

MINUTES OF THE MARCH 16, 2004, ROY CITY COUNCIL MEETING

1. Approval of March 2, 2004 minutes
2. Recognition of Employee of the Month for February
3. Final approval of Hidden Cove Subdivision located at approximately 5400 South 3275 West
4. Public Hearing to receive public input with respect to the Council's proposed pledge of certain of the City's sales and use tax revenues pursuant to a pledge agreement between the City and UTOPIA
5. Conditional acceptance of subdivision improvements for Cardall Subdivision located at approximately 2350 West 5400 South; Daugherty Estates Subdivision located at approximately 5975 South 2325 West; Day Spring Subdivision located at approximately 3200 West 6000 South; and Southfork Meadows Subdivision No. 4 located at approximately 3850 West 6000 South
6. Final acceptance of subdivision improvements for Midland Farms Subdivision No. 6 located at approximately 2900 West Midland Drive
7. City Manager's report
8. Mayor and Council Reports
9. Adjourn to Redevelopment Agency Meeting

Minutes of the Roy City Council Meeting held March 16, 2004, at 6:00 p.m. in the City Council Room of the Roy City Municipal Building.

The meeting was a regularly scheduled meeting designated by resolution. Notice of the meeting was provided to *The Standard Examiner* at least 24 hours in advance. A copy of the agenda was posted.

The following were in attendance:

Mayor Roger Burnett
Councilwoman Marge Becraft
Councilman Tommy Smith
Councilman Dave Tafoya
Councilman Dan Tanner
Councilman Larry Peterson

City Manager Chris Davis
City Attorney Andrew Blackburn
Secretary Char Wolverton

Also present were: Tony Reynolds, Community Development Services Director; Cathy Spencer, Management Services Director; Mark Miller, City Engineer; Roger Black; Michael Dalebout; Jim Farr; Bob Ekstrom; J. S. Granducci; Cheri Jurek; R Jurek; Doyle Jones; Cleo Jones; Carol Harris; Dean Harris; Mike Taylor; Jonathan Karras; Enid Fife; Mike Clark; Larry McKain; Amy Tafoya; Brighton n. McKenzie Jr.; Ben Gould; Nate Tayln; Matt Jolley; Gary Empey; Robert Mallory; Pam Perry; Holly Denos; Kelly Gattis; Gerald Haskell; Thomas Denos; Tim Roberts; Curtis Toone; Russ Toone; Ian Browning; Kenneth Smith; Karl Christensen; Joseph Howard; Cody Penman; Cameron Cox; Clinton Erickson; Brad Peterson; Adam Peterson.

Moment of Silence: Councilman Smith

Pledge of Allegiance: Councilman Smith

1. APPROVAL OF MARCH 2, 2004 MINUTES

Councilwoman Becraft moved to approve the minutes of March 2, 2004 as written. Councilman Tanner seconded the motion. Council members Smith, Tafoya, Becraft, Tanner, and Peterson voted “aye.” The motion carried.

2. RECOGNITION OF EMPLOYEE OF THE MONTH FOR FEBRUARY

Cathy Spencer and Andy Blackburn nominated Jill Dean as employee of the month for February. Jill Dean was hired as the new Human Resources Coordinator. She had no previous experience and took the initiative to bring the City up to date on many things. She set up a risk management seminar for the employees which was very successful. She is eager to learn, completes assignments, and works well with her fellow employees.

Councilman Tafoya moved to approve Jill Dean as employee of the month for February, 2004. Councilman Smith seconded the motion. Council members Smith, Tafoya, Becraft, Tanner, and Peterson voted “aye.” The motion carried.

3. FINAL APPROVAL OF HIDDEN COVE SUBDIVISION LOCATED AT APPROXIMATELY 5400 SOUTH 3275 WEST

Tony Reynolds stated that this is a 14-lot subdivision which is zoned R-1-8. The Planning Commission recommended approval. The engineering issues have been resolved with the exception of execution of a warranty deed for the remnant property and an Escrow and Developer's Agreement.

Mayor Burnett asked how wide the remnant parcel is. Mr. Reynolds said it is approximately 1000 square feet and he believed is approximately 140 feet long.

Councilman Peterson pointed out that the property was originally zoned R-1-10 and asked that the City make sure the surrounding area remains R-1-10.

Councilman Smith moved to grant final approval of Hidden Cove Subdivision located at approximately 5400 South 3275 West subject to completion of the Escrow and Developer Agreements and recording of the warranty deed for the remnant parcel. Councilwoman Becraft seconded the motion. Council members Becraft, Smith, Tafoya, Tanner, and Peterson voted "aye." The motion carried.

4. PUBLIC HEARING TO RECEIVE PUBLIC INPUT WITH RESPECT TO THE COUNCIL'S PROPOSED PLEDGE OF CERTAIN OF THE CITY'S SALES AND USE TAX REVENUES PURSUANT TO A PLEDGE AGREEMENT BETWEEN THE CITY AND UTOPIA

Councilman Smith moved to open a Public Hearing at 6:20 p.m. Councilman Tanner seconded the motion. Council members Becraft, Smith, Tafoya, Tanner and Peterson voted "aye." The motion carried.

Mayor Burnett explained that approximately two years ago a group presented to the legislature proposing a telecommunications network including high speed Internet to the cities. The City leaders and citizens expressed interest in becoming a member city of UTOPIA. Since Roy City has expressed interest in UTOPIA, Comcast and Qwest have presented their arguments against UTOPIA to the Council. Many arguments exist regarding broadband offered by Comcast and DSL offered by Qwest. UTOPIA proposes a higher upload and download speed than either of the above-mentioned companies.

UTOPIA was originally proposed with no cost to the cities involved and now UTOPIA is requesting a pledge of \$951,703 from Roy City. Representatives from Comcast, Qwest, UTOPIA, and Dynamic City were present. Mayor Burnett opened the meeting to public comments.

Gary Empey, 4467 S. 2300 W., explained that he has lived in Roy City for many years. He has been working with the Internet for many years and currently has a dial-up modem and two phone lines in his home. He has attempted for many years to get high speed Internet service and has been unsuccessful. He felt strongly that the City should support UTOPIA. He said that if the City passes up this opportunity, it will miss out. Many citizens of Roy are currently unable to get DSL even though Qwest advertises that they offer the service. Mr. Empey stated that he pays \$50 a month for his ISP. He felt that citizens are willing to pay for convenience. He said he's not so much concerned about where the high speed internet access comes from so long as it does. He felt that people would be unwilling to move to Roy City if high speed Internet is not available.

Robert Mallory, 2817 W. 6000 S., objects to the current taxes and fees of 20% imposed by the phone company. He said he doesn't have and has no desire to have cable television to his home. He felt that by supporting UTOPIA, the City is taking away his choices. He would object to an additional tax to cover UTOPIA. He felt that the issue is all about choices and by supporting UTOPIA, his are being taken away.

Mike Taylor, Farr West, said that he is interested because Roy City is the closest city to him supporting UTOPIA. He began his effort to receive broadband five years ago. At his home there is currently no option for digital cable or DSL. He explained that he tried to lease lines and start his own system; however, it was too costly and not feasible. He felt that the US is lagging behind other countries in regards to telecommunications. He recently visited Argentina where telecommunications are more advanced than in the United States. He stated that he supports UTOPIA and compared the network to roadways. He felt that the telecommunications network is a public service and should be provided by local government. He said that it is important to push local communities into the next century.

Tom Denos, Syracuse, felt that a bad business decision can be recognized when a City is asked to put up large amounts of money for big promises. He stated that if public funds or taxes are required to fund the project, it's a bad idea.

Adam Peterson, 5709 S. 4025 W., stated that he admired Roy City for their willingness to provide parks, the Aquatic Center and other community services. He is in favor of UTOPIA. He stated that a previous speaker mentioned taking away choices. Mr. Peterson felt that every time a traffic signal or road is constructed, choices are taken away. He stated that he would be willing to pay the \$5 fee which may not even be required if UTOPIA is successful. He felt that the jobs created by UTOPIA would offset any lost by competing companies.

Tim Roberts, Clinton, is against UTOPIA. He stated that there are citizens in Roy City who don't have health insurance and some are unemployed. He felt that those things should be provided before the City commits to UTOPIA.

Brad Peterson, 2110 W. 3900 S., stated that he had attended previous meetings regarding this issue. He has done the research and some concerns have not been addressed. He works as a computer programmer and currently uses DSL through Qwest. He said that his DSL is often dysfunctional and Qwest is not providing needed service which creates problems for his customers and company. He felt that UTOPIA will be successful despite the opposing arguments and felt that citizens will take advantage of UTOPIA if it is available. He felt that supporting UTOPIA is a risk worth taking.

William Jenkins, Ogden, stated that he is a student and employee at Weber State University. He said that in response to a previous speaker addressing health insurance, he didn't see the City providing such a thing. He spoke in favor of UTOPIA stating that Flying J moved from Brigham to Ogden because of lack of service from existing telecommunications companies. He said that many arguments have been raised regarding government getting involved with private network; however, this has already happened.

Mike Clark, 4599 S. 2350 W., spoke against UTOPIA. Mr. Clark is a citizen of Roy who is employed by Comcast. He felt that UTOPIA is a risk to the citizens. He raised the possibility of other cities bowing out of UTOPIA which may cause the cost to rise. He stated that Comcast has come a long way in the last 18 months and has kept the commitment to providing high speed Internet access in Roy City. He stated that Comcast is a scalable system that can provide service to Roy citizens without a risk to them. He stated that Comcast has infrastructure built out from Plymouth to Spanish Fork and is the provider of the future. He suggested that the City consider the cost of keeping a system such as UTOPIA functioning, not just construction costs.

Carl Christensen, Dynamic City, explained that UTOPIA offers simpler integration. He believes UTOPIA will bring companies to Utah. He believes that all citizens will benefit from UTOPIA regardless of whether they use the system or not. He stated that competition always lowers prices which will result in an economic benefit to all people.

Joe Granducci, 5332 S. 2100 W., stated that he is a businessman and citizen of Roy City. He spent 20 years in the Air Force, retired, and currently has a communications business. He stated that the option of wireless communication will never be successful. Fiberoptic technology creates a new universe. He felt that individual citizens will find a need and use for the technology if it is available. He compared UTOPIA to the sewer system. He said that originally, some citizens were uninterested in a sewer system; however, it provided a better way of life for all who benefitted from it. He recommended approval of UTOPIA by Roy City. He stated that he also has been requesting DSL for many years and Qwest refuses to provide it to him.

Jonathan Karras, Harrisville, works for a business in Roy City. He explained that he has tried to get DSL and has been unsuccessful. He resorted to wireless which is unreliable. He said that he hasn't checked with Comcast for broadband service since December when it was not available. He spoke in favor of UTOPIA and said he would definitely be a customer if it becomes

available.

Gerald Haskell, Midvale, compared UTOPIA to widening one section of a road. He said that it's not helpful if the road is wide in one spot but narrows shortly thereafter just as UTOPIA won't be helpful for those who have old copper wiring to their homes. He spoke against UTOPIA and stated that he does not see the benefit. He felt that there are still a large number of unanswered questions. He also expressed concern over the loss of jobs in other telecommunications companies resulting in additional losses of health insurance. He stated that no information has been provided on who will be installing the lines. He felt that health care was a priority and asked that the City let private companies take the risk in providing telecommunications services.

Jim Farr, Bountiful, is employed by Qwest and has been for 20 years. He stated that Qwest does not currently have fiber that goes into the home but does have a backbone of fiber. He stated that Qwest is considering taking fiber to the home; however, this is cost prohibitive in existing neighborhoods. He said he has looked at UTOPIA's feasibility study and believes that the cost is underestimated.

Ben Gould, Orem, stated that he represents 3000 members of Utah for Telecommunications. He is in favor of UTOPIA. He cited several articles in which Qwest has set aside millions of dollars for anti-trust, anti-competition fines. He stated that Qwest was originally funded by taxpayers and the government was involved in providing the infrastructure. He stated that the greater risk would be to not support UTOPIA. He said that he felt it was important to have infrastructure that attracts companies and provides jobs and education. He said Utah is the 45 least competitive state in terms of communication and felt that Roy City shouldn't pass up the opportunity to participate in UTOPIA.

Matt Jolley, Dynamic City, stressed the importance of competition. He stated that telecommunication services cost 22 percent more in cities without competition. He said that the savings outweigh the risks even at the worse case scenario. He recognized that the pledge to UTOPIA will only be required if take-rates are less than estimated.

Bob Jurek, 1782 W. 4450 S., stated that he has tried for several years to get DSL through Qwest and it is still not available. He recommended that the City "go with it."

Councilman Peterson moved to close the public hearing at 7:30 p.m.

Mayor Burnett asked if there was any more public comment.

Chad Carter, 4911 S. 2250 W., spoke in favor of UTOPIA. He compared UTOPIA to commuter rail. He stated that it would not be feasible to add to the current infrastructure or add additional lanes to I-15. He said that UTOPIA will prevent current delays. He said that if UTOPIA is supported and built, it will be used.

Michael Dalebout, Coalville, works for Qwest. He stated that he wished to address the information presented against Qwest. He said that it is a misconception that Qwest is opposed to fiberoptics. He said that Qwest does use fiberoptics. The question is; who should pay for such a system? He stated that a similar system was attempted in California which went bankrupt. He presented an article which stated that competition is sufficient. He also stated that the flyers put out by UTOPIA that were provided for the citizens were inaccurate.

Councilman Smith seconded the motion to move out of public hearing at 7:40 p.m. Council members Becraft, Smith, Tafoya, Tanner and Peterson voted “aye.” The motion carried.

Mayor Burnett stated that Senate Bill 66 passed. Andy Blackburn explained that this dealt with using revenue bonds to fund cable and telecom services. He stated that the options for action include; 1) withdrawing from UTOPIA, 2) remaining a member of UTOPIA but not making a pledge, 3) remaining a member and make a decision regarding the pledge at a later time, or 4) becoming a pledging member of UTOPIA; however, a pledge cannot be made until a resolution is in place. Mr. Blackburn said this could be completed by the next council meeting in April if the Council so desired.

Chris Davis stated that there will be a meeting on Thursday, March 18th at Murray City Hall to discuss the options. He said that Roy City could participate in this meeting where there will be a legal expert in attendance. He stated that one option would be to attend the meeting and take action at the next City Council Meeting.

Councilman Smith moved to delay making a decision until more information is obtained from the meeting on March 18th. Councilman Peterson seconded the motion.

Councilman Tanner brought up the option of using RDA funds rather than the general fund and recommended that this option be looked at and a determination made if it is feasible or not. He felt that the decision is between new technology or new businesses in Roy City.

Councilman Tafoya reminded the Council and audience that this project was first presented two years ago. UTOPIA said they would provide great technology at a low cost which sounded like a great idea. Originally there would be no cost to the Cities involved and now that has changed. A \$40,000 feasibility study has been done and found that the take-rate needs to be 30% in order for UTOPIA to succeed and the interest rate for the bond is 12%. Councilman Tafoya felt that originally this sounded like a great idea, however, that has all changed. He stated that the vision is great but the cost is a big issue. He felt that pledging almost \$1 million per year for 17 years may not be the best way to use the funds. He recognized that many citizens are frustrated with Comcast and Qwest due to their high cost and UTOPIA is a threat to them. He felt that risking the money is not a viable option, that providing streets, parks, and other public service is more important. He would prefer bonding for something that is in Roy City's control if bonding were to take place. He said that UTOPIA is a want, not a need.

Councilwoman Becraft said that she is uncomfortable with using RDA money to fund such a project. Councilman Smith agreed. Councilman Smith advised that the Council think through the options, consider them carefully, and make a sound decision.

Mayor Burnett reminded the Council that a motion had been made to table the pledge of the City's sales and use tax revenues pursuant to a pledge agreement between the City and UTOPIA.

Council members Becraft, Smith, Tafoya, Tanner and Peterson voted "aye." The motion carried.

5. CONDITIONAL ACCEPTANCE OF SUBDIVISION IMPROVEMENTS FOR CARDALL SUBDIVISION LOCATED AT APPROXIMATELY 2350 WEST 5400 SOUTH; DAUGHERTY ESTATES SUBDIVISION LOCATED AT APPROXIMATELY 5975 SOUTH 2325 WEST; DAY SPRING SUBDIVISION LOCATED AT APPROXIMATELY 3200 WEST 6000 SOUTH; AND SOUTHFORK MEADOWS SUBDIVISION NO. 4 LOCATED AT APPROXIMATELY 3850 WEST 6000 SOUTH

Mark Miller, City Engineer, stated that Larry Horspool completed detailed inspections of Cardall Subdivision, Daugherty Estates Subdivision, and Day Spring Subdivision and recommended conditional acceptance of each of them. Mr. Miller also stated that a member of his staff had observed each of the subdivisions.

Doyle Jones, 4047 W. 6000 S., said that he had spoken to some surveyors who told him that a siphon was going to be placed at the catch basin which would divert water to the canal. Mr. Jones was concerned that he would no longer be able to utilize the waste water that has been available in the past. He said he has been promised secondary water for years which is still not available. He was concerned about the water being diverted; hence, unavailable to him.

Mark Miller stated that he met with Mr. Jones three or four years ago and they discussed Mr. Jones receiving the runoff from 6000 South. Great Basin Engineering designed a detention basin; however, Mr. Miller didn't like the siphon idea. He reported that a conceptual plan is in place for a catch basin/diversion box at the southeast corner of Mr. Jones' property which will allow him to receive the irrigation water that he needs. He also stated that the City has budgeted for a culvert in the next couple of years to accommodate a secondary water line. He said he was confident that Mr. Jones will get the water that he needs.

Councilman Peterson moved to approve conditional acceptance of subdivision improvements for Cardall Subdivision located at approximately 2350 West 5400 South; Daugherty Estates Subdivision located at approximately 5975 South 2325 West; Day Spring Subdivision located at approximately 3200 West 6000 South; and Southfork Meadows Subdivision No. 4 located at approximately 3850 West 6000 South. Councilman

Tanner seconded the motion. Council members Becraft, Smith, Tafoya, Tanner and Peterson voted “aye.” The motion carried.

6. FINAL ACCEPTANCE OF SUBDIVISION IMPROVEMENTS FOR MIDLAND FARMS SUBDIVISION NO. 6 LOCATED AT APPROXIMATELY 2900 WEST MIDLAND DRIVE

Councilman Smith moved to approve final acceptance of subdivision improvements for Midland Farms Subdivision No. 6 located at approximately 2900 West Midland Drive. Councilwoman Becraft seconded the motion. Council members Becraft, Smith, Tafoya, Tanner, and Peterson voted “aye.” The motion carried.

7. CITY MANAGER’S REPORT

Chris Davis said that the Council Members may have noticed green paint on the streets. He reported that city employees have been locating utilities in preparation for the GIS survey crew.

A budget workshop will be held on March 30th at 6:00 at the recreation building.

8. MAYOR AND COUNCIL REPORTS

Mayor Burnett said that a meeting will be held on March 22nd with HAFB to discuss changes to the approach to the west gate. He commented that this will have a drastic effect on traffic in that intersection.

Councilman Tafoya reported that the North Davis Sewer Board is celebrating 50 years of business and gave a pen to each of the Council Members. He expressed appreciation for the City’s support.

Councilman Tanner was excused at 8:15 p.m.

Councilwoman Becraft, in relation to the Midland Elementary kids’ swim day, asked who can be lifeguards. Chris Davis said the City has received many requests from elementary schools within the City to rent out the Aquatic Center. He said that primarily the lifeguards are made up of high school students; however, he was uncertain whether they would be available during the scheduled times as they will still be in school. Councilwoman Becraft asked if the elementary schools could find their own lifeguards for the event. Mr. Davis said that for such an event, 8 to 10 lifeguards who are familiar with the Aquatic Center would be required. He said they would need to be Red Cross certified lifeguards. Councilman Tafoya recommended closing the complex during that time and utilizing the lifeguards from the complex. Mr. Davis said that would only provide one lifeguard. Mr. Davis said he would work on that. He was concerned, however, that if accommodations are made for Midland Elementary, other schools may also

request the same opportunity. Councilman Peterson reminded Mr. Davis that the seniors do check out a week before the rest of the high school students and may be available.

9. ADJOURN TO REDEVELOPMENT AGENCY

Councilwoman Becraft moved to adjourn to a Redevelopment Agency Meeting at 8:20 p.m. Councilman Peterson seconded the motion. Council members Becraft, Smith, Tafoya, and Peterson voted “aye.” The motion carried.

Roger Phil Burnett
Mayor

Attest:

Char Wolverton
Secretary

dc:mar1604

