

MINUTES OF THE SEPTEMBER 7, 2004, ROY CITY COUNCIL MEETING

1. Approval of August 17, 2004 minutes
2. Appointment of Audit Committee
3. Discussion on motorized vehicles
4. City Manager's Report
5. Mayor and Council Reports
6. Motion to adjourn to a closed meeting to discuss the character and competence of personnel
7. Closed meeting

Minutes of the Roy City Council Meeting held September 7, 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: Cathy Spencer, Management Services Director; Greg Whinham, Police Chief; Nickie Wagner, Jeff Christensen, Marnae Moore

Moment of Silence: Councilman Tafoya

Pledge of Allegiance: Councilman Tafoya

1. APPROVAL OF AUGUST 17, 2004 MINUTES

Councilman Tanner pointed out that on item #8, page #6 there is no second listed on the motion. That motion was seconded by Councilman Peterson. Councilwoman Becraft moved to approve the minutes of August 17, 2004, as amended. Councilman Tanner seconded the motion. Council members Smith, Tafoya, Becraft, Tanner, and Peterson voted "aye." The motion carried.

2. APPOINTMENT OF AUDIT COMMITTEE

Cathy Spencer stated that Roy City once had an audit committee; however, hasn't for the past several years. There are new standards that require reporting to a committee. The auditors communicate their findings to the audit committee. Ms. Spencer suggested that the committee consist of two council members, Mayor Burnett and Chris Davis. Ms. Spencer indicated that Councilman Tanner had expressed interest in being on the committee. Councilman Peterson also volunteered. Councilman Smith volunteered to be the alternate. Mayor Burnett stated he would also be on the committee. Andy Blackburn stated that more than two council members should not be on the committee and there was question as to whether Mayor Burnett counted as the third member from the City Council. He said he would look into it.

Councilman Smith moved to approve the appointment of an audit committee consisting of;

Councilman Tanner, Councilman Peterson, Mayor Burnett, Chris Davis, and Cathy Spencer subject to Andy Blackburn's review. Councilman Tafoya seconded the motion. Council members Smith, Tafoya, Becraft, Tanner, and Peterson voted "aye." The motion carried.

3. DISCUSSION ON MOTORIZED VEHICLES

Andy Blackburn reported that the City Council had directed him to draft an Ordinance regarding scooters. Mr. Blackburn reported that the recent recodification indicates that the City would adopt all state law as amended. Title 41, chapter 6 of the state law reads that city law cannot conflict with state law. Mr. Blackburn looked into state law to see what is said regarding these types of motorized vehicles. Mr. Blackburn made a chart indicating each type of transportation device, a definition of each, and the rules of operation for each which he passed out to the council members.

Councilman Smith expressed concern regarding how much the City should limit motor scooters because several people use these types of devices to assist mobility due to disabilities. Councilman Tanner stated that type of transportation would fall under pedestrian vehicles rather than motor scooters despite the definition.

Councilman Tafoya stated that he felt the biggest concern was the new pocket bikes that are becoming so popular among the youth. He felt that pocket bikes should be classified as motor cycles requiring that they be street legal, insured, licensed and not used by anyone under the age of 16. Mr. Blackburn agreed that they fit the definition of a motor cycle which is; every motor vehicle having a seat and not more than three wheels. The operation rules are; a person using a motor cycle is entitled to the full use of a lane, and a person under 18 years of age cannot ride or operate a motor cycle unless wearing protective headgear. It is also required that motor cycles be insured and licensed. Councilman Peterson asked if the ordinance could be more restrictive than state law. Mr. Blackburn said that it could not according to state law 41-6-16.

Greg Whinham added that he felt it is appropriate to take a strong position in defining the pocket bikes as motorcycles and enforcing the operating rules. Chief Whinham reported that there has been a man driving around town on one of these pocket bikes who is on DUI revocation and thinks he is exempt from the law.

Mayor Burnett asked Mr. Blackburn about motor scooters. Mr. Blackburn stated that for motor scooters, there is no license needed, no registration required; however, they cannot be operated unless under the direct supervision of a parent or guardian. Chief Whinham added that state legislation is looking into these types of motorized vehicles and will address this at the next legislative session. Councilman Smith asked if the City Council could legislate supervision. Mr. Blackburn stated that it could be said that children under the age of 16 need direct supervision; however, you run into interpretation issues in court. Councilman Smith stated that he felt the

state should look into restricting sales. Councilman Tanner asked if the manufacturers carried any liability. Mr. Blackburn stated that they carry only product liability. Councilman Tanner asked if the manufacturers could sue the City for regulating use. Mr. Blackburn stated that the pocket bikes currently fit the classification of motorcycle as regulated by state law.

Mr. Blackburn stated that pocket bikes fit the description of a motorcycle and that's how they should be treated.

Councilman Peterson asked what action needed to be taken. Chief Whinham stated that there are going to be some nuances regarding these laws in the upcoming legislative session; however, he would like to be able to tell his officers for now that pocket bikes will be treated as motorcycles and appropriate and necessary action will be taken. He also stated that calls have been received by citizens asking about pocket bikes. Chief Whinham said he would like to be able to tell all callers the same thing so there is less confusion about the laws surrounding these pocket bikes.

Councilwoman Becraft stated that she has a neighbor with a pocket bike and she is bothered by the noise. She asked whether there is an issue with the noise ordinance. Mr. Blackburn said they could be cited for that too if it applies.

Councilman Tanner asked about motorized scooters. Councilman Tafoya stated that he felt that was a whole different issue. He felt that a motor scooter can go no faster than a bicycle and is no more dangerous than a bicycle. Councilman Peterson felt that kids who ride motor scooters to school present a safety issue. Mr. Blackburn stated that according to state law, no one under the age of 16 can operate one without direct supervision. Chief Whinham stated that he has no problem enforcing a definition; however, "supervision" is not very well defined. Mr. Blackburn stated that the definition he found on "supervision" is; in the immediate line of sight. Councilwoman Becraft expressed concern about kids riding motor scooters in the street. Mr. Blackburn said that state law doesn't allow them to be operated on sidewalks.

Councilman Peterson asked Chief Whinham if he was satisfied with the state law regarding the definition of a motorcycle as applies to pocket bikes. Chief Whinham stated that legislation will soon better define these types of transportation devices as he has received complaints on several of them. Mr. Blackburn stated that the City is limited by state law which is pretty clear. Councilman Peterson recommended looking into some public education to let the parents of the community know that Roy City has taken a stand that pocket bikes are considered motorcycles.

Mr. Blackburn thanked the Council for their input. He stated that the information will be helpful and it will be nice to have the police department understand the classification.

4. CITY MANAGER'S REPORT

Chris Davis stated that Lee Dickamore, Principal of Roy High School, has given the City Council Members a region 4 activity pass. He thanked the City for the banners that are around

town. Mr. Davis reported that the banners were paid for by the school and the City employees painted the poles and installed the flags which will remain up for the school year. Councilman Tafoya reported that it looks great. Mr. Davis said he has received positive feedback.

A service project will be held on Saturday, September 11th from 8:00 to 11:00. Mr. Davis thanked the representatives from the Weber Sentinel and Standard Examiner for the press coverage. Six thousand plants will be planted at Meadow Creek Pond which will later be planted with fish including catfish, trout, perch, and blue gill. Some of the volunteers will also work on Airport Road between 4400 South and 4800 South.

Mr. Davis reported that a field trip is still planned for San Jose October 28th and 29th to look at their commuter rail system.

5. MAYOR AND COUNCIL REPORTS

Mayor Burnett reported that an invitation has been received from the Boys and Girls Club for their second annual Scarecrow Extravaganza which will be held October 23rd at 6:00 p.m. He anticipated the donation of a pool rental to auction off. A table of 10 costs \$500. Mayor Burnett asked the Council members if they would be interested in a table. Councilman Smith stated that he would support that; however, they would need two tables or at least one full table and part of another.

Mayor Burnett recognized that there were two citizens present at the meeting and asked if they had any comments.

Nickie Wagner, 2267 W. 4350 S., stated that she received a nuisance citation that she was unhappy about. She said it was written July 20th and she had 14 days to respond; however, the envelope was post marked August 20th. She wondered why it was held for a month and she also stated that she wasn't even sure what it was for. She said she planted a maple tree which died, she had a wood pile that may have been the problem and she also cleaned out her garage on the 17th of July. She called the City and spoke with Tracy Halliday who said he was the only code enforcement officer; however, he wasn't the one who wrote the citation. She said the citation went to her mother's home because the house is in the name of her mother's trust. She said she was very confused by the whole situation. She said there are rats living in her neighbors house across the street it is so bad yet she gets a citation for cleaning out her garage.

Councilwoman Becraft asked if it was true that she had 14 days to clean up the problem. Ms. Wagner said that was correct. Councilwoman Becraft asked her then to explain again what the problem was if it had been taken care of. Ms. Wagner said she was bothered that the citation was posted a month after it was written. She said she doesn't expect anything, she just shouldn't have received it in the first place. Ms. Wagner said she is no different than anyone else who has "garage stuff" that they clean out every now and again yet there are rats living across the street.

Councilman Tafoya said that the property owner across the street has been cited and reported to the Department of Health. Ms. Wagner said she was frustrated that the City refused to deal with it until it was bad enough to inhabit rats. She said on her way to Council Meeting she noted 10 to 20 houses that were in a lot worse shape than hers and wondered why she was singled out. She said something needs to be done to prevent such a ludicrous thing in the future and she would like Mr. Halliday to come by and give her a "clean bill of health" and tell her what the problem was.

Mayor Burnett said he would make sure that happened.

Marnae Moore, 5845 S. 2825 W., said she was actually at Council Meeting to fulfill a requirement of a college class; however, she did have a question about the leash laws of Roy City. She said there have been numerous occasions where she has encountered dogs that are off their leashes. She said she and her husband both run and they have been "attacked" by unleashed dogs twice. She asked what her rights are. She wondered if she could carry pepper spray to protect herself. Mr. Blackburn stated that she had the right to defend herself within reasonable means. She said that she has called animal control before who did respond and take the dog away. Mr. Blackburn said she could call the prosecutor's office, make an appointment, give the description of the dog with the date and time of the incident and they will prosecute. Mrs. Moore thanked the Council for the information.

6. MOTION TO ADJOURN TO A CLOSED MEETING TO DISCUSS THE CHARACTER AND COMPETENCE OF PERSONNEL

Councilman Tanner moved to adjourn to a closed meeting to discuss the character and competence of personnel at 7:28 p.m. Councilwoman Becraft seconded the motion. A roll call vote was taken. Council members Becraft, Smith, Tafoya, Tanner and Peterson voted "aye." The motion carried.

7. CLOSED MEETING

Roger Phil Burnett
Mayor

Attest:

Char Wolverton
Secretary

dc:sept0704