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**Roanoke Rapids City Council**

**November 4, 2014**

The regular meeting of the City Council of the City of Roanoke Rapids was held on the above date at 5:15 p.m. in the first floor conference room of the J. Reuben Daniel City Hall & Police Station.

 Emery G. Doughtie, Mayor

 Carl Ferebee, Mayor Pro Tem

 Suetta S. Scarbrough)

 Ernest C. Bobbitt)

 Carol H. Cowen)

 Wayne Smith)

 Joseph Scherer, MPA, MS, City Manager

 Gilbert Chichester, City Attorney

 Lisa B. Vincent, MMC, NCCMC, City Clerk

 Kathy Kearney, Deputy City Clerk/Human Resources Manager

 MeLinda Hite, Finance Director

 Larry Chalker, Public Works Director

 John Simeon, Parks & Recreation Director

 Andy Jackson, Interim Police Chief

 Stacy Coggins, Fire Chief

 Kelly Lasky, Planning & Development Director

 Christina Caudle, Main Street/Development Director

Miss Lauren Doughtie presented the American Flag.

Mayor Doughtie called the meeting to order and opened the meeting with prayer.

Miss Doughtie led in the recitation of the Pledge of Allegiance.

With no one indicating a conflict of interest with any of the items on the agenda, motion was made by ­­­­­­­­­­­Councilwoman Cowen, seconded by Councilman Bobbitt and unanimously carried to adopt the business agenda for November 4, 2014.

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Interim Police Chief Jackson stated he would like to take this opportunity to recognize some kind and generous people that made donations to the Police Department to aid in the purchase of additional body cameras. He stated the City Council graciously approved the purchase of eight cameras and with the six they have been able to purchase with donations, they now have a total of 14. Interim Police Chief Jackson stated these cameras are very useful and each officer has expressed appreciation.

Interim Police Chief Jackson stated everyone knows that there are two sides to every story and somewhere in the middle is the truth. He stated *(while pointing to the middle of his chest)* that in the middle is the body camera. He stated these cameras have already proven to be very beneficial to the department.

Interim Police Chief Jackson stated he believes what makes the City of Roanoke Rapids so great is that we have citizens and organizations that come to the aid of others in times of need. He stated they are willing to open up their wallets to help others. Quoting Winston Churchill, he stated “we make a living by what we get, but we make a life by what we give”.

Interim Police Chief Jackson recognized the following for donations to the Police Department’s body camera program:

*Barry Wilson, New Republic Savings Bank*

*Gilbert Portela, Angel’s Closet*

*Michael Dunlow, Big Time Pawn Shop*

*Mayor Emery G. Doughtie*

*Phil Hux, G.W. Hux & Company*

*Rob Gowen, Becker Self Storage*

*Myra Keeter*

Interim Police Chief Jackson also recognized Mr. Harold Massey of Massey Funeral Homes for the donation of four Pelican flashlights.

Interim Police Chief Jackson stated these donations have made our officers very happy and also made their jobs a lot easier.

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Motion was made by Mayor Pro Tem Ferebee, seconded by Councilwoman Scarbrough and unanimously carried to approve the October 21, 2014 Council Minutes.

The following individuals were sworn by City Clerk Vincent: Planning & Development Director Lasky, Justin Albertson *(Applicant)* and Brittany Myers*.*

Planning & Development Director Lasky reviewed the following staff report with Council:

**MEMORANDUM**

TO: Joseph Scherer, City Manager

FROM: Kelly Lasky, Planning & Development Director/s/

DATE: October 24, 2014

**RE: Conditional Use Permit Application for Electronic Gaming Sweepstakes at**

 **430 Premier Boulevard**

An application has been submitted for a Conditional Use Permit from Justin Albertson (applicant) on behalf of Triledo Premier LLC (owner) to construct and operate an Electronic Gaming Operation (Internet Café) at 430 Premier Boulevard, located in the shopping center currently occupied by Dunham’s Sporting Goods. The property located at 430 Premier Boulevard is located in the B-4 Business District. The use of the property as an Electronic Gaming business is a use that is permitted with the approval of a Conditional Use Permit. At completion of a proposed construction upfit of the existing tenant space, the applicant requests approximately 60 computer stations to conduct electronic gaming/internet sweepstakes.

A copy of the application and supporting documentation is attached to this memorandum.

**The City Council is now required to hold a public hearing followed by a final vote concerning this matter.**

Planning & Development staff has made the following findings concerning this request:

**SECTION I:**

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**1. The requested permit is within its jurisdiction according to the table of permissible uses; or**

*The requested permit is within its jurisdiction.*

**2. The application is complete; or**

*The application is complete.*

**3. If completed as proposed in the application, the development will comply with all requirements of the Land Use Ordinance; or**

*The development will comply with all of the requirements of the Land Use Ordinance if completed as proposed in the application. A site plan will be required and will go through the Development Review Committee process. Once the site plan has been approved and the building plans are reviewed, a building permit will be issued. Per the requirements of the Land Use Ordinance Section 151-171 Electronic Gaming Operations, the following conditions apply:*

 *1. The machines/terminals must not be prohibited by State or Federal law and must have all applicable permits and licenses.*

 *2. The issuance of a Conditional Use Permit to operate an electronic gaming operation by City Council does not grant the owner or operator of such facility perpetual property rights to operate this facility. The operation shall at all times be in compliance with any State or Federal law or regulations.*

**SECTION II:**

The following seven items were also considered when evaluating item #4 (a), (b), (c) and (d) that follows:

**1: ingress and egress to the lot and proposed structures, especially by pedestrians and automobiles, is safe and convenient in terms of access and traffic flow; and**

*This is probably true; the site has direct access to Premier Boulevard. The shopping center is developed having improved driveway access.*

**2: off-street parking and loading affects adjacent property (in terms of traffic generation, economic impact, noise, glare and odor) similar to uses permitted in that zoning district; and**

 *This is probably true; as currently proposed, the off-street parking requirements for Electronic Gaming Operations are provided. The requested permit is of similar land use type to properties along Premier Boulevard.*

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**3: refuse disposal affects adjacent property similar to uses permitted in that zoning district; and**

*This is probably true; the refuse collection requirements of the City of Roanoke Rapids shall apply to the development.*

**4: utilities are available; and**

*This is probably true; all utilities are currently available for the site. Connections and extensions shall be coordinated with appropriate entities.*

**5: the type, dimensions and character of screening and buffering satisfactorily screens adjacent property; and**

*This is probably true; the parcel of land is zoned B-4 and will be compatible to the adjoining uses. The shopping center property is properly screened and buffered for the requested land use.*

**6: signs and lighting affect adjacent property similar to uses permitted in that zoning district; and**

*This is probably true; all signage will require a sign permit. All off-street parking areas shall also be lighted to meet Land Use Ordinance requirements by the developer. All proposed signage shall be constructed in accordance with the Land Use Ordinance.*

**7: required yards, open space and existing trees and other attractive and natural features of the land are preserved.**

*Staff believes this may be true; the site is developed in conformity with the policies of the Land Use Ordinance and any proposed changes are subject to review by staff.*

**SECTION III:**

Given the preceding, the staff has made the following findings concerning this request:

**4. If completed as proposed, the development, more probably than not:**

 **(a) will not materially endanger the public health or safety; or**

*The staff has determined this is probably true; the business shall be required to comply with all applicable Federal, State and local codes and ordinances. An*

 *assessment of the previously referenced seven items used to evaluate 4 (a), (b), (c) & (d) indicates no specific endangerment to the public health or safety that is not adequately addressed.*

 **(b) will not substantially injure the value of the adjoining or abutting property;**

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 **or**

*The staff believes this is probably true. Staff cannot determine the impact of value this proposed use would have on surrounding properties; however, based on the seven additional items used to evaluate 4 (a), (b), (c) & (d), any potential negative effects on adjoining or abutting property should be minimal.*

 **(c) will be in harmony with the area in which it is to be located; or**

*The staff has determined this is probably true; its use as proposed will be in harmony with the existing surrounding uses in the area based on the previously referenced seven items used to evaluate items 4 (a), (b), (c) & (d).*

 **(d) will be in general conformity with the Comprehensive Development Plan, Thoroughfare Plan, or other plan officially adopted by the City Council.**

*The staff has determined this is probably true. The Comprehensive Development Plan states the following policies should be considered:*

***Economic Development***

***1.29*** *Encourage new and expanding industries and businesses which: (1) diversify the local economy; (2) utilize a more highly skilled labor force; and (3) increase area residents’ incomes.*

***1.32*** *The City shall protect, enhance, and encourage a high quality of life, image, and cultural amenities as an effective approach to economic development.*

***1.33*** *Economic development efforts should encourage the revitalization and reuse of currently unused or underutilized structures, sites, and infrastructure in appropriately located areas.*

**SECTION IV:**

The applicant has addressed the requisite questions, which must be answered by the City Council in the application. It is your obligation to ensure each has been adequately addressed after hearing all parties prior to rendering your recommendation to City Council.

**Planning & Development Department Review**

After a complete review of the information submitted to date by the applicant, it is the Planning staff’s opinion that the request satisfactorily meets the requirements of Section 151-94 of the Land Use Ordinance. The staff recommends; however, if approval of the permit is granted, it is subject to the following stipulations:

1. Additional detailed construction drawings and building plans shall be provided to the Planning and Development staff, when requested, to determine compliance with any one or more of the provisions of the Land Use Ordinance, Building Code, Fire Code, City Code or other applicable required code or ordinance.

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**Requested Action**

The City Council has several options regarding this Conditional Use Permit application:

 (1) approval of the request as submitted;

 (2) approval of the request, subject to certain stated conditions;

 (3) denial of the request.

Planning & Development Director Lasky indicated that on October 16, the Planning Board reviewed this request and after a lengthy discussion about other potential uses for the shopping center, voted 5 to 4 to recommend denial of the permit. She indicated that some of the members wanted to see more retail type uses in the shopping center. She stated some of the discussion related to the number of sweepstake businesses in the City. Planning & Development Director Lasky stated staff believes the Land Use Ordinance currently limits the number. She stated we have three conforming and three non-conforming internet cafes that opened prior to adoption of our current regulations. She indicated that if those three non-conforming were to close, they could not reopen.

A public hearing having been advertised and proper notices having been given according to law, Mayor Doughtie opened the public hearing for comments.

Mr. Justin Albertson stated some of the questions at the Planning Board meeting related to security. He stated they plan to have security and abide by all laws, rules and regulations.

Ms. Brittany Myers stated their attorney was unable to attend tonight. She stated she does have his information if anyone has questions for him.

Councilwoman Scarbrough asked if they have other internet cafes.

Mr. Albertson stated he has one in Archdale, North Carolina.

Mayor Doughtie asked if the property in question is within 1,000 feet from the other internet cafes in that area.

Planning & Development Director Lasky stated the distance is exceeded by 1,300 or 1,400 feet.

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Mayor Pro Tem Ferebee asked the thought process behind the Planning Board’s decision to recommend denial of the request.

Planning & Development Director Lasky stated it had to do more with harmony. She stated they wanted to see more retail type uses in the shopping center. She pointed out that some of the members were supportive of the request and the Chairman had to break the tie.

Mayor Pro Tem Ferebee asked Planning & Development Director Lasky to point out the location of the proposed internet café in relation to the location of Dunham’s.

Councilman Smith asked why the staff would think this use is in harmony and the Planning Board disagreed. He asked the reason for the different conclusion. He stated it is his understanding that a finance company wants to locate in this same shopping center.

Planning & Development Director Lasky stated they are currently reviewing plans for a finance company. She stated that use is permitted by right. She pointed out that internet cafes are listed in the table of permissible uses and are therefore presumed to be harmonious.

Councilman Smith asked Interim Police Chief Jackson if he has had any trouble with the internet cafes. He asked how many of these establishments are in town.

Planning & Development Director Lasky stated we have three conforming and three non-conforming for a total of six. She pointed out that due to the separation requirements in the ordinance, there is only one other location where an internet café could open in compliance with our regulations.

Interim Police Chief Jackson stated in the last five years, there has been one robbery at the internet café on E. 10th Street. He stated other than that, there have been no problems with these establishments.

Councilman Smith asked Mr. Albertson if he plans to operate 24 hours a day.

Mr. Albertson stated he would like to. He stated the others operate 24/7.

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Mayor Doughtie asked City Attorney Chichester to provide a brief explanation of the conditional use permit process.

City Attorney Chichester pointed out that Planning & Development Director Lasky could probably explain this better from a planning and development standpoint.

Planning & Development Director Lasky explained that a conditional use permit is granted by City Council after review by the Planning Board. She stated evidence is presented at a public hearing and City Council must find all four findings of fact to be true in order to issue the permit. She explained that this is different from the typical zoning permits in that City Council may attach certain stipulations to the permit.

Councilman Smith asked what would happen if we issue this permit and another internet café comes in and wants to open up five doors down from this establishment.

Planning & Development Director Lasky explained that we would notify them that they would be within 1,000 feet of an existing location and therefore would not be in compliance with the Land Use Ordinance.

Mayor Pro Tem Ferebee asked if the City Council determined the 1,000' separation regulation.

Planning & Development Director Lasky stated City Council in July of 2012 looked at the ordinance again and developed the regulations regarding separation and also eliminated the restrictions on hours and the sale of alcohol.

City Attorney Chichester stated it was his understanding that some of the Planning Board members felt the shopping center should be used for other uses to help with the development of the area but we cannot make our decisions based on what we think would be better or what we prefer.

Mayor Pro Tem Ferebee asked Planning & Development Director Lasky if she has heard from Dunham’s regarding this request.

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Planning & Development Director Lasky stated no. She stated they notified all property owners within 100 feet of the dates and times for both the Planning Board and City Council meetings. She stated they have received no questions or comments.

Councilman Bobbitt asked Mr. Albertson if they plan to sell alcohol.

Mr. Albertson stated no.

Mayor Doughtie stated the City Council is concerned about how many of these establishments we could end up having here. He stated from what we have been told by Planning & Development Director Lasky, we would have this one, if approved, and only one more based on the separation requirements. Mayor Doughtie stated City Attorney Chichester has advised that if we abide by the regulations in our Land Use Ordinance, we have to approve this request.

Mayor Pro Tem Ferebee asked Mr. Albertson if he plans to be open 24/7.

Mr. Albertson stated that is the plan.

Mayor Doughtie asked Planning & Development Director Lasky about the operating times of the other internet cafes.

Planning & Development Director Lasky indicated they all operate 24/7.

There being no one else to speak, Mayor Doughtie declared the public hearing closed.

Motion was made by Mayor Pro Tem Ferebee and seconded by Councilman Bobbitt that the following Sections I and II are true based on the foregoing staff report dated October 24, 2014:

SECTION I

1. The requested permit is within its jurisdiction according to the table of permissible uses; and

2. The application is complete; and

3. If completed as proposed in the application, the development will comply with all requirements of the Land Use Ordinance.

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SECTION II

1: ingress and egress to the lot and proposed structures, especially by pedestrians and automobiles, is safe and convenient in terms of access and traffic; and

2: off-street parking and loading affects adjacent property (in terms of traffic generation, economic impact, noise, glare and odor) similar to uses permitted in that zoning district; and

3: refuse disposal affects adjacent property similar to uses permitted in that zoning district; and

4: utilities are available; and

5: the type, dimensions and character of screening and buffering satisfactorily screens adjacent property; and

6: signs and lighting affect adjacent property similar to uses permitted in that zoning district; and

7: required yards, open space and existing trees and other attractive and natural features of the land are preserved.

Upon being put to a vote, Mayor Pro Tem Ferebee, Councilman Bobbitt, Councilwoman Scarbrough and Councilwoman Cowen voted in favor of the motion. Councilman Smith voted against the motion.

Mayor Doughtie announced that the motion carried by a vote of 4 to 1.

Motion was made by Mayor Pro Tem Ferebee and seconded by Councilwoman Cowen that it is true, based on the foregoing staff report dated October 24,

2014 and items 1 – 7 of Section II included in that report, that if completed as proposed, the development will not materially endanger the public health or safety.

Upon being put to a vote, Mayor Pro Tem Ferebee, Councilwoman Cowen, Councilwoman Scarbrough and Councilman Bobbitt voted in favor of the motion. Councilman Smith voted against the motion.

Mayor Doughtie announced that the motion carried by a vote of 4 to 1.

Motion was made by Mayor Pro Tem Ferebee and seconded by Councilwoman Cowen that it is true, based on the foregoing staff report dated October 24, 2014 and items 1 – 7 of Section II included in that report, that if completed as proposed, the development will not substantially injure the value of adjoining or abutting property.

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Upon being put to a vote, Mayor Pro Tem Ferebee, Councilwoman Cowen and Councilman Bobbitt voted in favor of the motion. Councilwoman Scarbrough and Councilman Smith voted against the motion.

Mayor Doughtie announced that the motion carried by a vote of 3 to 2.

Motion was made by Mayor Pro Tem Ferebee and seconded by Councilwoman Cowen that it is true, based on the foregoing staff report dated October 24, 2014 and items 1 – 7 of Section II included in that report, that if completed as proposed, the development will be in harmony with the area in which it is to be located.

Upon being put to a vote, Mayor Pro Tem Ferebee, Councilwoman Cowen and Councilman Bobbitt voted in favor of the motion. Councilwoman Scarbrough and Councilman Smith voted against the motion.

Mayor Doughtie announced that the motion carried by a vote of 3 to 2.

Motion was made by Mayor Pro Tem Ferebee and seconded by Councilwoman Cowen that it is true, based on the foregoing staff report dated October 24, 2014 and items 1 – 7 of Section II included in that report, that if completed as proposed, the development will be in general conformity with the Comprehensive Development Plan, Thoroughfare Plan, or other plan officially adopted by the City Council.

Upon being put to a vote, Mayor Pro Tem Ferebee, Councilwoman Cowen, Councilwoman Scarbrough and Councilman Bobbitt voted in favor of the motion. Councilman Smith voted against the motion.

Mayor Doughtie announced that the motion carried by a vote of 4 to 1.

Motion was made by Mayor Pro Tem Ferebee and seconded by Councilwoman Cowen to grant a Conditional Use Permit to Justin Albertson (applicant) and Triledo Premier LLC (property owner) for an electronic gaming operation/internet sweepstakes located at 430 Premier Boulevard with the conditions set forth by the Land Use Ordinance and the Planning Department in the foregoing staff report dated October 24, 2014.

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Upon being put to a vote, Mayor Pro Tem Ferebee, Councilwoman Cowen and Councilman Bobbitt voted in favor of the motion. Councilwoman Scarbrough and Councilman Smith voted against the motion.

Mayor Doughtie announced that the motion carried by a vote of 3 to 2.

Mayor Pro Tem Ferebee stated he knows this was a tough decision but based on our own Land Use Ordinance, we had to approve this permit.

Councilman Smith stated he was on the steering committee that developed the Comprehensive Development Plan and does not remember it exactly being put the way it is in the staff report. He stated he may be wrong but he does not believe that is the way it reads in the Comprehensive Development Plan. He stated he plans to go back and check his meeting notes and minutes.

Councilman Bobbitt stated he personally does not agree with these types of establishments but we have fought this battle before and lost. He stated if the finance company decides not to locate in this shopping center because of this

establishment, he feels it would injure the property. He asked if we could go back and vote again should that happen.

City Attorney Chichester explained that the permit can only be revoked if the property owner does not comply with the stipulations of the conditional use permit. He pointed out that this was a public hearing and if someone from Dunham’s or the finance company had been here and produced evidence, the Council may have been able to come to a different decision. He stated there was no evidence presented to deny the request for a permit.

Councilman Bobbitt stated if Dunham’s decides to close, it will be a problem.

Fire Chief Coggins presented a demonstration of the Active911 System the department has recently put in place. He indicated that Active911 is a digital messaging system that delivers alarms, maps, and other critical information instantly to first responders, and also allows response efforts to be monitored in real time. Fire Chief Coggins stated this is a great tool that has taken the Roanoke Rapids Fire Department into the future.

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City Manager Scherer pointed out that this tool will also be beneficial to the Police Department.

Fire Chief Coggins stated once they get all of the information programmed, he plans to share with the Police Department.

City Manager Scherer reported on an uneventful weekend and Halloween. He reported that this coming Sunday, the annual AMVETS March of the Patriots and Veteran’s Day Ceremony will be held. He stated participants are to line up at 2:15 p.m. in the parking lot of the Kirkwood Adams Community Center and begin the march at 3:00 p.m. to the Veteran’s Park at 7th and Roanoke Avenue. He stated everyone is invited to participate.

City Manager Scherer reported that the Public Works Department has begun leaf season. He pointed out that they do not follow the normal refuse collection route. He stated a copy of the daily schedule can be found on the department’s

Facebook page. City Manager Scherer reminded citizens to not rake the leaves in or near the storm drains.

City Manager Scherer also reported that a weather station has been installed on the roof of the Public Works Department, and a weather link has been added to the City’s webpage. He commended Public Works Director Chalker for utilizing this technology.

City Manager Scherer reported that the Parks & Recreation Department has been busy with the Haunted Woods, Halloween Carnival and youth basketball registration and evaluation. He stated they are also busy working on plans for the Christmas Parade scheduled for December 7 as well as the Christmas Tree Lighting Ceremony scheduled for December 4. City Manager Scherer reported that there will be a skateboard park planning meeting on Thursday, November 13 at 5:30 p.m. at the T. J. Davis Recreation Center to review the draft plans and layout. He reported that the work on the retrofit at the Jo Story Senior Center is half done and they now have heat on the first floor. He reported that the Dectron unit for the Aquatic Center has been ordered.

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City Manager Scherer reported that the Police Department is working on a rash of vehicle break-ins, and that 20 occurred last night. He also reported on the fish fry fundraiser this Friday at Pro Build to raise funds for the department’s holiday shopping with kids program.

City Manager Scherer reported that the Maxway store across the street from City Hall is closing. He stated fortunately the five employees from that store have been offered employment at Roses. He indicated that Main Street/Development Director Caudle has been in touch with the property owner about help with finding another tenant for the building. City Manager Scherer reported that Main Street awarded façade grants to Pepper’s Antiques and Countryside Interiors. He also reported that Main Street is working on a new website donated by a web design business located on the Avenue.

Councilwoman Scarbrough asked about the cost of the Dectron unit.

Parks & Recreation Director Simeon stated he believes it was around $137,000.00 for the unit. He stated we still have to pay for installation and engineering fees but we are within budget.

There being no further business, motion was made by Councilwoman Scarbrough, seconded by Mayor Pro Tem Ferebee and unanimously carried to adjourn.

 

 11/18/2014