



# CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-2724

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TO: Legal & Finance Committee

FROM: Jason E. Green, City Attorney *JEG 1-13-09*

CC: Mayor Hanks, Public Works Committee, Chief Allender

DATE: January 13, 2009

RE: Options for Precious Metals and Gems Licensing

Chief Allender and I have met several times to discuss the licensing issues pertaining to Precious Metals and Gems Dealers. There appear to be two issues that need to be addressed. The first concerns transient or temporary shows. The second concerns the background checking requirement that is currently a part of Ordinance # 5444. As these questions are related, the options identified may apply to one or both issues. The identified options are:

- 1) Keep the license as is and require the background check for all dealers (including transient shows).
- 2) Provide an exemption to the licensing requirement for transient shows. This would also exempt those who participate in the shows from the background checking requirement.
- 3) Establish a temporary license for the promoter of transient shows and work with venues who host transient shows (such as the Civic Center) to get the licensing information to the promoter at the time the show is booked.
- 4) Allow council to grant an exception and authorize a license for a convicted felon.
- 5) Limit time frame for background check (i.e., no felony in last 40 years).

- 6) Extend period between renewals.
- 7) Eliminate background check for Precious Metals and Gems Dealers.
- 8) Repeal licensing requirement for Precious Metals and Gems Dealers.

**Recommendation: Either Option 3 or Option 8.**

If the Council believes the best interests of the public are served by continuing to license Precious Metals and Gems Dealers, the problems associated with transient shows could be address through a temporary license for the promoter of the show. It appears the venues that host these shows could get licensing information to the promoters at the time a show is booked. This would allow ample time for a background check to be conducted prior to the show. This option balances the need for licensing with the problem of a significant number of out of town participants in a transient show.

If the Council believes it is in the best interests of the public to eliminate the background check for Precious Metals and Gems Dealers, I recommend repealing the licensing requirement entirely. The lack of a background check will leave the Council with only information supplied by a license applicant upon which to base its licensing decision. The Council would be willfully blinding itself to readily available information that may cast doubt on the fitness of the applicant. The City issued license for Precious Metals and Gems Dealers is an affirmative statement that the Council believes the person holding the license is a fit person to be in the business of handling the secondhand sales of valuable metals and gems. Without an appropriate background check, the Council should not place its stamp of approval on any business. Doing so may expose the taxpayers to liability.

**Additional Discussion**

Option 1, leaving everything unchanged does not seem to be a good option. A practical issue has been identified with transient shows that should be addressed.

Options 2, providing a licensing exemption to transient shows has several drawbacks. First, it treats traveling shows more favorably than local businesses. Second, it creates a huge loophole in the licensing scheme that is in direct conflict with the idea behind licensing Precious Metals and Gems Dealers.

Option 3, the temporary license for promoters of transient shows addresses the issues of different treatment for local dealers. It also insures that the person running a transient show must meet the same requirements as all local businesses. This provides consistency with the philosophy behind the licensing requirement, if to a lesser degree.

Options 4, providing an option for the Council to authorize a license for a person convicted of a felony is not recommended. If a felony conviction does not prevent the

issuance of a license what will? Precious Metals and Gems Dealers handle property that is frequently stolen. Keeping persons with criminal histories from engaging in businesses that have an inherent risk of facilitating criminal activity protects the safety of the public at large. If the Council believes that the risk to the public is minimal from allowing convicted felons to be licensed, the entire underlying philosophy of licensing is undermined and should be repealed (Option 8).

Option 5, limiting the time frame of the background check would serve to attempt to balance keeping a licensing scheme with allowing convicted felons to be licensed. Again, licensing convicted felons undermines the licensing philosophy. A better alternative is to eliminate the license entirely.

Option 6, extending the time between renewals would reduce to the cost of the license. However, annual licensing provides consistency with other City licenses and is easier to track than every other year licensing schemes.

Options 7, eliminating the background checking requirement is not recommend for the reasons stated above. If the Council decides to eliminate the background checking requirement, the licensing requirement should be repealed.

Option 8, eliminating the license entirely gets the City out of the business of vouching for the character and fitness of a business. If the Council decides not to check backgrounds of Precious Metals and Gems Dealers, the Council should also repeal the licensing requirement.

Please feel free to contact me if there are additional questions.