

MINUTES OF THE JUNE 15, 2004, ROY CITY COUNCIL MEETING

1. Approval of June 1, 2004 minutes
2. Award of contract for the Southfork Meadows Storm Water detention Pond Project
3. Consideration of Resolution No. 829 establishing fees for restorable vehicle permits
4. Public hearing to consider a \$10,000 donation to the Boys and Girls Club
5. Consideration of Resolution No. 827 adopting the FY2005 Budget
6. A public hearing to receive public comment on the city's continued participation in the Utah Telecommunication Open Infrastructure Agency ('UTOPIA'), including comments regarding the financing plan approved by the Board of Directors of UTOPIA. Following the public hearing the Council will consider a resolution approving the First Amended and Restated Interlocal Cooperation Agreement of UTOPIA
7. Consideration of Resolution No. 830 approving the VantageCare Retirement Health Savings Plan for Roy City
8. City Manager's report
9. Mayor and Council Reports
10. Adjourn City Council Meeting and convene a Redevelopment Agency Meeting

Minutes of the Roy City Council Meeting held June 15, 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; Jeff Corless; Chase Gabbitas; Jason Corless; Melinda Stecklein; Ben Stecklein; Andrew Bell; Cody Jensen; Mike Clark; Joan Thomas; Karl Christensen; Adam Peterson; Brad Peterson; Jonathan Karras; Michael Taylor; Aaron Nielsen;

Moment of Silence: Councilman Peterson

Pledge of Allegiance: Councilman Peterson

1. APPROVAL OF JUNE 1, 2004 MINUTES

Councilman Tanner moved to approve the minutes of June 1, 2004, as written. Councilwoman Becraft seconded the motion. Council members Smith, Tafoya, Becraft, Tanner, and Peterson voted “aye.” The motion carried.

2. AWARD OF CONTRACT FOR THE SOUTHFORK MEADOWS STORM WATER DETENTION POND PROJECT

Chris Davis recommended that this item be tabled. Mark Miller stated that more time is needed to evaluate the bids that have been received.

Councilman Smith moved to table the awarding of the contract for the Southfork Meadows Storm Water detention Pond Project until the next City Council Meeting. Councilman Peterson seconded the motion. Council members Smith, Tafoya, Becraft, Tanner, and Peterson voted “aye.” The motion carried.

3. CONSIDERATION OF RESOLUTION NO. 829 ESTABLISHING FEES FOR RESTORABLE VEHICLE PERMITS

Tony Reynolds explained that this resolution will increase the amount of money charged to obtain a restorable vehicle permit. The Resolution allows a 6 month permit, currently \$20, with the option of a 6 month extension, currently \$10. It is proposed that the fees be raised to \$100 for an initial permit and \$200 for a six month extension. The goal is to limit inoperable vehicles to those that are being restored to licensing condition.

Councilman Tanner asked if this applies to all areas of a citizen's property. Mr. Reynolds said that this applies only to vehicles that are outside on a hard surface. Councilman Tafoya asked if this Resolution defines a restorable vehicle. Andy Blackburn stated that a definition exists in the current Ordinance. Mr. Reynolds clarified that this Ordinance is only in relation to changing the fee structure. Councilman Peterson asked if it is possible to receive a second renewal. Mr. Reynolds said that it is possible and that the fee would be charged a second time. Councilman Smith asked if these fees are comparable to surrounding cities' fees. Mr. Blackburn stated that other cities' fees have not been researched.

Councilman Smith moved to approve Resolution No. 829 establishing fees for restorable vehicle permits. Councilman Tafoya seconded the motion. A roll call vote was taken. Council members Becraft, Smith, Tafoya, Tanner, and Peterson voted "aye." The motion carried. (Copy filed for record.)

4. PUBLIC HEARING TO CONSIDER A \$10,000 DONATION TO THE BOYS AND GIRLS CLUB

Councilman Smith moved to open a public hearing at 6:15 p.m. Councilwoman Becraft seconded the motion. Council members Becraft, Smith, Tafoya, Tanner and Peterson voted "aye." The motion carried.

Andy Blackburn stated that a \$10,000 donation to the Boys and Girls Club has been proposed. The donation process consists of a public hearing and a study which has been done. The findings of the study show that the benefits to the City are equivalent to the donation. Mr. Blackburn recommended that the City Council approve the findings and recommendations of the study.

Mayor Burnett asked if there was any public comment. There was none.

Councilman Smith moved to close the 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.

Councilman Smith moved to approve the findings and recommendation of the study in relation to the \$10,000 donation to the Boys and Girls Club. Councilman Peterson

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

5. CONSIDERATION OF RESOLUTION NO. 827 ADOPTING THE FY2005 BUDGET

Cathy Spencer stated that the budget has been reviewed at a previous City Council Meeting; however, two changes have been made since then. The provider of garbage services has raised their fee 1.3% and the tipping fee has been raised from \$29.50 per load to \$32.00 per load. Ms. Spencer proposed that the garbage collection fees be raised 7% to cover the above increase in fees to the City.

Councilman Tafoya asked what the impact would be if the fees aren't raised. Ms. Spencer stated that she didn't have a number but the impact would be significant. Mayor Burnett estimated the impact to the City to be approximately \$90,000/year in addition to the dumpster program for an approximate total of \$120,000/year. Councilman Tafoya expressed concern about raising the fees. Ms. Spencer said that the City is already dipping into the fund balance. Councilman Smith asked if there is any possibility of reducing fees in the future. Chris Davis stated that if the County creates the Special Service District, that would reduce fees by \$2 per month per household. He stated that there is also a potential contract with garbage disposal which could possibly result in reduced garbage disposal fees. Councilman Smith recommended that the City look into reducing fees in the next fiscal year if it's not possible this year. Ms. Spencer stated that the City's fees keep increasing; hence, this results in an increase to the citizens. Chris Davis stated that some things are beyond the City's control; however, the possibility of reducing fees could be looked into.

Councilwoman Becraft moved to approve Resolution No. 827 adopting the FY2005 Budget. Councilman Smith seconded the motion. A roll call vote was taken. Council members Becraft, Smith, Tafoya, Tanner and Peterson voted “aye.” The motion carried. (Copy filed for record).

6. A PUBLIC HEARING TO RECEIVE PUBLIC COMMENT ON THE CITY'S CONTINUED PARTICIPATION IN THE UTAH TELECOMMUNICATION OPEN INFRASTRUCTURE AGENCY ('UTOPIA'), INCLUDING COMMENTS REGARDING THE FINANCING PLAN APPROVED BY THE BOARD OF DIRECTORS OF UTOPIA. FOLLOWING THE PUBLIC HEARING THE COUNCIL WILL CONSIDER A RESOLUTION APPROVING THE FIRST AMENDED AND RESTATED INTERLOCAL COOPERATION AGREEMENT OF UTOPIA

Councilman Tanner moved to open a public hearing at 6:30 p.m. Councilwoman Becraft seconded the motion. Council members Becraft, Smith, Tafoya, Tanner and Peterson voted “aye.” The motion carried.

Chris Davis stated that currently Roy is a non-pledging City with no financial stake in UTOPIA. He stated that action needs to be taken to either stay in as a non-pledging City or withdraw from UTOPIA. The public hearing is to receive public input in this regard. Mr. Davis explained that if Resolution 831 is approved, no financial obligation will exist, the system will be built within Roy City and the City's cost may be repaid. The down side is that; 1) a 1-year notice has to be given to withdraw from UTOPIA, 2) there is potential liability in case of litigation, and 3) there is question whether government should be involved with such an entity.

Councilman Smith asked that if UTOPIA fails, is Roy City liable as a non-pledging member. Andy Blackburn stated that under the bond payment there is no liability whatsoever and that the contractors are bonded; however, there is no guarantee that the City wouldn't be named in a law suit by a third party. He explained that governmental immunity exists and the City is protected that way.

Councilman Tafoya asked if Chris Davis, as a board member of UTOPIA, has voting privileges. Mr. Blackburn stated that he does have voting rights; however, can't vote in relation to the construction of the network as stated in section 9.2 of the Interlocal Agreement with UTOPIA. Councilman Tafoya asked if the City stays in as a non-pledging member, does it have the option of withdrawing later. Mr. Blackburn stated that a 12-month notice must be given and as long as withdrawal doesn't affect the bond, the City could withdraw. Mr. Blackburn stated that it is unlikely that the bond would be affected by Roy City withdrawing. Councilman Tafoya felt that the Interlocal Agreement is not reasonable to consider as his interpretation is that Roy City doesn't have a voice as a non-pledging member.

Councilman Peterson stated that he understood Section 4.8.1 b to state that if a bond existed to construct the network in Roy City, withdrawal would be an issue that would adversely affect UTOPIA bonds which may prevent withdrawal. Mr. Blackburn stated that could be the case.

Councilman Smith stated that he felt a lot of issues in relation to the Interlocal Agreement are unclear and felt that it's not in the City's best interest to enter such an agreement.

Councilman Peterson asked what is the exposure and what is the liability. Mr. Blackburn stated that it would depend. He said that there is no exposure under the bond. He said that UTOPIA has a \$5 million insurance policy and that the contractors are also insured. He again stated that the City has governmental immunity. Councilman Peterson asked Mr. Blackburn if he is aware of any similar previous case with significant liability. Mr. Blackburn stated that he's not aware of any such case in the past.

Councilman Tafoya asked Mr. Blackburn his professional opinion regarding the contract. Mr. Blackburn said that the contract has been reviewed by several lawyers and that in his opinion the contract is good; however, it is up to the City Council to approve or disapprove. Councilman Tafoya asked Mr. Blackburn if he is comfortable with the fact that Roy City has no vote as a

non-pledging member of the UTOPIA board. Mr. Blackburn stated that he disagreed with that interpretation. He clarified that Roy City has no vote only in relation to the construction of the network. He added that if the agreement is approved, the City is liable for a refund. If the agreement is not approved, there is no chance of the City getting a refund.

Councilman Tanner asked Chris Davis what he can vote on. Mr. Davis said he can vote on all non-financial issues.

Mayor Burnett stated that the trunk line has to go through Roy City in order to reach more northern cities and asked whether that would be reason enough to impact withdrawal. Mr. Blackburn stated that he had no way of knowing that. Mark Miller added that he felt UTOPIA is concerned about spending millions of dollars on a city and then have them request withdrawal.

Councilman Tanner asked what would happen if construction was started in Roy City and then not finished. Would the City be liable? Mr. Davis stated that the City wouldn't be liable at all because the contractors are insured. Mr. Davis added that if the City Council decides not to approve the Interlocal Agreement, in three years the City will have another opportunity to join UTOPIA as a pledging member. Councilman Tanner asked Chris Davis if the contract is reasonable in his opinion. Mr. Davis said that he felt it does make sense to remain a non-pledging member of UTOPIA as there is no financial responsibility. He also recognized that he doesn't have much of a voice as a representative of a non-pledging City; however, he didn't have a problem with that. He felt that the only risks are possible liability and having to give a 12-month notice in order to withdraw. He said that by remaining a non-pledging member of UTOPIA, Roy City potentially may receive a phenomenal service with little risk.

Mayor Burnett asked for any public comment.

Mike Clark, 4599 S. 2350 W., stated that he recognized that the City Council has a tough decision to make in regards to UTOPIA. He asked what the cost would be in relation to time. He felt that it would be easier to get out now and get back in later if UTOPIA is successful. He pointed out that there is more at stake than money. He also asked the question; who will pay for the lines to the homes and who will pay for the interface? He thought there may be costs to the citizens that haven't been discussed.

Carl Christensen, Dynamic City, stated that the costs Mr. Clark asked about are included in the infrastructure and that each customer would pay a monthly fee.

Councilman Tafoya asked Mr. Christensen what the cost of service would be. Mr. Christensen stated that for internet service only, UTOPIA would cost approximately \$25.30/month. He felt that UTOPIA will be able to compete aggressively. Mr. Christensen also stated that there are leased lines available; that UTOPIA may use existing infrastructure rather than construct a whole new infrastructure.

Mr. Clark stated that he questions the financial model that UTOPIA has produced. He stated that over the last 18 months, Comcast has become available to all Roy citizens. He said that Comcast is fiber rich, scalable and has great potential in the future.

Councilman Peterson was excused from the meeting at 7:20 p.m.

Adam Peterson, 5709 S. 4025 W., stated that he is in favor of UTOPIA. He asked why Comcast and Qwest are spending so much money to oppose UTOPIA if they believe it's not feasible. He felt that UTOPIA can and will be successful.

Charley Guy, 5936 S. 2325 W., stated that life will go on without the latest technology. He felt that the internet is not a necessity and that tax payers shouldn't have to pay for a system that not all citizens will use. He felt that being a member of UTOPIA is not good for Roy City and stated that plenty of other services are already available.

Brad Peterson, 2110 W. 3900 S., asked what it takes to get back in to UTOPIA if the Council chooses to withdraw. Andy Blackburn stated that the City has to make a pledge in order to get back in. Mr. Peterson said that he uses high speed internet in his business and would use UTOPIA if it became available. He stated that if Roy withdraws from UTOPIA, he will move to another city that does have the UTOPIA network and he felt others would do the same.

Councilman Tanner asked Mr. Peterson what kind of work he did that required such capacity. He stated that his business was one where he had a database of property listings that he downloaded to realtors. He said that he sometimes works from home and would also like the capability of video conferencing. Mr. Peterson said that he prefers the "wait and see" approach. He said he would like to see the Council vote to remain a non-pledging member of UTOPIA and see if it succeeds. Councilman Tanner stated that he felt everyone agreed that the technology would be great; however, the risks and benefits must be weighed.

Councilman Tafoya stated that he disagreed with Mr. Peterson; that citizens would not leave Roy City to get faster internet speeds and greater capacity. He felt that it all comes down to cost for the average customer. Mr. Peterson said he felt businesses would also be lost to cities with higher internet speeds.

The Council took a break from 7:50 to 7:55 p.m.

Mike Taylor, Farr West, stated that he is an IT/telecommunications manager for a title company. He spoke in favor of UTOPIA comparing the technology to cell phones. He said that for his business, DSL is not enough. He stated that the title company currently pays \$4300/month for 4.5 megabit capacity. He said that UTOPIA could be crucial to his business.

Carl Christensen, Dynamic City, said the issue at hand is whether or not Roy City will remain a

non-pledging member or not. He said that the City could withdraw at any time. He stated that the City has a great opportunity to take advantage of the UTOPIA infrastructure cost-free. He felt that the benefits outweigh the risks. He also stated that the City has two years to decide what to do before construction begins and the cost is nothing.

Jerry Fenn, President of Qwest in Utah, stated that he felt the risk of failure for UTOPIA is significant to the City. He stated that the City needs to take into account the liability they have as a member of UTOPIA and that the assets the City has are at risk. He felt that if the project fails, the founders of UTOPIA will want to re-coop their costs. He also stated that government shouldn't provide these services. He said that internet speeds will increase as demand increases. In his mind, uncertainty equals risk. He felt the best choice would be for Roy City to get out now and then re-join after UTOPIA has proven successful. Mr. Fenn stated that he would be willing to continue to roll out DSL over the next few years regardless of UTOPIA's success or failure. He said that DSL will be available throughout the City before UTOPIA is available. He estimated that in the next year 90% of Roy citizens would be able to get DSL to their homes and businesses.

Charley Guy, 5936 S. 2325 W., stated that the City doesn't know what the risks are and they don't even know what the benefits are. He felt that it's all about helping businesses, not the citizens. Councilman Tanner said that business development is actually a good thing for the citizens and that home businesses are increasing. Mr. Guy said that the City Council shouldn't have to listen to threats of people leaving the City for higher internet speeds.

Aaron Neilsen, 2313 W. 5100 S., stated that he felt the need for UTOPIA is underestimated. He said when he gets older he will live in a City where UTOPIA is available.

Councilman Tanner moved to close the public hearing at 8:20 p.m. Councilwoman Becraft seconded the motion. Council members Becraft, Smith, Tafoya, and Tanner voted "aye." The motion carried.

Councilman Tafoya moved to deny the city's continued participation in the Utah Telecommunication Open Infrastructure Agency ('UTOPIA'); hence, deny the resolution approving the First Amended and Restated Interlocal Cooperation Agreement of UTOPIA. Councilman Smith seconded the motion.

Councilman Tanner asked what the City has to lose by remaining a non-pledging member. Councilman Tafoya expressed that he felt UTOPIA was originally a good idea for Roy City; however, it has never been what the founders said it would be. He felt that remaining a member of UTOPIA is not a sound business decision. Councilman Smith stated that he felt it was time to make a decision and move on.

A roll call vote was taken. Council members Becraft, Smith, Tafoya, and Tanner voted

“aye.” The motion carried.

7. CONSIDERATION OF RESOLUTION NO. 830 APPROVING THE VANTAGECARE RETIREMENT HEALTH SAVINGS PLAN FOR ROY CITY

Chris Davis stated that the VantageCare Retirement Health Savings Plan is a benefit to Roy City and its employees. The Plan allows employees to accumulate assets to pay for medical expenses at retirement on a tax-free basis. Councilman Smith asked if there is a limit to the contribution an employee can make to the Plan. Mr. Davis said he wasn't sure if there was a limit on the amount that could be contributed.

Councilman Smith moved to approve Resolution No. 830 approving the VantageCare Retirement Health Savings Plan for Roy City. Councilman Tanner seconded the motion. A roll call vote was taken. Council members Becraft, Smith, Tafoya, and Tanner voted “aye.” The motion carried. (Copy filed for record).

8. CITY MANAGER'S REPORT

Chris Davis stated that a Roy Days Meeting was held earlier today. He asked that the City Council members start thinking about suggestions for the Grand Marshall.

Mr. Davis said that Emma Russell Park is taking shape. He said that the 48" pipe was being installed today.

Several service projects are available throughout the City. Mr. Davis asked that the City Council members consult him if they know of any groups seeking a service project.

Construction on the semaphore on 4800 S. 3100 W. is going ahead. The semaphore in front of Roy High School may require a meeting to award the contract as the next City Council Meeting is July 6.

Mr. Davis reported that Doug Illum is the new fire chief for Riverdale City.

9. MAYOR AND COUNCIL REPORTS

Mayor Burnett reported that he would not be able to attend the City Council Meeting on July 6th.

Mayor Burnett asked about the installation of the sprinkling system out in front of the Municipal Building. Chris Davis said the sprinkling system is estimated to cost approximately \$2000 and that money may be available in the Council Contingency Fund. He said that the plan after the sprinkling system is installed is to seed.

A cancer walk will be held on Friday, June 18th at West Park. This will be a 24 hour event.

The Council Retreat is scheduled for Friday and Saturday, July 30th and 31st at Wolf Creek Resort.

Councilwoman Becraft stated that the people who own the shed containing the C.E.R.T. equipment have moved so the equipment is currently at the Fire Station. She stated that an area is going to be fenced in at the reservoir to store the supplies. Mayor Burnett stated that a 10' x 10' container was donated by HAFB that could be used for that purpose.

Councilwoman Becraft said that neighbors have expressed concern over the shed that was recently discovered to be a meth lab. Chris Davis said he would call the Health Department and find out what the plan is for that shed.

Councilman Smith invited all Council members and staff to the Juneteenth Celebration which will be held June 18th, 19th, and 20th. The cost is \$10 for individuals and \$25 for families.

10. ADJOURN TO REDEVELOPMENT AGENCY

Councilman Tanner moved to adjourn to a Redevelopment Agency Meeting. Councilwoman Becraft seconded the motion. Council members Becraft, Smith, Tafoya, and Tanner voted "aye." The motion carried.

Roger Phil Burnett
Mayor

Attest:

Char Wolverton
Secretary

dc:jun1504

Minutes of the Redevelopment Agency Meeting held June 15, 2004, 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:

Chairman Roger P. Burnett
Board Member Marge Becraft
Board Member Tommy Smith
Board Member Dave Tafoya
Board Member Dan Tanner

Executive Director Tony Reynolds
City Attorney Andy Blackburn
Chris Davis, City Manager

Excused: Board Member Larry Peterson

Others present were: Mark Miller, City Engineer; Cathy Spencer, Management Services Director; Char Wolverton, Secretary.

1. APPROVAL OF MINUTES OF JUNE 1, 2004

Tony Reynolds stated that Chris Davis needed to be added to the list of attendees.

Board member Becraft moved to approve the minutes of June 1, 2004, as amended. Board member Tanner seconded the motion. Board Members Becraft, Smith, Tafoya, and Tanner voted "aye." The motion carried.

2. UPDATE ON COMMERCIAL STREETScape DEMONSTRATION PROJECT

Tony Reynolds updated the Board on the demonstration project fronting Family Dollar. He stated that the flatwork is completed and the tree on the south end already exists. The street light base has been installed and the bench and trash receptacle are at the City shops.

Councilman Tafoya asked if there will be brick or stamped concrete. Mr. Reynolds said it would be stamped concrete that has a cobble appearance rather than a brick appearance.

Mayor Burnett asked how long that would last. Mark Miller stated that there is a curing agent that protects the stamped concrete and makes it glossy. The concrete is maintained by spraying the curing agent on as needed. He said that it is recommended that the agent be sprayed on yearly.

Mr. Reynolds stated that if there are no objections, the demonstration project will go ahead as outlined.

Mr. Reynolds then talked about street lights in relation to cost, esthetics, and delivery. The cost

for a double acorn light is \$4500 installed and a single acorn light is \$2500 installed. Mr. Reynolds stated that for the entire project, the additional cost of the double acorn lights would amount to \$250,000. He recommended the single acorn lights. Board member Tafoya asked why such a difference in cost between the single and double acorn lights. Mr. Miller said the only explanation he has been given from the manufacturer is that the pole on the single light is aluminum and the double is steel. Mr. Miller said the single acorn light is available with a steel pole with a cost of \$2900. Board member Tafoya recommended that a single acorn light with a steel pole be installed in the demonstration project.

3. DESIGNATION OF REVOLVING RDA FUNDS

Mr. Reynolds stated that RDA fund balance is not something that should be carried from year to year; hence, a proposal has been made that the fund balance at the end of the year for RDA project areas 1 and 2 be put in a revolving loan fund.

Board member Tanner moved to designate that surplus RDA funds in project areas 1 and 2 be put into a revolving loan fund. Board member Becraft seconded the motion. Board Members Becraft, Smith, Tafoya, and Tanner voted "aye." The motion carried.

Board member Becraft moved to adjourn Redevelopment Agency Meeting. Board member Tanner seconded the motion. Board Members Becraft, Cordova, Smith, Tafoya, and Tanner voted "aye." The motion carried.

Roger P. Burnett
Chairman

Attest:

Char Wolverton
Secretary

dc:jun1504