



**RIVERDALE CITY COUNCIL AGENDA  
CIVIC CENTER - 4600 S. WEBER RIVER DR.  
TUESDAY –AUGUST 19, 2014**

Minutes of the **Regular Meeting** of the **Riverdale City Council** held Tuesday, **August 19, 2014** at 6:04 PM at the Riverdale Civic Center, 4600 South Weber River Drive.

Members Present: Norm Searle, Mayor  
Don Hunt, Councilor  
Braden Mitchell, Councilor  
Brent Ellis, Councilor

Member Excused: Michael Staten, Councilor  
Gary E. Griffiths, Councilor

Others Present: Rodger Worthen, City Administrator; Steve Brooks, City Attorney;  
Shawn Douglas, Public Works Director, Michael Eggett,  
Community Development Director; Lynn Fortie, Business  
Administrator, Dave Griggs, Fire Fighter; Joel Pippin, Police  
Officer; Matt Hennessey, Fire Fighter; Nate Tracy, Fire Fighter;  
Ember Herrick, City Recorder and 20 members of the public  
including Jimmie Jo Torres, Brenda Griggs, Karine Teeter, Matt  
Cracas and Belinda Jackson.

**A. Welcome & Roll Call**

Mayor Searle called the meeting to order and welcomed all in attendance including all Council members except Councilors Staten and Griffiths who are excused.

**B. Pledge of Allegiance**

City Administrator Rodger Worthen led the Pledge of Allegiance.

**C. Moment of Silence**

Mayor Searle called for a moment of silence when he asked everyone to remember our police officers, fire fighters, and U.S. military service members.

**D. Open Communications**

Mayor Searle invited any member of the public with questions or concerns to address the Council for approximately three minutes and there were none.

**E. Presentations and Reports**

Mayor Searle recognized Belinda Jackson who recently earned American citizenship. Mrs. Jackson said she left England 18 years ago and has grown to love America after raising eight children here with her husband. Mrs. Jackson said she is grateful to live in Riverdale and has great respect for the early pioneers who settled this land and the U.S. military service members who sacrifice so that Americans can live in a free country.

Mayor Searle thanked the Riverdale Public Works and Fire Department employees and Eagle Scout Nick Jensen for their efforts to repair a trail bridge damaged in a fire in June.

City Administrator Rodger Worthen recognized staff with anniversaries in the month of August, thanking them for their service, including Code Enforcement Officer Randy Koger and Communications Specialist Chris Stone who is responsible for the website, newsletter and social media updates. Mr. Worthen thanked public works employees for placing some large boulders in a trail parking lot to restrict parking in response to resident complaints and he recognized Elizabeth Cappon for her attention to detail in cleaning the civic center. He said Riverdale's number of full-time employees is within staffing authorization and on track with Riverdale's 2005 Action Plan. Mr. Worthen and Mayor Searle recognized City Prosecutor Mike Junk who has been working for Riverdale for 10 years and Fire Fighter Dave Griggs who has 20 years of service with Riverdale City.

#### **F. Consent Items**

Mayor Searle asked if there were any changes to the August 5, 2014 Council meeting minutes and none were noted.

**Motion:** Councilor Hunt moved to approve the consent items. Councilor Mitchell seconded the motion.

Mayor Searle asked for discussion on the motion and there was none.

**Call the Question:** The motion passed unanimously.

#### **G. Action Items**

##### **1. Consideration of awarding the Riverdale Remodel of Fire Station 41 and Addition to the low bidder Patriot Construction for \$396,236.00**

Mayor Searle said the first action item is consideration of awarding the Riverdale remodel and new addition to Fire Station 41. Mr. Worthen said Chief Bodily is excused tonight so he will be presenting this proposal. According to Mr. Worthen, five bids were received and Patriot Construction was the low bidder so the recommendation is to award the bid to Patriot Construction for \$396,236.00. According to Mr. Worthen, Chief Bodily is also requesting additional funds for furniture, fixtures and equipment (FF&E) to cover the cost of furnishing the new sleeping quarters and to purchase a new water heater and furnace for a project total of \$430,106.00. He said the budgeted amount for the project is \$450,000.00. Councilor Mitchell asked if the construction bid should be awarded separately and Mr. Worthen agreed the Council should make the approval a two part motion. Councilor Ellis said he toured the fire station with Chief Bodily recently and agrees this remodel is needed. Mayor Searle asked for any additional Council comments or questions and none were noted.

**Motion:** Councilor Mitchell moved to approve awarding the Riverdale Remodel of Fire Station 41 and addition to the low bidder Patriot Construction for \$396,236.00 with a total upgrade project cost for FF&E of \$430,106.00. Councilor Ellis seconded the motion.

Mayor Searle asked for discussion on the motion and there was none.

**Roll Call Vote:** Councilor Hunt, aye; Councilor Mitchell, aye; and Councilor Ellis, aye. The motion passed unanimously.

**2. Consideration of replacing Riverdale's 15 car video camera systems in the patrol fleet for \$89,184.25**

Mayor Searle said the second action item is consideration of replacing Riverdale's 15 car video camera systems in the patrol fleet for \$89,184.25. Police Chief Dave Hansen said the current cameras will be traded in for a discount on the new cameras which are high definition and will have a wider field of vision and live streaming capability that a supervisor would be able to pull up and monitor remotely. Chief Hansen said the old cameras are no longer under warranty and with the advances being made in technology, the manufacturer is no longer making the parts to replace them. He said the video camera systems in police vehicles keep officers accountable and protect them from suspects' allegations. Councilor Hunt said he witnessed how valuable cameras in police vehicles can be to create a true recording of events and protect the city from lawsuits when he attended a citizen academy hosted by the Riverdale police. Mayor Searle said \$90,000.00 has been budgeted for this expenditure and he asked how long these cameras will last and Chief Hansen said six years is the projected life. Councilor Mitchell asked if the officers have the ability to delete video recordings and Chief Hansen said all videos are downloaded to the system's hard drive where they can only be accessed by a sergeant, lieutenant, or the police chief. He said the camera system can manually be turned on by an officer at any time and are automatically activated whenever an officer turns on his/her lights or exceeds speeds of 100 mph. Chief Hansen said the new system will have a 10 terabyte file server capable of significant video storage. Councilor Ellis asked if there will be one or multiple cameras in each vehicle and Chief Hansen said there will be one camera to record all back seat activity and another on the vehicle's dash that automatically zooms in on an automobile's license plate when an officer pulls someone over. Chief Hansen said the cameras will have video and audio which will record a detained individual's behavior to protect officers against allegations and will also capture any confessions a suspect may make to an officer while in custody. Mayor Searle asked for any additional questions or comments and there were none.

**Motion:** Councilor Hunt moved to approve replacing Riverdale's 15 car video camera systems in the patrol fleet for \$89,184.25. Councilor Mitchell seconded the motion.

Mayor Searle asked for discussion on the motion and there was none.

**Roll Call Vote:** Councilor Ellis, aye; Councilor Mitchell, aye; and Councilor Hunt, aye. The motion passed unanimously.

**H. Discretionary Items**

Mayor Searle asked for any discretionary items and Councilor Mitchell thanked Mayor Searle for his informative Facebook posts and efforts to reach a younger demographic that communicates through social media. Councilor Ellis thanked Riverdale's Public Works employees for facilitating the expedient repair of the trail bridge damaged by fire and police officers for stepping up their patrols and for issuing citations to individuals violating city ordinances in city parks and on the trail. Mayor Searle told the Council he was impressed with their creative solution to create an ad hoc committee and secure donations to repair Riverdale's BMX Park at their August 5, 2014 meeting.

**I. Adjournment:**

With no further business to come before the Council at this time, Councilor Mitchell moved to adjourn the meeting. Councilor Hunt seconded the motion. The motion passed unanimously. The meeting adjourned at approximately 6:35 p.m.

Approved: September 2, 2014

Attest:

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Norm Searle, Mayor

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Ember Herrick, City Recorder

The business license appeal hearing for Smart Shop Management Inc. began at 6:36 p.m.

**Appeal Hearing**

**1. Consideration of Smart Shop Management Inc.'s appeal of revocation of their business license under RCC 3-1-12 for operating a sweepstakes business outside of their stated license description in violation of city ordinance**

Mayor Searle said the purpose of tonight's appeal hearing is for the Riverdale City Council to consider Smart Shop Management Inc.'s appeal of revocation of their business license under RCC 3-1-12 for operating a sweepstakes business outside of their stated license description in violation of city ordinance. City Attorney Steve Brooks said Smart Shop's application for a Riverdale City business license with their stated business description clearly listed has been included in tonight's hearing packet. According to Mr. Brooks, shortly after this business opened, staff received a complaint that the business licensed for computer and cell phone sales and repair was really a front for fringe gambling through a promotional sweepstakes. Mr. Brooks said the police investigated the allegations and shared their reports with staff and City Administrator Rodger Worthen determined that the business was operating outside of their stated license description in violation of city ordinance RCC 3-1-12 and sent them a revocation letter on July 16, 2014. He said Smart Shop is appealing Mr. Worthen's decision through Attorney Mark Moffat and Riverdale Prosecutor Mike Junk will represent Riverdale City and he, Mr. Brooks, will advise the Council.

Mr. Moffat distributed copies of a four page document with details about Smart Shop's business to the Mayor, Council and staff. He said Smart Shop is appealing the business license revocation because the owner disagrees with the allegations that the business license application was fraudulent or misrepresented the primary description of Smart Shop's business on the two lines of the one page application where the type of business and business description are requested. Mr. Moffat said Smart Shop identified its business as a retail store on the license application and he argued that nowhere in Riverdale City code does it state ancillary activities like Smart Shop's promotional sweepstakes must also be disclosed. He said the owner of Smart Shop was not given any notice that he was doing anything illegal or improper until his business was shut down by

the Riverdale Police on July 16, 2014 and he argued this is a violation of his client's due process rights. Mr. Moffat said Mr. Worthen's letter did not allege fringe gambling and he is not prepared to address new allegations during tonight's hearing. He said if the business had been allowed to operate longer than one week, the computers the police allege were only being used for sweepstakes gaming would have also been used for the "periodic training classes that teach Intro to Computers, resume building workshops and MS Office Workshops" stated on the business license application. Mr. Worthen asked why Smart Shop didn't list the sweepstakes portion of their business on their license application and Mr. Moffat said because it is ancillary and only one advertising ploy the business uses to entice consumers to purchase goods and services. Mr. Moffat alleged Riverdale is guilty of unconstitutional selective enforcement because the city allows other businesses like Frankie's Dinner and Bingo to pursue a similar business model with a valid business license. He said Smart Shop's owner spent thousands of dollars opening this business, hiring employees, bringing in equipment, and buying merchandise and every day they are shut down causes them additional revenue loss. Mr. Moffat said his client wants to do business in Riverdale and is prepared to pursue legal action against Riverdale City if the Council fails to overturn Mr. Worthen's decision and reinstate Smart Shop's business license.

Mr. Moffat asked for any questions and Councilor Hunt asked how vital the sweepstakes is to Smart Shop's overall business model and Mr. Moffat said it is an important promotional tool. Councilor Hunt said if the sweepstakes is essential, why wasn't it disclosed on the license application and Mr. Moffat said the sweepstakes isn't paramount to the business' success. Mr. Moffat said many local businesses from McDonalds to America First Credit Union offer promotional sweepstakes in Riverdale and Councilor Hunt said McDonalds sells food and America First borrows and lends money and their sweepstakes are peripheral and therefore don't need to be disclosed on their business license applications. Mr. Moffat said Smart Shop is no different than Frankie's and should therefore be allowed to operate in Riverdale City. Councilor Mitchell asked how the sweepstakes works and Smart Shop Manager Nathan Piep said everyone who comes into Smart Shop can play the sweepstakes, with or without purchasing an item for sale. He said customers can get additional points to play the sweepstakes with the purchase of goods or services and he said the rules are clearly displayed in the store. Mr. Worthen said if this is part of Smart Shop's advertising campaign why aren't there any signs visible from outside the building and Mr. Piep said the third party Smart Shop does their sweepstakes through specifically requests no external signs. Councilor Mitchell asked if the sweepstakes is done through Pong Marketing and Promotions and Mr. Piep confirmed that is the company he contracts with. Councilor Ellis asked if participation is voluntary and how the sweepstakes prizes are paid for and Mr. Piep said participation is voluntary and the company's advertising budget covers the cost of the sweepstakes prizes. Mayor Searle asked how a customer can enter a sweepstakes without purchasing anything in the store and Mr. Piep said any potential customer who walks in the door is given 100 free sweepstakes points every 24 hours and the rules allow them to earn additional points by purchasing store items. Mr. Worthen asked if vending machine items also qualify for sweepstakes points and Mr. Piep said they do not and neither do fax, copy, and print services. Councilor Hunt asked what customers win in the sweepstakes and Mr. Piep said cash prizes that they will hopefully use to purchase Smart Shop merchandise.

Councilor Ellis asked if there are other Smart Shops in Utah and Mr. Piep said the Riverdale store is the first in the state. Mr. Piep said in the week his business was open they had customers bring in six to eight computers in need of repair and had talked to the adjacent pawn shop Cash America about repairing some of their pawned computers. Mr. Piep said he is also trying to become a T-Mobile authorized dealer. Councilor Mitchell asked what Smart Shops hours of operation are and Mr. Piep said 10 am to 10 pm 7 days a week, with the possibility of earlier opening hours to accommodate computer trainings classes. Councilor Mitchell asked about product pricing and Mr. Piep said Smart Shop's objective is to sell items for less than their competitors.

Mr. Worthen asked Mr. Piep if he is familiar with a website called Coach Sweep which instructs businesses on how to set up sweepstakes around state gambling laws and Mr. Piep said he is not familiar with this website. Mayor Searle said the website Code Sweep instructs businesses setting up a promotional sweepstakes to be transparent with municipalities when setting up their business and even advises against opening in Utah because of the state's strict fringe gambling laws and he said in his opinion Smart Shop's application was not forthright. Mr. Worthen asked Mr. Piep if he is aware of similar businesses being closed down because of fringe gambling allegations in West Valley City, Salt Lake City, and Layton and he referenced a July 5, 2013 Deseret News article. Councilor Mitchell asked Mr. Piep if he was the same individual charged for allegedly running a computer gambling operation in West Valley City at an internet café he managed in 2011 named in that news article and Mr. Moffat said he was the attorney on that case and the charges against Mr. Piep were dismissed. Mr. Junk asked if the internet café ever reopened in West Valley City and Mr. Piep said the business did not reopen in the State of Utah and he said Smart Shop is under different ownership. Councilor Ellis asked Mr. Piep why he didn't disclose the sweepstakes portion of his business on his Riverdale license application if he had prior experience with this type of business being challenged and closed in West Valley City. Mr. Piep said the law has changed since 2011 and Smart Shop isn't doing anything illegal under current Utah law. Mr. Moffat said Smart Shop is operating with a different business model from the 2011 internet café and the sweepstakes business is only a promotional tool to get customers to purchase cell phones or computers and accessories. Mr. Moffat said Mr. Worthen did not state Smart Shop was being closed down under state fringe gambling laws in his July 16, 2014 letter and he said if that is the city's allegation they need to give the owner notice so that they can refute these allegations with proof that the sweepstakes is an ancillary and not primary function of Smart Shop's business. He said today's hearing should only be to refute Mr. Worthen's accusation in his revocation letter that Smart Shop used fraud or misrepresentation in its license procurement. Mr. Moffat said city code and the business license application aren't specific enough and don't indicate that promotional campaigns like a sweepstakes must be disclosed.

Councilor Hunt asked what percentage of Smart Shop customers come in to play the sweepstakes and what percentage come to purchase computers or cell phones and Mr. Piep said it is difficult to tell because the business was only open for five days. Councilor Hunt said if the sweepstakes is an integral part of the business it does not qualify as ancillary. He said staff couldn't evaluate whether or not the sweepstakes is fringe gambling because it wasn't disclosed on the business license application and he said in

his opinion he considers this to be misrepresentation and he asked Mr. Brooks what steps the Council can take to revoke Smart Shop's Riverdale business license. Mr. Junk asked Mr. Piep if he would be willing to discontinue the sweepstakes portion of the business and just operate a retail store selling computers and cell phones as stated in his business license application. Mr. Piep said he would have been willing to temporarily discontinue the sweepstakes portion of the business while the legality was investigated, but city staff didn't give him that option they just revoked his license forcing Smart Shop to close.

Mr. Junk said Riverdale Police Sergeant Casey Warren investigated Smart Shop and he asked Sergeant Warren to share his observations with the Mayor and Council. Sergeant Warren said he visited Smart Shop in uniform at staff's request on July 14, 2014 and observed 10 percent of the business displaying computer and cell phone merchandise for sale and the other 90 percent of the business set up for Las Vegas style gaming including blackjack, poker and keno. He said he knew most of the patrons at Smart Shop because they are regulars that frequent Frankie's Dinner and Bingo and Frankie's owner complained to him that he lost 90 percent of his regular customers the week Smart Shop opened. Sergeant Warren said he observed individuals paying money to add credits to a card that allows them to play these games but he did not observe anyone purchasing any computers or cell phones or accessories during his visits to the store. He said officers visited Smart Shop four times over the course of several days and never observed anyone purchasing or requesting the repair of computers or cell phones, all the patrons were there to play the sweepstakes. According to Sergeant Warren, the phone cards being purchased to play the sweepstakes are rarely used for long distance calling and he said he is convinced Smart Shop would not survive without the revenue generated from the sweepstakes. Sergeant Warren said Mr. Piep was cooperative and cordial during the investigation and gave him a tour explaining how the sweepstakes works and from his observations, the sweepstakes is Smart Shop's primary business. Sergeant Warren said a cyber café with a similar business model was recently closed down by the police in South Ogden and he said these types of businesses do attract a specific clientele, many who will openly admit they have gambling addictions. According to Sergeant Warren, fringe gambling businesses tend to lead to an increase of criminal activity and as an example he reported that the neighboring businesses around 1170 West Riverdale Road were tagged with graffiti since Smart Shop opened.

Mr. Junk asked how many gaming touch screens he observed and Sergeant Warren said at the time of his investigation there were approximately 40 in the store with 80 percent in use for sweepstakes gambling. Mr. Worthen asked Sergeant Warren if the sweepstakes is an ancillary business and Sergeant Warren said in his opinion it is Smart Shop's primary business because everyone was using the computers for gaming and no one was paying for internet access or Microsoft training. Mr. Moffat said he is not prepared to defend against nuisance complaints or allegations of illegal fringe gambling during tonight's hearing because Mr. Worthen's letter revoking Smart Shop's business license did not list these justifications for closing the business down. He said Utah statute has a clear definition of ancillary and he said Smart Shop's sweepstakes is no different than Frankie's promotional magic ball game. Mr. Moffat said Smart Shop isn't trying to attract undesirables or defraud city staff. He said the business is open to anyone and the sweepstakes isn't illegal under Utah State laws and is an ancillary portion of Smart Shop's business, therefore it wasn't disclosed. Mr. Worthen asked for a reference to the

ancillary definition in state code and Mr. Moffat said it is defined under Utah's fringe gambling statute. Mr. Junk said the appeal the Council is being asked to consider is whether or not Smart Shop used fraud or misrepresentation in the procurement of their business license. Mr. Junk said it is obvious from the layout of the business and Sergeant Warren's testimony that the sweepstakes is a primary function of Smart Shop's business and should have been disclosed so that staff could have determined if it qualifies as fringe gambling and should be prohibited in Riverdale. He asked the Council to uphold Mr. Worthen's decision to revoke the business license under Riverdale City Code 3-1-12 for fraud or misrepresentation in its procurement.

Councilor Mitchell said he has a problem with half-truths and he said failing to disclose something because you claim the questions on the license weren't specific enough is not an excuse. He said when staff learned Riverside Storage was running a U-Haul business out of their storage facility the city shut it down and he said this is standard city policy when a business description changes without being properly disclosed to the city. Councilor Mitchell said Riverdale prides itself on being business friendly and he said he would be inclined to allow Smart Shop to reopen as a computer and cell phone retailer without the sweepstakes and Councilor Ellis agreed.

**Motion:** Councilor Hunt moved to deny Smart Shop Management Inc.'s request to reinstate their business license because the Council does not believe the sweepstakes portion of the business is ancillary and agrees with the City Administrator's decision to revoke the license for failure to disclose one of the business' primary functions in their license application. He said the suspension will be for thirty days at which time the business owner will have the option of submitting a new business license application for staff's consideration. Councilor Ellis seconded the motion.

Mayor Searle called for discussion on the motion and Councilor Mitchell asked if a month is sufficient time and Mr. Brooks said statute allows the Council to suspend the license for up to a year or permanently and he asked the Council to be clear in their direction to staff. Councilor Hunt said a month will give Smart Shop time to determine if they want to apply for a license with or without the sweepstakes and if they do decide to pursue the sweepstakes business, staff and legal counsel can investigate whether or not this type of use constitutes fringe gambling.

**Roll Call Vote:** Councilor Mitchell, aye; Councilor Ellis, aye; and Councilor Hunt, aye. The motion passed unanimously.

Mr. Moffatt said the business has already been closed down for a month prior to tonight's hearing and he asked when the month suspension begins and Mayor Searle said immediately. According to Mayor Searle, Smart Shop can resubmit a business license to Riverdale City 30 days from August 19, 2014.

The meeting adjourned at approximately 8:00 p.m.

Approved: September 2, 2014

Attest:

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Norm Searle, Mayor

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Ember Herrick, City Recorder