

MINUTES OF THE FEBRUARY 15, 2005, ROY CITY COUNCIL MEETING

1. Approval of Minutes of January 18, 2005
2. Recognition of employees of the month for November, December and January
3. Consideration of a Conditional Use Permit for a video arcade located at approximately 5420 South 1900 West, #F1
4. Reconsideration of preliminary approval of Apple Blossom Estates Subdivision located at approximately 3200 West 4800 South
5. Final approval of Olympia Park Subdivision, Phase No. 3, located at approximately 5850 South 4150 West
6. Alcoholic beverage license renewals
7. Discussion regarding water agreement with Weber Basin Water
8. City Manager's report
9. Mayor and Council reports
10. Adjourn

Minutes of the Roy City Council Meeting held February 15, 2005, 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  
Councilman Tommy Smith  
Councilman Dave Tafoya  
Councilman Dan Tanner  
Councilman Larry Peterson

City Manager Chris Davis  
City Attorney Andrew Blackburn  
Secretary Char Wolverton

Excused: Councilwoman Marge Becraft

Also present were: Tony Reynolds, Community Development Services Director; Mark Larson, Planner; Greg Whinham, Police Chief; Jeff Jensen; Chris George; Corey Johnson; Roy Watts; Jeff Bunnell; Aaron Atkin; Nick Atkin; Sandra Atkin; Betty Walker; Brent Rose; Tyson Marshall; Gerry Trickett; Curt Trickett; Cody Trickett; Ben Clements; Tamara Laing; Nathan Laing; Kyle Leete; Joe & Patty Olesky; Todd Strong; Gary Newman; Verl Trickett; Stephen Bott; Tammy Heiner; Gennie Kirch; Butch Kirch; Blake Heiner; Michael Hunt

Moment of Silence: Councilman Peterson

Pledge of Allegiance: Councilman Peterson

1. APPROVAL OF JANUARY 18, 2005 MINUTES

**Councilman Tanner moved to approve the minutes of January 18, 2005, as written. Councilman Smith seconded the motion. Council members Smith, Tafoya, Tanner, and Peterson voted “aye.” The motion carried.**

2. RECOGNITION OF EMPLOYEES OF THE MONTH FOR NOVEMBER, DECEMBER AND JANUARY

Ben Reeves, Supervisor of Animal Control, nominated Patty Olesky as Employee of the Month for November, 2004. Mrs. Olesky is a part-time employee of Roy City who works four-and-a-half hours per day. She answers phones, sorts the mail, and keeps dog licenses up to date and accurate. The majority of dog licensing takes place December through February and during this time, Mrs. Olesky is always up to date on her entries. Mrs. Olesky is efficient at resolving problems both for the City and the Citizens. Over 3,900 dog licenses were sold in 2004 as a result of her help. She is always friendly, happy and positive even when citizens are unfriendly to her. She is an asset to the City and those she serves.

**Councilman Tafoya moved to accept Patty Olesky as Employee of the Month for November, 2004. Councilman Peterson seconded the motion. Council members Smith, Tafoya, Tanner and Peterson voted “aye.” The motion carried.**

Kandise Wilde, Aquatics Supervisor, nominated Tammy Augusta as Employee of the Month for January 2005. Ms. Wilde reports that Tammy is an outstanding employee for Roy City. She works the 5:00 a.m. to 1:00 p.m. shift at the Recreation Complex. Ms. Augusta has wonderful customer service skills and customers compliment her regularly. Ms. Augusta knows the patrons by name and takes time to talk to them each day. She always has a smile on her face and is pleasant to be around. The office staff looks up to Ms. Augusta and enjoys working with her. She gives great suggestions on how to improve operations and is very efficient in her office skills. She keeps the office in order and assures that the Recreation Complex runs smoothly. Since the reorganization of the Recreation and Parks Department, Ms. Augusta has also picked up many of the clerical duties associated with the transition in addition to maintaining her current duties. She is an example of a great employee for Roy City.

**Councilman Tanner moved to accept Tammy Augusta as Employee of the Month for January 2005. Councilman Peterson seconded the motion. Council members Smith, Tafoya, Tanner, and Peterson voted “aye.” The motion carried.**

Mayor Burnett stated that the Employee of the Month for December 2004 was not present.

3. CONSIDERATION OF A CONDITIONAL USE PERMIT FOR A VIDEO ARCADE LOCATED AT APPROXIMATELY 5420 SOUTH 1900 WEST, #F1

Mark Larson reported that a request has been received for Conditional Use Permit for a Video Arcade to be located in the existing building space “F1” within the Marketplace Plaza. The site is developed, common parking is in place and there are no proposed changes to the site. Notices were mailed to 25 property owners within 500 feet of the subject property and no comments were received. Mr. Larson reported that the basic concept consists of using the latest audiovisual and gaming techniques to provide a better gaming experience than customers would have at home. The proponents will focus on tournaments, special events and corporate events and provide some pre-packaged food items and drinks. Hours of operation will be; Monday through Thursday 10:00 a.m. to 11:00 p.m., Friday and Saturday 10:00 a.m. to 1:00 a.m. and closed Sunday. It is anticipated that evenings will attract larger crowds. A parental consent form will be required for all participants under the age of 17. A mission statement and Code of Conduct were also presented. Mr. Larson reviewed the ESRB Rating System: C (Early Childhood), E (Everyone), T (Teen), M (Mature), A (Adults Only) and RP (Rating Pending). No “A” rated games will be allowed. The store layout consists of individual pods. Planning Commission recommended approval subject to conditions which Mr. Larson reported have been satisfied.

Tony Reynolds reviewed the ESRB rating system and compared it to movie ratings; G, PG, PG-13, R, and NC-17.

Councilman Smith expressed concern about loitering of teenagers after hours. Councilman Smith asked Corey Johnson, owner of Slackerz, how he would handle such a situation. Mr. Johnson said he would post “no loitering” signs and will ask anyone hanging around the outside of the store to either come in or leave. Mr. Johnson added that he expects the majority of customers to be males 18 to 30 years old.

Councilman Tafoya expressed concern about adults getting “out of control” as they play games. He asked Mr. Johnson what would be done in such a situation. Mr. Johnson said that he has a Code of Conduct in place and that will be enforced. If the Code is violated, the customer will be asked to leave. Councilman Tafoya asked how the room set aside for parties will be monitored. Mr. Johnson said that employees would be in and out of there monitoring activity. Councilman Tafoya asked if the employees would handle security. Mr. Johnson said he didn’t anticipate a problem. He said they would try to separate the games with mature ratings from those with G, E, or T rated games. Councilman Tafoya asked if they would check every kid every time he/she comes into the store. Mr. Johnson said he would. Councilman Tafoya then asked if older customers would be checked for ID every time they come in. Mr. Johnson said they would. He added that the owners are contemplating creating picture ID’s for the younger customers also.

Councilman Tanner stated that he would feel more comfortable if they would ID every person every time they come in. Councilman Tanner asked what the tolerance would be for profanity. Mr. Johnson stated that would be at the owner’s discretion. He said that would be treated situation specific. Councilman Tanner asked if that meant; give a warning for the first offence, remove from the store the second time, and then take away their membership the third time. Mr. Johnson said that sounded reasonable. He said each customer would have to sign the Code of Conduct so they would be aware of the intolerance for certain actions.

Councilman Tanner asked if the parental consent form would be signed in front of one of the employees. Mr. Johnson said he wasn’t sure if that would be possible. Councilman Tanner stated that no one under the age of 18 can see a rated “R” movie without a parent being present and he felt the same should apply in this situation. Councilman Tanner asked Andy Blackburn if it would be possible to require such a thing. Mr. Blackburn said that sounded feasible to him.

Councilman Smith asked Mr. Johnson if he was willing to require that parents come in and sign the form in front of an employee. Mr. Johnson said he will do what it takes to get the store open.

Jeff Jensen, another proponent, said he would be concerned about parents dropping their children off without coming in to sign the consent form. He said they could call the parents if they left without coming in. Mr. Johnson said he would feel better confirming parental consent over the phone than sending a child out of the store unsupervised. Councilman Tanner expressed concern

about calling the parents rather than having them sign the consent form at the store. He suggested that in promoting the store, the owners make the public aware of the parental consent requirements. He felt that would be a safeguard for the community.

Mayor Burnett suggested that the consent form be re-worded. Rather than giving permission to play all games with the ability to list any exceptions, he felt it may be better to list the ratings and have the parents give permission for their child to play the games with ratings they were comfortable with. Mr. Johnson said he felt the form, as is, gives the parents an opportunity to restrict certain games.

Councilman Tanner asked Tony Reynolds, in his touring of similar stores, if there were designated areas where "M" rated games were played. Mr. Reynolds said the stores he visited had a similar set-up as Slackers proposal. Councilman Tanner expressed concern that there were not more restricted areas for "M" rated games. Mr. Jensen said he and the other proponents did their research and found that some similar stores had no restrictions at all. He said they have created pods to prevent open view.

Mr. Blackburn asked Councilman Tanner, in response to an earlier question, if he was asking about requiring parental consent to go on the premises or to play mature games. Councilman Tanner said he felt the parental consent was to play the games. Mr. Johnson stated that anyone under the age of 17 would be required to have a parental consent form signed. Councilman Smith asked what the monitoring system would be. Mr. Johnson said that application software was being created for monitoring.

Councilman Peterson recommended that picture ID be created and required for all participants. Councilman Peterson asked Mr. Johnson how they would handle skipping school to play games. Mr. Johnson said no one under the age of 17 would be allowed to play games during school hours. Councilman Peterson recommended screening of mature games to prevent view by younger customers. Mr. Johnson said he felt the pods would serve as a screening device.

Councilman Smith stated that he felt the Council was requesting a good faith effort on the part of the Slackerz owners. Mr. Johnson said that all of the owners are parents too and they understand the concerns of the Council. Councilman Smith asked if they would be selling food. Mr. Johnson said they would be selling fountain drinks, popcorn, candy, etc.

Councilman Tafoya added that he expected them to enforce the Code of Conduct.

Councilman Smith asked how many members of staff would be present in the store. Mr. Johnson said there would be two during the day and three to four in the evenings. Councilman Smith asked what would be done if a customer came in with the smell of alcohol on his/her breath. Mr. Johnson said if he/she were intoxicated, he would ask them to leave.

Councilman Peterson said he was excited to have Slackerz in Roy, wants the business to be successful but at the same time, feels that it is important to protect the members of the community. He hoped the owners understood what the Council expects from them. Councilman Peterson asked Chief Whinham if he had any concerns.

Chief Whinham came forward and thanked the Council for inviting him to speak. He stated that no less than five scenarios had been presented to the owners of Slackerz with accompanying potential problems. Chief Whinham asked the owners of Slackerz that they partnership with law enforcement who can help with all of the potential problems previously discussed, i.e. truancy, underage drinking, loitering, etc.

Mayor Burnett asked if there was any public input.

Jeff Bunnell, 852 32<sup>nd</sup> Street - Ogden, stated that he has been to several gaming places. He said he felt like the plan that Slackerz presented appears to be a controlled place. He said it appears that they know what they're doing.

Commissioner Gennie Kirch, thanked the Slackerz owners for doing their homework. She did express concern about two games that have an "M" rating; Leisure Suit Larry, and one other. She also expressed concern about customers being allowed to bring their own games in. She felt that a list of restricted games needed to be created. She commended the owners on their Code of Conduct.

Councilman Smith asked Tony Reynolds and Mark Larson if they had any further concerns. Mr. Reynolds said all of the concerns he had were recognized by the Council and addressed.

**Councilman Smith moved to approve a Conditional Use Permit for a video arcade located at approximately 5420 South 1900 West, #F1 subject to the conditions outlined by the Planning Commission and the following conditions; a parental consent form for all customers under the age of 17 must be signed in the presence of an employee of Slackerz before games can be played, that no rated "A" games be allowed on the premises, and that the Code of Conduct be enforced as presented to the City Council this day. Councilman Tanner seconded the motion. Council members Smith, Tafoya, Tanner, and Peterson voted "aye." The motion carried.**

4. RECONSIDERATION OF PRELIMINARY APPROVAL OF APPLE BLOSSOM ESTATES SUBDIVISION LOCATED AT APPROXIMATELY 3200 WEST 4800 SOUTH

**Councilman Peterson moved to reconsider preliminary approval of Apple Blossom Estates Subdivision located at approximately 3200 West 4800 South Councilman Tafoya seconded the motion. Council members Smith, Tafoya, Tanner and Peterson voted "aye." The**

**motion carried.**

Tony Reynolds reviewed the site and surrounding subdivisions. He stated that this was approved under the previous subdivision ordinance which requires preliminary approval by the Planning Commission and City Council and then final approval by the Planning Commission and City Council. He then reviewed the history of Apple Blossom Estates Subdivision.

On January 18, 2005 the City Council approved the preliminary plan for Apple Blossom Estates Subdivision with 4750 South Street 20 feet further to the South than the original plan. The 6-foot masonry structure to the north of 4750 South Street previously discussed was deemed unnecessary by the DRC (Development Review Committee) as the double frontage issue had been resolved. The DRC was uncomfortable with the idea of a masonry structure to the north of 4750 South Street because Roy City would be responsible for maintaining the structure and the section of sidewalk north of 4750 South Street. The DRC recommended amending the plan to make the owners of lots # 1 and 6 responsible for the sidewalk and strip of property north of 4750 South Street. On December 21, 2004, the City Council tabled preliminary approval of Apple Blossom Estates Subdivision due to lack of alignment of 3200 West Street. That issue was addressed and on January 18, 2005, the City Council approved the layout and granted preliminary approval. Lot #5 of the Brown-Donaldson Subdivision still needs to be vacated due to the alignment of 3200 West Street.

The residents in Lots #16 and 17 of Midland Meadows Subdivision are concerned about the lack of masonry wall that was offered them in one of the earlier layouts of Apple Blossom Estates.

Mr. Reynolds stated that there are three options: 1) leave as approved, 2) move back to the Planning Commission approval with 4750 moved further to the north as originally presented and adding a masonry wall to prevent double frontage, or 3) the developer has offered installing privacy slats in the existing chain link fence north of 4750 South Street and making the 20-foot strip of property north of 4750 South part of lot #1. Mr. Reynolds added that the DRC recommends leaving the strip of ground as is; part of lot #1 and lot #6. Mr. Strong, developer, also offered installing non-maintenance landscaping with weed barrier.

Councilman Tafoya asked to hear from the neighbors.

Michael Hunt, lot #16 of Midland Meadows, felt that his concerns had not been met. He stated that the safety of his children was his primary concern with a road in front of and behind his home. He felt that installing privacy slats doesn't address the issue of safety. He also expressed concern about the maintenance issue. He said that he was happy to have Apple Blossom Subdivision and had no opposition to it; however, he would like to see the masonry wall originally promised to him and his neighbors.

Councilman Tafoya asked if the neighbors and the developer had made an agreement that a

masonry structure would be installed. Mr. Hunt said that Mr. Strong brought a brochure of masonry structures to his neighbors home and Mr. Hunt's understanding was that such a structure would be installed. He stated that the next thing he knew, the plan had changed and the wall was taken away. He felt that he would be unable to sell his home, if he desired, with it between two roads. He added that he hoped the Council could find a way to require a safety barrier between the road and his backyard where his children play.

Councilman Tafoya asked what type of barrier Mr. Hunt would prefer. Mr. Hunt said that privacy slats don't address the safety issue. He said that he wants some type of barrier that would provide protection for his children.

Councilman Tanner asked Mr. Hunt if he was willing to compromise. He recommended a 2-foot concrete wall with a fence on top of that. Mr. Hunt said he felt that would look out of place and felt a masonry wall would look nicer.

Councilman Tafoya clarified that Mr. Strong met with Mr. Hunt and the Heiner family, Lot # 17 of Midland Meadows Subdivision, presented them with a brochure, and said he would provide such a structure at his expense. Mr. Hunt said that was correct.

Councilman Peterson stated that his understanding was that the recommendation changed because 4750 South Street was moved 20 feet to the south. Mr. Reynolds said that was correct.

Blake Heiner, lot #17 of Midland Meadows, said that he agrees with Mr. Hunt. He felt that a double frontage issue still existed and he was concerned about safety also.

Councilman Smith asked again if they were willing to negotiate at all. Mr. Hunt stated that he is at the mercy of the City Council and is willing to take what he can get as long as a barrier is required.

Councilman Peterson asked if the masonry wall which was included in the original proposal would be placed on the property line, making it the responsibility of the property owners. Mr. Reynolds stated that when the Planning Commission addressed the issue of double frontage, they suggested that the masonry structure would be on private property; hence, the maintenance would be the responsibility of the property owners. With the current arrangement, (with 4750 South moved 20 feet to the south), the structure would be on private property and would not be the responsibility of the City.

Councilman Tafoya asked Mr. Hunt if the property owner in lot #15, Justin Bingham, had any concerns. Mr. Hunt said he hasn't talked to him since the cul-de-sac was shortened and 4750 South moved. He added that these two changes made is so that the cul-de-sac falls short of Mr. Bingham's property.

Todd Strong, developer of Apple Blossom Estates, stated that there has been quite a bit of confusion. He said that the masonry wall was included in one plan out of five that have been presented. He stated that he did meet with the neighbors and discussed several options concerning a barrier as that was one of the conditions set forth in a previous plan. He stated that he felt the motive of Mr. Hunt and Mr. Heiner was to get a "free wall." He said that some of the neighbors were opposed to a wall as they felt it would look out of place. He stated that if safety was the concern, a safety barrier of 20 feet already exists between 4750 South and the backyards of the concerned neighbors. He recommended an alternative such as a 2-foot concrete wall with a fence on top of that. He said landscape boulders would be another option.

Councilman Smith asked Mr. Strong if he would be willing to provide a 2-foot concrete wall with a chain link fence on top of that with privacy slats. Mr. Strong said he would although he was concerned about aesthetics. Councilman Smith advised Mr. Strong that he needed to come up with a plan that was acceptable by the neighbors.

Mr. Reynolds recommended that the City Council require the type of fence/wall, and that the issue not be negotiated between the homeowners and Mr. Strong.

Mr. Hunt stated that he felt an agreement would be reached as he wanted the subdivision to be successful. He recommended a 2-foot concrete barrier with a white solid vinyl fence atop that for a total of 6-feet. He added that he was accepting of the responsibility for the structure.

**Councilman Tafoya moved to grant preliminary approval of Apple Blossom Estates Subdivision located at approximately 3200 West 4800 South according to the layout that was approved on January 18, 2005 with the addition of a 2-foot retaining wall with a 4-foot white solid vinyl fence atop the retaining wall for a total of 6-feet along lot #16 and lot #17 of Midland Meadow Subdivision. Councilman Smith seconded the motion. Council members Smith, Tafoya, Tanner and Peterson voted "aye." The motion carried.**

5. FINAL APPROVAL OF OLYMPIA PARK SUBDIVISION, PHASE NO. 3, LOCATED AT APPROXIMATELY 5850 SOUTH 4150 WEST

Mark Larson stated that Olympia Park Subdivision, Phase 3, had been previously approved; however, the one-year time restriction had lapsed and re-approval was required. He added that the DRC had no concerns with this subdivision.

**Councilman Tanner moved to grant final approval of Olympia Park Subdivision, Phase No. 3, located at approximately 5850 South 4150 West. Councilman Peterson seconded the motion. Council members Smith, Tafoya, Tanner and Peterson voted "aye." The motion carried.**

6. ALCOHOLIC BEVERAGE LICENSE RENEWALS

**Councilman Peterson moved to approve the 2005 alcoholic beverage license renewals for Greek Island Broiler, Midland Gas & Groceries, Rainbow Saloon, Sacco's Produce, and Sparetime Family Fun Center. Inc. Councilman Smith seconded the motion. Council members Smith, Tafoya, Tanner and Peterson voted "aye." The motion carried.**

Councilman Tafoya recalled that the Council previously directed that alcoholic beverage license renewals be handled administratively. He recommended that be the case in the future.

7. DISCUSSION REGARDING WATER AGREEMENT WITH WEBER BASIN WATER

Chris Davis introduced Gary Newman and Roy Watts from Roy Water Conservancy Subdistrict and Brent Rose, legal counsel. Mr. Davis stated that constitutionally, cities are the only government entity that cannot sell water rights. He said that Roy City currently owns 83 shares of stock in Davis and Weber Counties Canal Company. These shares are used for City property as secondary water.

Mr. Davis stated that Roy City buys water from Weber Basin on a take-or-pay contract. Roy City could provide water for their residents; however, they have to pay for the shares taken from Weber Basin which consists of 3628 acre feet per year. In prior years, when the future extent of the City's boundaries were uncertain, and in an effort to plan for and secure an adequate water supply, the City entered into a series of perpetual water supply agreements with Weber Basin Water Conservancy District. Under the contract with Weber Basin, the City is obligated to pay for the total contracted water supply each year whether the City actually takes and uses the water available or not.

The City Engineer has determined that the water supply demands of the City, contracted from Weber Basin, are in excess of that necessary to satisfy the water supply requirements of the City at full build-out. Roy Water Conservancy District has determined that it is in need of acquiring an additional source of water supply to satisfy the future irrigation requirements of the District at full build-out. The District and the City desire to enter into this Agreement for the purpose of providing for the transport and delivery of the City's Davis and Weber irrigation water. The agreement will also allow for the City to relinquish and the District to take over and assume a portion of the City's Weber Basin contract water supply.

Mr. Davis stated that the agreements were just received by the City yesterday, containing 35 pages, and have not yet been reviewed. He anticipated that at the next City Council Meeting, three agreements would be approved; two with Weber Basin Water Conservancy District and one with Roy Water Conservancy Subdistrict. He added that this is the first time that take-or-pay contracts have been amended this way in the State of Utah. He stated that Roy City has a

great relationship with Roy Water Conservancy District and he felt this was a win-win situation for all involved.

Brent Rose, legal counsel, stated that in this situation the citizens win as a previously planned reservoir will now be unnecessary which will be a money savings. He stated that this agreement works because the same entity will be paying the bill. He reviewed the current water supply contract with the proposed water supply contract and the effects it would have on Roy City, Roy Water Conservancy District and Weber Basin Water.

Chris Davis added that there is currently effort going in to changing constitutional requirements as a long-term solution.

Mayor Burnett asked how long the pump ran at the reservoir last year. Michael Mansfield stated that the pump ran for approximately three months. He added that the City currently has three good wells and reservoirs at this time.

Gary Newman, Chairman of Roy Water Conservancy Subdistrict Board stated that this agreement will open doors to do similar exchanges in the future. He added that the citizens will also save money with this agreement and that no additional burden will be placed on Weber Basin Water as the water is already being purchased by Roy City.

Councilman Tafoya clarified that Roy City currently owns 83 shares of stock in Weber Basin Water. Mr. Davis stated that is correct unless and until the constitutional requirements change. Councilman Tafoya stated that he understood that Roy Water Conservancy District, under the agreement, will be purchasing and utilizing those shares. Mr. Davis stated that 365 acre feet will be utilized by Roy Water Conservancy District with the approval of the documents.

Roy Watts, Roy Water Conservancy District, added that the agreement will also cause impact fees to be lowered.

#### 8. CITY MANAGER'S REPORT

Chris Davis stated that he has been attending the League Meetings. On Monday, some legislation came out that may impact city RDA's. This bill hasn't yet made it to the committee. This bill is being pushed by the Taxpayer's Association and the school districts. Mr. Davis reported that the current legislative session will end March 2<sup>nd</sup>.

Councilman Tanner was excused from the meeting at 8:30 p.m.

#### 9. MAYOR AND COUNCIL REPORTS

Mayor Burnett reported that there is an Audit Committee Meeting on March 1<sup>st</sup> and the Planning

Commission dinner will be held March 29<sup>th</sup>.

10. ADJOURN

**Councilman Peterson moved to adjourn City Council Meeting at 8:40 p.m. Councilman Smith seconded the motion. Council members Smith, Tafoya, Peterson and Tanner voted “aye.” The motion carried.**

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Roger Phil Burnett  
Mayor

Attest:

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Char Wolverton  
Secretary