



Joint Strategic Planning Meeting Agenda
City Council, Planning Commission and Staff

Tuesday, August 30, 2011, 6:00 p.m.

Riverdale Community Center 4360 S. Parker Drive

6:00 p.m. – Strategic Planning Meeting (Community Center)

A. Welcome & Roll Call (Elected Officials, Planning Commission & Staff)

Mayor Bruce Burrows welcomed everyone to the Strategic Planning meeting and briefly described the outline for the meeting as a review of Riverdale's General Plan. He excused Commissioner Blair Jones and stated for the record that Commissioner Bart Stevens and Council members Alan Arnold and Shelly Jenkins have not yet arrived. Mayor Burrows said that he wants the proposals made to change the General Plan to be evaluated by both the City Council and Planning Commission, because the Planning Commission is responsible for making changes to the General Plan that are then forwarded to the Council for their consideration.

B. Action Items

1. Conceptual discussion of the Hayward Subdivision – Foreclosure and Possible Change of Use Concepts.

Community Development Director Randy Daily said the Hayward property has been foreclosed and is currently owned by a bank. According to Mr. Daily, a developer has approached the city with a proposal to build owner-occupied town homes, as illustrated in the preliminary conceptual plan included in the meeting packet. He said the developer Destination Homes realizes the CP 3 property will need to be rezoned if this proposal is accepted by the Planning Commission and City Council as a better option than the existing commercial business park.

Mayor Burrows noted that Councilors Arnold and Jenkins have joined the meeting in progress.

According to Mr. Daily, the Planning Commission could allow town homes to be zoned with a PRUD designation or the creation of a new residential overlay zone that the Council could adopt as an ordinance. He said Destination Homes has the right of first refusal in the purchase of this land. Mr. Daily asked the Council and Planning Commission for questions.

Councilor Gibby asked if this was the same developer responsible for a new development of town homes in Farmington and Mr. Daily confirmed Destination Homes have projects in Farmington, Layton and Daybreak in South Jordan. Councilor Gibby said that he was initially wary of the Farmington project but has been impressed that the developer has found a market niche for small families and added that they are very well maintained. He said he believes this would be a good use of the vacant Hayward property. Mr. Daily said because the surrounding commercial developments have been completed, anyone choosing

to live in these town homes won't be opposed to living near businesses and added that he believes town homes would be a good transitional use between the residential and commercial areas. Councilor Searle asked about price of the proposed town homes and Mr. Daily said they would be sold for \$150-160,000. Chairman Mitchell said he and his wife had lived in a town home while he was still in school and he warned that in his experience if these properties are not owner-occupied the developments tend to not be well maintained by renters. Councilor Hunt said he has done work for Destination Homes in the past and in his experience they are a reputable developer. He added that he would also like to see them owner-occupied.

Councilor Arnold asked if the proposed development would be a PRUD and Mr. Daily said it could be. Councilor Arnold said if it is a PRUD, he has concerns about density, parking, and insufficient space for garbage and recycling can storage. Mr. Daily said the proposed town homes all have garages. Mayor Burrows said not all PRUD developments have covenants that restrict garbage and recycling cans on the street. Councilor Arnold said if there is a developer's agreement providing for a screened area where people can still recycle that would be acceptable to him.

Councilor Hunt asked Mr. Daily about road maintenance under the new PRUD law. Commissioner Staten said he feels town homes would be a good buffer between the commercial and residential areas. Councilor Hunt said recent traffic studies done in the area show these developments generate less traffic than a business park. Councilor Jenkins said a property owner can rent their town home and the city can't enforce that they be owner-occupied, even with a developer's agreement. Councilor Gibby said all of these points are good issues to discuss but added that he believes Destination Homes is a reputable developer that the city could negotiate with. Councilor Gibby said Farmington has a recycling program too and recommended that staff research how recycling is accommodated in the Destination Homes development there.

Commissioner Gailey said density will probably be negotiable. Councilor Staten asked what the developer is looking for from the Planning Commission and Council this evening and Mr. Daily said the petitioner would simply like to know if the city is open to putting housing in this area. Mr. Daily said the developer realizes there will be a lot of feedback from the city. Councilor Searle said he believes town homes are a good buffer but said he is concerned about the density and that the city can't enforce the properties remain owner-occupied.

Mayor Burrows asked the Council for consensus to allow the petitioner to go through the public process by taking their petition to the Planning Commission. Consensus was reached with three votes in favor and two opposed.

Commissioner Hilton said if the homes were owner-occupied he would support the proposal and he asked staff to research what other cities have done so that the Planning Commission can make an educated decision when this proposal is discussed again at an upcoming meeting. Councilor Searle said the feedback he has gotten from residents in the city is that there isn't a lot of support for more rental units at this time. Councilor Jenkins said there are professional management companies that oversee developments and ensure they remain owner-occupied, but she added that even with these stipulations in a developer's agreement she still believes it will be tough for the city to enforce.

2. Planning Commission report on the status of Aunt Nancy's Assisted Care Facility rezoning request from the City Council.

Chairman Mitchell said at the August 23, 2011 planning meeting the Commission heard a request to rezone the property from A1 to a low-impact transition zone where Aunt Nancy's Assisted Care Facility has final site plan approval to build. He said the Commission unanimously agreed that the development should be further along before it is rezoned and so the petition for a public hearing was denied. According to Chairman Mitchell, the Planning Commission will be happy to review a rezoning petition from the developer once funding has been secured and construction is underway. He said if for some reason the development doesn't happen, the Planning Commission doesn't want their hands tied with a zoning designation in the event that something different is proposed to be built there.

Mayor Burrows said he believes the Planning Commission's decision is wise as some of the city's ordinances stipulate that rezoning requests revert back to their original zone if action isn't taken within 60 days of a public hearing and Aunt Nancy's is not sure when they will be able to start construction. Councilor Jenkins asked if that is the case for low impact transitional housing zones and Mr. Daily confirmed that some zones will revert back if action isn't taken within a certain time period but the transitional overlay zone ordinance does not contain that condition. Councilor Jenkins asked if that stipulation should be added to the low impact transitional housing ordinance and Mr. Daily said that provision could be included.

Mr. Hunt asked if the construction delay is a funding issue and Mr. Daily confirmed the developer is having difficulties securing federal funding for the project but said once they have the money they can start construction at any time. **Mayor Burrows asked for consensus to delay a rezone request of the Aunt Nancy's Assisted Care Facility property until there is an actual structure in place and unanimous consensus was reached.**

3. General Plan Alternative Land Uses - Area Two commentary.

- a. Consideration of City Council untabling the General Plan Alternative Land Uses - Area Two commentary. The City Council tabled this on 12-21-10 pending further discussion regarding what the rezone recommendations will be for the property in the future. On 07/02/11, the Council voted unanimously to leave item on report for discussion at Strategic Planning meeting on 08/30/11.
- b. Joint discussion between the City Council and Planning Commission about the General Plan Alternative Land Uses - Area Two commentary.
- c. Consideration of City Council action on Resolution 2010-40 amending the General Plan Alternative Land Uses - Area Two commentary.
Presenter: Randy Daily, Community Development Director

Mr. Daily said amending the General Plan Alternative Land Uses - Area Two commentary has already had a public hearing and received Planning Commission's favorable recommendation before being forwarded to the City Council. He said the Council tabled it based on concerns about the general plan and agreed to discuss it at tonight's Strategic

Planning meeting. According to Mr. Daily the new language doesn't change anything; it just makes the plan coincide with the current approved land uses. He said that the plan will need to be amended again with the Hayward property being zoned either PRUD or given a new zoning designation if the Council approves the Destination Homes proposal discussed earlier. Mr. Hansen said the city has a legal agreement to rezone the area in question so that the approved zone is in harmony with the city's general plan and Councilor Gibby confirmed that he remembers the Council agreeing to do this. Mayor Burrows said he remembers the item being tabled because there was concern about the future of the Hayward property but now that Destination Homes has a proposal to build town homes and the Council reached consensus to allow this petition to go through the public process, that concern should no longer be an issue. He recommended that the Council heed the recommendation of the Planning Commission and follow through on their legal obligations to bring the general plan into conformity with the current zoning designation, until Destination Homes or another developer petitions for a new zone change.

Councilor Jenkins said her concern was changing the general plan to designate the Hayward Property for commercial use while its status as a business park was not secure. She asked if the Council could amend the zone and general plan now that the property is in foreclosure to a low density residential zone. Mr. Hansen said this could create legal trouble for the city because downgrading the zone would reduce the value of the property now owned by the bank. Mr. Brooks agreed the city should not instigate changing the zone or plan from commercial to residential, he said if the bank sells the property to Destination Homes and they request the zone change that would be the appropriate course of action. Councilor Jenkins said she recommends leaving the general plan as it is until a developer requests a zone change. Mr. Daily said changing the general plan to show the Hayward property as it is already zoned CP 3 will not tie the Council's hands because even if another commercial developer comes in with a concept idea, it will still be subject to Council's approval. Councilor Hunt asked if the Council could amend the general plan to show low density residential without rezoning the property and downgrading its value. Mr. Daily said it would not be wise to change the general plan to show low density housing on the Hayward property because until the petition is received the city doesn't know if a PRUD or overlay zone will be appropriate for the new development. He said the general plan is under the purview of the Planning Commission and it is their responsibility to make recommendations on land use to the Council.

Mayor Burrows said it is the recommendation of staff and the Planning Commission that the general plan map be amended to match the current zoning allowed on the Hayward property and he asked if there were any additional Council concerns to making the change. Councilor Gibby said he has no problem changing the map to match the zoning already approved by the Council for the property.

Mr. Hansen called a point of order pointing out the action item had been tabled and that no motion had been made to untable the item.

Motion: Councilor Gibby moved to untable the discussion amending the General Plan Alternative Land Uses - Area Two commentary. Councilor Searle seconded the motion.

There was no discussion on the motion.

Call the Question: The motion passed with three in favor and two opposed (Councilors Arnold and Jenkins).

Mayor Burrows asked for further discussion on the motion and Councilor Jenkins asked the Planning Commission if their recommendation had changed in light of the new information about the Destination Homes concept plan presented earlier. Mayor Burrows said the Planning Commission members could participate in the discussion but Councilor Jenkins could not request the Planning Commission to make a decision about changing their vote.

Councilor Searle said under the general plan area two commentary five lines down it reads: "The property owned by Scott Priest, Hayward property, Keyes Insurance, and the business offices south of Keyes are recommended to remain as either commercial/office or business park." He asked if the language is appropriate or if the word "commercial" should be removed. Mr. Daily said the language was taken directly out of the CP 3 zoning ordinance and all of those potential uses are allowed under the current zoning designation. Mr. Daily said he is optimistic that the deal with Destination Homes will prove a viable solution to create a buffer between the commercial and residential areas of the city. He said if Destination Homes requests the property be rezoned to allow a PRUD, the city ordinances require an amendment to the General Plan.

Councilor Arnold asked about conditional uses associated with Redevelopment Agency (RDA) properties and Mr. Hansen said the RDA attorney has advised the city not to put restrictions on what can be built in RDA areas unless specified in the RDA project area plan or existing Title 10 ordinances. Councilor Gibby said in his opinion the city should adopt the suggested language to make the general plan consistent with current zoning and then allow the town homes proposal to go through the public process. Mr. Hansen said a line could be added to the general plan area two commentary recommending the area become transitional residential and Mr. Brooks agreed that would not hurt the property value while fulfilling the city's obligations to amend the general plan and Mr. Daily said he would make the change if there is Council consensus.

Motion: Councilor Gibby moved to adopt Resolution 2010-40 amending the General Plan Alternative Land Uses - Area Two commentary with a recommendation that the area become transitional residential. Councilor Arnold seconded the motion.

Mayor Burrows asked for discussion on the motion and Councilor Jenkins recommended that the attached map also reflect the recommended future zoning change. Mr. Daily said he would amend the map to reflect the change if the Council members that made the motion agreed to the stipulation and Councilors Gibby and Searle both agreed to the map language change.

Call the Question: The motion passed unanimously.

Mayor Burrows asked the Council and Planning Commission for any further discussion on Area Two. Councilor Searle asked if the C3 commercial zoning designation continued to

the credit union property and Commissioner Ellis who lives on the street in question confirmed that it does.

4. Ordinance 10-1-3 concerning the General Plan/RDA Project Area - Plan Conceptual Development.

- a. Consideration of City Council untabling the discussion on Ordinance 10-1-3 concerning the General Plan/RDA Project Area - Plan Conceptual Development. The City Council tabled this on 1-04-11 pending review of Planning Commission's comments on the proposed amendment from their meeting on 11-09-10. On 07/02/11 the Council voted unanimously to leave item on report for discussion at Strategic Planning meeting on 08/30/11.
- b. Joint discussion between the City Council and Planning Commission about Ordinance 10-1-3 concerning the General Plan/RDA Project Area - Plan Conceptual Development.
- c. Consideration of City Council action on Ordinance 10-1-3 concerning the General Plan/RDA Project Area - Plan Conceptual Development.
Presenter: Randy Daily, Community Development Director
Mr. Hansen said the Council needs to untable the item. C. Arnold, seconded

Motion: Councilor Gibby moved to untable the discussion of Ordinance 10-1-3 concerning the General Plan/RDA Project Area - Plan Conceptual Development. Councilor Searle seconded the motion.

There was no discussion on the motion.

Call the Question: The motion passed unanimously.

Mr. Daily said this proposed new language eliminates redundancies in the process. Mr. Hansen said legal counsel including the advice of land use and zoning attorney Jody Burnett and RDA attorney Randy File had advised the city that when a developer brings a proposal to the table they need to follow the public process by petitioning the Planning Commission before the Council. According to Mr. Hansen, this will ensure that Title 10 is fairly applied to all property owners with land use petitions and that all recommendations from the Commission to the Council follow Riverdale's general plan. According to Mr. Hansen, the Planning Commission is responsible for knowing the requirements for a particular development. He added that Mr. File has said there is no legal basis to deny an RDA petition that is not specifically prohibited in the RDA project area plan. According to Mr. Hansen, Mr. Daily meets with petitioners initially and advises them about the public process and the Planning Commission hears the petition next to be reviewed in relation to the General Plan and Title 10. Mr. Hansen said having the Council involved prematurely while good intentioned to save the developer money isn't in line with our public policy and so 10-1-3 was rewritten to reflect the correct process.

Councilor Jenkins referenced a recent petition from Scenic Development to build an apartment complex in the city and pointed out that the petition went to the Planning Commission twice. Mr. Hansen said the Council heard the proposal first when it should

have gone to the Planning Commission and Mr. Burnett advised the city that it was inappropriate for the Council to begin to negotiate acceptable conditions to move forward with the proposal. Mr. Daily said the appropriate course of action would have been for the petitioner to request a rezone from the Planning Commission and they could have held the appropriate public hearing and possibly stopped the petition at that early process. He said the city did follow procedure with the Scenic Development request but in a round about way.

Councilor Searle said it is important that the General Plan be updated regularly so that developers with proposals to bring before the city can use the documents as a source. Mayor Burrows said the Planning Commission is responsible for updating the plan regularly and sending their recommendations to the Council. Mr. Hansen said the General Plan is advisory while Title 10 is law adopted by ordinance. He recommended that there be a cross reference between the two documents for residents and developers with proposals for the city to use.

Councilor Arnold said he is hesitant to make decisions about land use that could affect future Councils years down the road like Peacock Ridge. Mr. Brooks said the problem in that case was the decision made by the Council 30 years previously to allow a subdivision to be built on Peacock Ridge was not known by the current Council until a petition came forward. He said the city couldn't stop the development because approval to build had been granted previously by a former Council but added that the current Council is making decisions now that will affect future Councils, that is just the nature of the job. Councilor Arnold asked at what point the city could get sued for saying "no" to a development and Mr. Hansen said once the zone is changed, the city is bound by those changes. According to Mr. Hansen, the Planning Commission is obligated to evaluate each petition to see if it is in harmony with the General Plan and Title 10. He said if the use doesn't match, they are justified in denying the petitioner's request. Mayor Burrows said if the petition matches the General Plan and approved zoning for the area and is in harmony with the Title 10 ordinances, the Planning Commission must recommend approval of the request to the Council.

Mr. Brooks said in reference to the Scenic Development petition the Council should not have been negotiating conditions for possible approval before the Planning Commission had evaluated the proposal against Title 10 and the General Plan. Chairman Mitchell said he is confident the proposal would have died the first time it came before the Planning Commission because it was not an approved use for the land. Commissioner Hilton said the Planning Commission felt pressure not to kill the proposal and to try to find a way to make the project work because the Council had indicated they might be in favor of approving the petition if certain conditions were met. Councilor Jenkins said there were no promises made to Scenic Development when the Council gave them feedback about possible conditions like density. Mr. Daily said the process must be respected with the Planning Commission making their recommendations to the City Council who then can deny or approve the request. Councilor Arnold agreed that it was inappropriate for Scenic Development's proposal to come before the Council first before the Planning Commission had an opportunity to review it and make their recommendations. Mayor Burrows said it is also not appropriate for members of each body to come to each other's meetings to give input on proposals because if a Council member makes comments at a Planning Commission meeting they could be perceived as speaking for the Council by the other

members of the Planning Commission and the petitioner. He said it is important that the two bodies remain separate so that they can make independent decisions. Mr. Daily said this is also important because historically the Council has also served as the appeal authority of recommendations by the Planning Commission that a petitioner may disagree with. Councilor Arnold challenged this counsel stating that although he serves on the Council he is still a resident and has the right to attend the Planning Commission meetings and to speak and share his personal opinions in open communications as a private citizen. Mayor Burrows said Dave Church legal counsel for the Utah League of Cities and Towns strongly discourages this behavior as the public perception needs to be that the two bodies make independent decisions. Councilor Arnold asked why Mr. Daily is allowed to attend both meetings and Mr. Hansen said as Community Development Director Mr. Daily should only be reporting to the Council what the discussion and recommendations were from the Planning Commission. According to Mr. Hansen, if Mr. Daily were interjecting his personal opinions as a citizen at these meetings that would also be inappropriate. Councilor Jenkins said the Planning Commission is an independent body that shouldn't be swayed by one Council member attending their meetings as a resident. She agreed with Councilor Arnold that members of the City Council should be allowed to attend Planning Commission meetings and speak as private citizens and said that as a Councilor she is influenced by the community's wishes and would not be swayed by the input of one Planning Commissioner attending a Council meeting and speaking in open communications. Mayor Burrows recommended that Councilors Arnold and Jenkins ask their question at the upcoming Utah League of Cities and Towns meeting.

Councilor Gibby said the appropriate action the Council should have taken when Scenic Development made their initial presentation would have been to say as the petition stands, we don't approve it, instead of making recommendations to the developer. Councilor Hunt said the petition never should have gone to Council first. Councilor Gibby agreed that if the Planning Commission had denied the petition because it wasn't in harmony with the General Plan and Title 10, the Council could have killed the proposal at that time and the petition would have died.

Mayor Burrows said Ordinance 10-1-3 concerning the General Plan/RDA Project Area - Plan Conceptual Development with a recommendation that petitions go before the Planning Commission before the City Council is the recommendation of staff and he said that a motion would be in order.

Motion: Councilor Gibby moved to adopt Ordinance 10-1-3 concerning the General Plan/RDA Project Area - Plan Conceptual Development. Councilor Hunt seconded the motion.

Mayor Burrows asked for discussion on the motion and Councilor Jenkins said she couldn't follow Mr. Hansen's mark up of suggested changes to Ordinance 10-1-3. She said this ordinance needs more work than just changing one provision. Mr. Hansen said he has stated on the record on multiple occasions his reasons for recommending this change. Councilor Arnold asked for clarification about what Scenic Development had approached the Council for initially and Mr. Hansen said their preliminary concept plan presented to the Council was to test the waters to see if there was any support for a zone change. Councilor Hunt said in his opinion the Council's mistake was in implying the city would be open to considering that zone change to allow the apartment complex to be built if the

developer was willing to do certain things like reducing density and moving buildings out of the floodplain.

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. Planning Commission Suggestions for General Plan Revisions.

Mayor Burrows said the Planning Commission can make recommendations to forward to the Council for their approval anytime they have consensus about changes to the General Plan. Mr. Hansen said the city paid \$47,000 in 2002 to update the General Plan and he recommended it be updated regularly to keep the document dynamic. He said several objectives have been implemented and others ruled out through consensus over the years. He said the city has also used tax payer dollars to conduct studies like the Heritage Study with recommendations on development that should be incorporated into the General Plan by the Planning Commission where there is consensus. Mayor Burrows said if the Planning Commission wants joint workshops to discuss changes to the General Plan with the City Council they can ask for them but the document is under the Planning Commission's purview. He suggested that a history of the changes made to the plan be kept at the end of the document as a record. Commissioner Searle recommended city staff initiate the plan's regular review by chapters as the Planning Commission isn't paid to invest a lot of time in reviewing the document. He recommended that each section be reviewed annually by the Planning Commission to keep the document updated and said this might also be a good idea for the City Council in reviewing city ordinances.

Commissioner Staten said prior to this joint strategic planning meeting last year he had reviewed the General Plan and made recommendations for changes that were never followed up on. He said the General Plan has been useful of reaching the goals of the city but he said the members of the Planning Commission don't have the expertise to update several sections of the plan like the transportation goals for the city. Mayor Burrows said if experts need to be consulted the Council would first need to approve funding for that work. Commissioner Staten asked Mr. Daily to review his proposed plan changes to determine what staff can handle and what experts need to review.

Councilor Jenkins asked about properly noticing public hearings where the general plan is subject to review and change and Mr. Brooks said the Planning Commission could notice and make changes to specific parts of the plan throughout the year. Commissioner Gailey asked that copies of studies with implications for change to the General Plan be forwarded to the Planning Commission so that they can determine if the plan is affected and needs to be updated. Councilor Gibby said it is important to notify any neighboring property owners who might be affected by changes to the General Plan.

Mr. Brooks said Riverdale's city statute has strict rules on notifying land owners within a specific range when land use changes are being considered.

Commissioner Staten said he would like to discuss creating a more walkable and bikeable city and he asked for any feedback from the maps he submitted as references for the packet. Councilor Jenkins said the Herridge Study and Sear-Brown Report have recommendations

on the city's trail system and connecting it to other cities and she suggested the Planning Commission review these documents in connection with Commissioner Staten's recommendations. Mr. Brooks advised Commissioner Staten to discuss his suggestions with the Planning Commission and said if they have consensus to move forward, they can make recommendations on changes to the City Council. Commissioner Staten said Mr. Daily recommended the Planning Commission come prepared to discuss changes to the General Plan at this joint strategic planning meeting. Mayor Burrows said the two bodies are welcome to have a discussion at this meeting but only the Planning Commission can make recommendations on changes through consensus which are then passed on the City Council for a vote. He also pointed out that there are limitations on what Riverdale can do because the state through UDOT and Weber County owns many of the connector roads like 1050 West and Riverdale Road where changes are proposed. He said as a member of the Weber Area Council of Governments (WACOG) he can take the Planning Commission's recommendations to larger groups with jurisdiction on making these changes including Weber Pathways. He said he has witnessed changes made in other cities with the backing of WACOG. Mayor Burrows asked if there was any other discussion on the General Plan and seeing none, he excused the Planning Commission.

6. City Council consideration of Resolution 2011-25 to amend the Fee Schedule to include a \$25 Can Fee for Non-Delivery, Non-Opt Out.

Riverdale's Acting Public Works Director Shawn Douglas said the public works department has been getting calls from some residents who didn't opt out of the city's recycling program but say they don't want a recycling can delivered and they plan on opting out after the eighth month period ends. Mr. Douglas said his department would like to amend the fee schedule to charge a one time \$25 fee for those individuals who refuse to participate in the program during this eight month trial period. He said this will save the public works department time and money by preventing the delivery and pickup of unwanted or dirty cans and billing residents who plan to opt out for the unused service for eight months. Mr. Douglas said right now there are less than 20 residents that have asked to opt out but he said there will probably be more as his department starts delivering the cans. Mr. Hansen said the public works department needs to contact each PRUD to arrange a location for recycling can pickup if there are homeowner ordinances preventing cans outside of homes. He said the one time \$25 fee will cover the \$2.45 a month for eight months of service and help mitigate the city's cost of purchasing an unneeded can. According to Mr. Hansen, the city will continue to try to educate residents about the program and encourage participation; this provision will simply help prevent the return of soiled cans by those who refuse a can upon delivery and state their intention to opt out.

Mayor Burrows asked if the Council had any questions on this proposal and Councilor Arnold said he isn't in favor of allowing residents to opt out as he thinks recycling should be mandatory to keep garbage removal fees low. Mr. Douglas said he doesn't want to force a can on residents who refuse one because once a can has been used it is hard to clean it and take it to a new family as many residents will demand a new can. He said the \$25 proposed cost to reject a can might discourage people from not participating in the program as there is an associated cost.

Councilor Searle said he supports the eight month trial period because he believes once people give the program a try they will be less likely to opt out of the program. He said he isn't in favor of a \$25 fee as it wasn't part of the initial agreement with residents proposed when the program was unveiled. He said he has had residents who live in PRUDs and opted out of the program because they don't have room for a can ask him about a possible increase in garbage removal fees. Mr. Douglas said his department has been educating residents about the possibility of an increased cost in garbage pick up fees for individuals that refuse to recycle in the future.

Councilor Hunt said he doesn't believe that residents should have to pay to not participate in the program and he objects to the proposal. Mr. Hansen said the way the program was adopted gives residents two opportunities to opt out and the \$25 fee isn't punitive but a way for the city to recover the \$19.60 each household would be billed for the service during the eight month trial and to help cover the city's costs for ordering cans that won't be used. According to Mr. Hansen, residents who refuse to recycle could be responsible for increased garbage fee rates in the future.

Councilor Jenkins asked Mr. Douglas about the process for implementing the service and Mr. Douglas said the cans will be assembled and delivered with an information packet explaining the pick up dates and what can be recycled in early October. At the end of the eight month trial, those who no longer wish to participate and those who refused a can will both need to opt out of future service. Councilor Jenkins said she believes if people try recycling they may like it and continue using the program; her only concern is elderly residents that don't have a lot of waste to recycle. Councilor Arnold said those residents pay water and sewer fees although they use fewer resources than large families in the city.

Councilor Gibby said any residents who didn't opt out should have a can for the eight month trial period. Councilor Searle suggested they pay for the eight months of service but shouldn't be forced to take a can. Mr. Hansen said if there is no support for this provision to be added to the fee schedule, the city will just absorb the work and expense of the refused cans and will bill the households for eight months of service and wait for them to fill out the opt out form. Mr. Douglas said most cities who have implemented recycling programs report participation increasing over time.

C. Discretionary Items

Councilor Searle said resident Henryk Dowliwa had contacted him and at least three other Council members about a setback dispute with his neighbor involving the new River Walk subdivision. He said this is only the first of 16 homes to be built and he thinks it would be a good idea if the future homes built use the fence put up by the developer instead of the actual property line when calculating their 20 foot setback.

Mayor Burrows said this is a property line dispute between two property owners and the Council should not be involved as it is a civil matter, as advised in the previous Council meeting by Mr. Brooks. Mr. Hansen said he and Mr. Daily have had conversations encouraging the developer to use the fence as the setback measurement in the future, but the city can only recommend this as they have no legal right to put conditions on the developer when he has a letter from a certified engineer with the property line clearly drawn. Mr. Hansen said he is sympathetic to the existing homeowner but even with an

additional ten foot setback this home would still be an imposing structure obscuring the Dowliwa's view. According to Mr. Hansen, in their building inspections Riverdale staff has following the property line certified by a civil engineer and if the property owner wants to challenge the engineer's measurements he would need to do that through the civil courts. Councilor Jenkins said one home isn't conforming and doesn't have the necessary setbacks. Mr. Brooks said if the law is on the developer Kent Hill's side he can build his homes where he wants based on that certified property line and there is nothing the city can do, that is why he has repeatedly advised Council members not to get involved in this civil dispute. Mr. Hansen said we don't want to waste city resources in this civil matter.

Councilor Arnold recommended that any land the city owns be surveyed for accuracy before being transferred to another property owner. Mr. Hansen said when the city owned this property they dedicated a portion of it the construction of the trail. He said the city had no reason to suspect there was overlapping property lines recorded with the county that needed to be resolved before offering the land to Mr. Hill as part of a settlement agreement for litigation.

Mayor Burrows asked if there were any additional discretionary items and none were noted.

D. Adjournment (*Next Strategic Planning Meeting is tentatively scheduled for Thurs. Dec 6th*)

With no further business to come before the Council at this time, Councilor Gibby moved to adjourn the meeting. Councilor Arnold seconded the motion. The motion passed unanimously. The meeting adjourned at approximately 8:40 PM.

Approved: September 20, 2011

Attest:

Bruce Burrows, Mayor

Ember Herrick, City Recorder