that would like to have a status report on court things. He suggested that Code Enforcement could be a Tip A Cop item and could put something in the newsletter for residents to anonymously submit code enforcement issues. Councilor Jenkins suggested that the Council look at Title 4 to resolve some of the Code Enforcement problems. **Mayor Burrows asked for consensus for the Council to review Title 4, Public Health and Safety regarding nuisances. Consensus was reached.** Councilor Arnold stated that he would like to see the ladder process. Mr. Daily replied that there is currently a progression in the ordinance. He stated that he handles the commercial complaints and that the Code Enforcement Officer handles the residential complaints. Councilor Searle stated that he thinks neat, clean, fair, and consistent should be their objective.

Mayor Burrows asked for consensus to recess the meeting into the RDA. Consensus was reached.

The meeting recessed at 7:42 p.m.

The meeting reconvened at 8:57 p.m.

7. Consideration of Resolution #2010-13 establishing Council Rules and Procedures

Section 3.1(b). Councilor Jenkins comment was to add "refrain from sidebar discussion, or political partisan rhetoric" to this paragraph. **Mayor Burrows asked for consensus to add the language. Consensus was reached.**

3.1.(c) Councilor Jenkins comment was discussed. Councilor Gibby likes the first sentence but not the second. A discussion was held regarding the comment and that everyone should treat each other with respect. **Mayor Burrows asked for consensus to change the second sentence to read "Nor it is appropriate for the Mayor anyone to berate or admonish the Mayor, council members or staff, in public meetings. Consensus was reached.**

3.1.(d) Councilor Jenkins comment was discussed. Councilor Gibby stated that he doesn't believe it is necessary as a point of order is a point of order and not a point of discussion. He feels the original statement is adequate. Councilor Jenkins inquired as to who makes that ruling. Steve Brooks replied that the Chair will interpret that and that they are trying to rewrite parliamentary rules. He stated that they can appeal that decision. **Mayor Burrows asked for consensus to change the original verbiage to the suggested substitution. Consensus was not reached.**

3.2.(d) Councilor Jenkins comment was discussed. Mayor Burrows stated that if the Council feels that there might be a need to be flexible on public comment it could be suggested in the work session. Councilor Arnold stated that he likes it the way it is and that the public should contact them prior to the meeting. Councilor Gibby stated that if they feel like they want additional input from an expert they are allowed to speak. He thinks that it is working very well. Councilor Hunt stated that they allow for the opportunity, in special circumstances, for people to speak. **Mayor Burrows asked for consensus to leave the paragraph as is. Consensus was reached.**

3.3.(c) and 3.3(d) Mayor Burrows felt that if a vote was taken, the rule should state that it needed a motion and a second. Councilor Searle felt the language was fine as that is implied. Mr. Brooks stated that he doesn't think it is needed to state that a motion and second is needed as under parliamentary rules a motion and second is needed. **Mayor Burrows asked for consensus to leave the paragraphs as is. Consensus was reached.**

3.3.(e) Councilor Jenkins inquired if this paragraph inhibited a constitutional freedom or freedom of speech. Councilor Arnold stated that they can have signs outside, but not in the meeting. Mr. Brooks stated that the Council has the right to set boundaries and parameters and feels the language is fine. **Mayor Burrows asked for consensus to leave the language as is. Consensus was reached.**

3.3.(f) Larry Hansen suggested to delete the entire paragraph. **Mayor Burrows asked for consensus to delete the entire paragraph. Consensus was reached.**

3.4 Mayor Burrows stated he felt that a Sergeant-at-arms is not required at all meetings. Councilor Arnold thinks feels that someone should be designated as the Sergeant-at-arms. Mr. Brooks suggested including the words “unless excused by the Chair”. Mr. Hansen stated that when they know there is a hot topic at a meeting, they always have had uniformed officers present. Councilor Gibby suggested adding “when appropriate”. Mr. Brooks stated that when someone goes postal in a meeting it is not usually over a hot button item. He feels it would be nice to ensure there is someone here as this room is not designed for quick exits. **Mayor Burrows asked for consensus to add the phrase “unless excused by the Chair”. Consensus was reached.**

Mayor Burrows asked for consensus to begin at Section 4 at the next City Council meeting. Consensus was reached.

H. Discretionary Items

Mayor Burrows reported that this Thursday night is the Raptors Game which will take the place of the WACOG dinner.

Councilor Searle reported that he went to the Riverdale Substance Abuse Court (RSAC) graduation last week. He stated that he thinks Judge Heward has done a great job and feels that lives are being changed with this program. He hopes that this program will continue with the new judge.

Councilor Searle reported that he went to the Communities that Care luncheon at the Weber Human Services Center and felt that this was a fine program that can do great things. He stated that they have representatives that are willing to come to talk to City officials to explain the program and how to get started. He reported that there are grants available to help administer the program and that Brigham City has a program that is doing well.

I. Adjournment

With no further business to come before the Council at this time, Councilor Gibby moved to adjourn the meeting. Councilor Jenkins seconded the motion. The motion passed unanimously. The meeting adjourned at approximately 9:42 p.m.

Approved: September 21, 2010

Attest:

Bruce Burrows, Mayor

Marilyn Banasky, City Recorder