

ROY CITY PLANNING COMMISSION

June 14, 2005

Minutes of the Roy City Planning commission Meeting held in the City Council Room of the Roy City Municipal Building on June 14, 2005, at 6:30 p.m.

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

The following members were in attendance:

Brad Hilton, Chairman	Tony Reynolds, Community
Doug Allred	Services Director
Blaine Hoopes	Mark Larson, Planner
Gennie Kirch	Michelle Drago, Secretary
Bill Merx	
Michael Stokes	
Karlene Yeoman	

Others present were: Mayor Roger Burnett; Joe Adair; Bonnie Adair; Gerry Adair; Mike Hansen; Rodney G. Jensen; Kevan L. Jensen; Melvin T. Parkes; Elias Salazar; Randy Benavides; Lydia Benavides; Cindy Smith; Brent Smith; Lareen Parkinson; Anthony Tesori; and Chad Buchuey.

Pledge of Allegiance: Blaine Hoopes

1. APPROVAL OF MAY 24, 2005, MINUTES

Commissioner Allred moved to approve the minutes of May 24, 2005, as written. Commissioner Yeoman seconded the motion. Commission members Allred, Hilton, Hoopes, Kirch, Merx, and Yeoman voted "aye." The motion carried.

2. PUBLIC HEARING TO CONSIDER A CONDITIONAL USE PERMIT FOR A PRIVATE NONCOMMERCIAL LOW POWER RADIO SERVICE FACILITY LOCATED AT APPROXIMATELY 3953 WEST 5625 SOUTH

Commissioner Merx moved to open the public hearing at 6:37 p.m. Commissioner Kirch seconded the motion. Commission members Allred, Hilton, Hoopes, Kirch, Merx, and Yeoman voted "aye." The motion carried.

Mark Larson stated that the proponent, Rod Jensen, lives at 3953 West 5625 South. He had submitted a request to install and operate a private noncommercial low power radio service facility in his backyard. Mr. Jensen's site plan indicated that tower base was 8 feet by 8 feet, and that the tower was 44 feet in height.

Commissioner Stokes arrived at 6:35 p.m.

Mark Larson stated that when Rod Jensen approached the City about the radio tower, the staff looked at the city, state, and federal laws and felt the state and federal laws pre-empted the City's ordinances. Because of complaints from neighboring property owners the staff had conducted further research. The City Attorney had determined that the City could apply reasonable conditions on the tower. Mr. Jensen was then asked to apply for a conditional use permit. Mr. Larson said the City had notified all property owners within 500 feet about Mr. Jensen's request for a conditional use permit. Some of the adjoining property owners felt the tower had a negative visual impact, others were concerned about the tower falling and creating a hazard, and others felt the tower would interfere with television and radio reception. Mr. Jensen's application was filed before the new Zoning Ordinance was adopted on June 7, 2005. Therefore, Mr. Jensen's request was being considered under the requirements of the old Zoning Ordinance. Mr. Larson felt the new Zoning Ordinance could serve as a guideline in this matter. Ham radio operators were an important way of communicating when there was no power. The FCC said the City could not *carte blanche* deny antennas, but the City could impose reasonable conditions. The public hearing was an opportunity to discuss reasonable conditions.

Commissioner Hoopes asked what the distance was from the tower to the back of Mr. Jensen's home. Mark Larson said the tower was 15 feet from the east property line, 16 feet from the rear property line; and 10 feet from Mr. Jensen's home.

Commissioner Allred asked how far the tower was from adjoining homes. Brent Smith said his home was 8 feet from Mr. Jensen's property line. His home was approximately 23 feet from the tower on the diagonal. The neighbor behind Mr. Jensen said his home was 25 to 30 feet from the rear property line, or a total of about 46 feet. Mr. Smith asked if the tower would be any higher. Mr. Jensen said it would not.

Rod Jensen, 3953 West 5625 South, stated that on March 28th, he met with Mark Larson to discuss City and federal regulations regarding radio towers and antennas. He was told he could put the tower up. Mr. Jensen described the width and depth of the footings he had poured for the tower and the steps he had taken to make sure it was securely anchored. After he put the tower up, the City said he would have to apply for a conditional use permit.

Commissioner Kirch asked what type of tower Mr. Jensen had. Mr. Jensen said it was a lattice tower.

Commissioner Hoopes asked if there was reinforcing steel in the concrete footings. Mr. Jensen said there was not.

Mark Larson stated that Mr. Jensen understood he would have to acquire a building permit and have engineering done to certify that the tower structure was sound. Chairman Hilton asked if Mr. Jensen had obtained a building permit. Rod Jensen said he didn't know he needed a building permit. When he found out he needed a conditional use permit, he had stopped working on the tower. He didn't want to put any more money into.

Commissioner Kirch asked if Mr. Jensen was told he needed a permit. Rod Jensen said the need for a building permit was never mentioned until after the tower was up. He felt a building permit was a good idea. It would help him make sure the tower was put up correctly and safely.

Rod Jensen stated that he had been medically retired for 12 years. He had gone into ham radio and emergency communications. That was what he did. He was involved with the Navy Marine Corps MARS, the State's emergency services, Weber County's program, and the LDS EERS Service. He had put a lot of money into his hobby.

Commissioner Hoopes asked if there was interference with television, satellites, and such. Rod Jensen said hf radio was what caused radio and TV interference. The tower was hf. However, the higher the tower was the less interference it would cause. Mr. Jensen said since November of 2001 he kept a log of when he was working. He didn't want to cause interference so he was cautious about it and put up filters to help.

Commissioner Kirch asked what type of antenna Mr. Jensen currently used. Rod Jensen said he had a 102 foot wire that ran up the tree in his front yard. Commissioner Hoopes asked if the wire would go

away if the tower was approved. Mr. Jensen said it would. Commissioner Yeoman asked how high the wire was in the tree. Mr. Jensen said it was 30 feet.

Mel Parkes, American Radio, said he represented all ham radios in the State. Ham radios were a federally regulated hobby. The regulations did not let them interfere with anybody. If they caused interference they had to cease. If the interference continued, they were subject to fines and jail time. A high tower would help lessen the interference. His professional opinion was that unless something was wrong with the equipment or the cable going to the antenna, there would be no interference from Mr. Jensen's tower.

Commissioner Yeoman asked if Mr. Parkes had inspected Rod Jensen's equipment. Mr. Parkes said he had not, but he felt Mr. Jensen's equipment was in compliance. Commissioner Allred asked if the tower was in compliance and would be regularly inspected. Mr. Parkes said the federal law required periodic inspections. The inspections were self-imposed and self-regulated. Periodically someone else looked at the tower.

Commissioner Kirch asked what channels Mr. Jensen operated on. Rod Jensen said on hf he was at 80 meters. She asked if he had ever had interference. Mr. Jensen said he had, but it wasn't coming from him. When the interference was happening, he wasn't operating his radio.

Chairman Hilton asked if the wire in the tree was working. Rod Jensen said it worked most of the time. However, there were times he could not be heard. The tower would help solve that problem. Chairman Hilton asked if there were other structure types he could use. Mr. Jensen said he did have a single pole up, but it wasn't sturdy enough to hold the vf antenna. He didn't like the idea of guy wires strung everywhere. There were self-standing towers. He had had the opportunity to purchase this tower at a price he could afford. Chairman Hilton asked about the size of the antennas on the tower. Mr. Jensen one as 18 feet long and 30 feet wide; another was 26 feet wide. There was a triband antenna.

Commissioner Yeoman asked how many towers were located in the area. Melvin Parks said there were 200 to 300 towers along the Wasatch Front.

Commissioner Kirch asked if there were other towers in Roy. Mr. Parks said there were about 9 or 10. They had been around so long they probably preceded any City ordinances.

Commissioner Kirch asked if there was a different type of structure that had been introduced in the last 10 years that would fit more aesthetically in a residential area. Mr. Jensen there were monopoles, towers with guy wires, and self-standing towers. Melvin Parkes said some communities had adopted regulations for crank-up, or telescoping, towers.

Commissioner Stokes asked about the time line of Mr. Jensen's tower. When did he make his request and how was it made? Mark Larson said Mr. Jensen's application was filed prior to June 7, 2005, when the old Zoning Ordinance was in affect. The old ordinance listed private noncommercial towers as a conditional use in residential zones.

Chairman Hilton opened the floor for public comments.

Brent Smith, 3943 West 5625 South, said he lived immediately to the east of Mr. Jensen. He showed the Planning Commission pictures of how the tower appeared from his backyard. It was an ominous presence. He understood that Mr. Jensen didn't apply for a building permit because he felt the FCC pre-empted Roy City. He also understood that the City could not preclude Mr. Jensen, but it could regulate him. Mr. Smith said he would support a reasonable antenna.

Commissioner Hoopes asked what Brent Smith considered reasonable. Mr. Smith said something that could be mounted on the roof and only be 6 to 8 feet above the roof line. The wire in the tree was reasonable. Prior to the erection of the tower, the neighborhood was tolerant of Mr. Jensen's hobby. The tower was erected without City approval, and he didn't think Mr. Jensen had used enough concrete to securely anchor the tower.

Mark Larson stated that Rod Jensen and the City staff were in agreement that a building permit was needed. The tower would have to meet building code requirements. He felt the discussion should focus on reasonable conditions.

Brent Smith stated that ham radios had their place. However, he felt the main form of communication today was through cell phones. He wanted Mr. Jensen to enjoy his hobby, but not at the expense of

adjoining homeowners. How would Mr. Jensen maintain the tower? His main issues were aesthetics and safety.

Cindy Smith, 3943 West 5625 South, stated that she had asked Mr. Jensen to take down the wires around his house several years ago. She didn't want to feel like she was living in an industrial park. The tower was 44 feet tall and was less than 44 feet from her home. She was concerned about the safety of her home. The tower was attracting vandalism, such as paint balls. If a permit was needed for a fence, why wasn't one needed for a radio tower? The tower had cost them the sale of their home. It was dragging down property values. She submitted a letter from Victoria Dunn and asked that it be entered into the record. (Copy filed for record).

Elias Salazar said he was the coordinator for Weber County. The only way to truly talk in an emergency was radio to radio. Cell phones didn't work in an emergency. If radios were the only way to go long distances.

Tammy Bitner, 5622 South 3925 West, stated that she could see the tower when she walked out her front door. At night there was a light on the flag hanging from the tower. She mentioned that her cell phone had not been working, her daughter's TV was not receiving Channel 2, and her television was turning off and on by itself. The tower was bothering them.

Kevan Jensen, Mr. Jensen's wife, stated that whenever there was an emergency ham radios were needed to communicate. The light on the tower had only been on for two nights and had not been on since. The tower couldn't be interfering with reception because nothing on the tower was working! She was upset that her neighbors seemed to know so much about what was going on in her backyard.

Chairman Hilton asked the public to stick to issues that could be resolved.

Randy Benavides, 3968 West 5650 South, was concerned about the structure. It was large and there were several rusty spots. What would happen if lightning struck the ground? Could it ricochet from the tower to his house? Chairman Hilton asked how far the tower was from Mr. Benavides' home. Mr. Benavides said it was 25 feet from the property line. If the tower tipped over, it would hit his house.

Melvin Parkes clarified some of the issues. He worked closely with the State Operations Center. He had been involved in several local emergencies, such as the Riverdale flood and tornado in Salt Lake City. If there was a major earthquake, cell phones would not work. It would take several weeks to restore cell phone service. The tower would be grounded. If the tower was properly grounded, it would protect the neighbors from lightning. If the tower wasn't grounded, lightning would destroy all of Mr. Jensen's equipment. It didn't appear Mr. Jensen's tower was grounded at this time. All the amateur radio community was asking was that government entities give them fair consideration based on what was best for the community.

Melvin Parkes responded to questions from Brent Smith. Mr. Smith asked if the tower was absolutely necessary. Mr. Parks said that using vhf Mr. Jensen could communicate for 3 to 10 miles. The tower would allow Mr. Jensen to communicate worldwide. Mr. Smith asked if the wire in the tree allowed worldwide communication. Mr. Parks said it did under certain conditions.

Mark Larson asked what minimum height would be needed to accommodate Mr. Jensen. Mr. Parks said the higher the better. Then Mr. Jensen could get band frequency over the mountains.

Commissioner Kirch asked if the tower could be shorter. Mr. Jensen said it could.

Commissioner Merx asked if there was technology that would allow a shorter tower to relay a signal from a commercial tower. Mr. Parks said there was, but he didn't feel the cost would be reasonable. Commissioner Merx said he was trying to get away from the potential of having towers everywhere throughout the City. How often would the radio be used? Mr. Parks said it ranged from a few hours a night to a few nights a week. Every community had an emergency communications net. Commissioner Merx asked about the interference the neighbors were experiencing. Mr. Parks said Mr. Jensen did not operate on 6 meters. He could not be causing the interference.

Lareen Parkinson, 5634 South 3925 West, was concerned about the appearance of the tower. She could see it from her backyard, and it was visible while driving down the road.

Commissioner Kirch stated that she had received a phone call from a resident of Mr. Jensen's neighborhood who was in favor of the tower.

Commissioner Kirch moved to close the public hearing at 7:37 p.m. Commissioner Merx seconded the motion. Commission members Allred, Hilton, Hoopes, Kirch, Merx, Stokes, and Yeoman voted "aye." The motion carried.

Commissioner Allred stated that the tower was 44 feet high, and would be much wider because of the attached antennas. He felt the Planning Commission needed to investigate whether the tower was structurally sound.

Commissioner Yeoman stated that if the conditional use permit was approved, Mr. Jensen would have to comply with the building code. Tony Reynolds said the building official could not review plans until the use was approved.

Commissioner Allred stated that the old Zoning Ordinance restricted the height of lattice towers. In his opinion, the tower was too tall for where it was at. He felt the tower should be no more than 25 feet high, which was the distance to the closest adjoining residence.

Commissioner Stokes cited several examples from the FCC's memorandum opinion that said cities could not preclude towers, but it could regulate them. The tower in its current configuration was too tall. The solution was a shorter tower. He felt the City would be setting a precedence to allow this tower in its current configuration.

Commissioner Kirch stated that the Planning Commission needed to address under what conditions the tower could be allowed.

Commissioner Allred stated that based on the old Zoning Ordinance, the tower could not be higher than 25 feet because a lattice tower could not be located any closer to a residential structure than the tower was high.

Commissioner Kirch questioned whether the Planning Commission needed to consider a different type of tower. Tony Reynolds said Mr. Jensen might use another facility. However, the Planning Commission needed to respond to the request on the table.

Commissioner Hoopes as concerned about the width of the antennas on the tower. They would be very close to property lines. He felt that was a safety issue. How close could the tower be, antennas and all, be to the property line?

Commissioner Allred moved to recommend that the City Council approve a conditional use permit for a private noncommercial low power radio service facility located at approximately 3953 West 5625 South subject to the lattice tower complying with the requirements of the Zoning Ordinance in effect before June 7, 2005; subject to the petitioner submitting appropriate plans and engineering for a building permit; and subject to the recommendations of the staff. Commissioner Merx seconded the motion. Commission members Allred, Hilton, Hoopes, Kirch, Merx, Stokes, and Yeoman voted "aye." The motion carried.

Commissioner Allred was excused at 7:52 p.m.

3. PUBLIC HEARING TO CONSIDER A PETITION FROM BJA, LLC; DEE E. AND TRUDI NELSON; AND UTAH POWER & LIGHT COMPANY TO CONSIDER ANNEXATION OF APPROXIMATELY 9.7 ACRES OF CERTAIN REAL PROPERTIES LOCATED AT APPROXIMATELY 5400 SOUTH 3200 WEST AND ESTABLISH A ZONE OF R-1-8

Commissioner Hoopes moved to open the public hearing at 7:53 p.m. Commissioner Yeoman seconded the motion. Commission members Hilton, Hoopes, Kirch, Merx, Stokes, and Yeoman voted "aye." The motion carried.

Mark Larson stated that the proponents were BJA, (Bonnie J. Adair) LLC; Dee E. And Trudi Nelson; and Utah Power & Light Company. The total acreage of the annexation was 9.7 acres. It was located at approximately 5400 South 3200 West. The protest period had ended; no protests were filed. The petition complied with the City's Master Annexation Declaration Policy. It would lessen the size of the unincorporated island in Roy City. The zone requested by the proponents was R-1-8. The annexation was contiguous to several R-1-8 Zones. The General Plan called for this area to be medium density residential. A medium density zone was anything from R-1-6 to R-1-10.

Chairman Hilton asked for comments from the audience. There were none.

Commissioner Kirch asked about home size. Joe Adair said the homes would be similar in size to those in Hidden Cove.

Commissioner Merx asked about the number of building lots. Joe Adair said he had worked with three different engineers trying to come up with configuration that would work.

Commissioner Kirch asked if there were animals located on properties to the north. Joe Adair said there were. Commissioner Kirch felt the Planning Commission would need to take fencing into consideration when discussing the future use of the property. She asked if the power corridors would allow the property to keep an agricultural use. Joe Adair said they wanted to do some green space that would be maintained by the homeowners.

Mark Larson stated that the Planning Commission needed to know exactly how many animals were currently on the properties being annexed because that number would be grandfathered. Joe Adair said Dee Nelson had pheasants and about 15 goats. Tony Reynolds said

the official number would be the lesser of what is currently on the property but not greater than what is presently allowed by Weber County's ordinances. If the numbers were ever less, or nonexistent, for a year, the use would revert to Roy City's ordinances or the new number of animals.

Commissioner Hoopes moved to close the public hearing at 8:01 p.m. Commissioner Kirch seconded the motion. Commission members Hilton, Hoopes, Kirch, Merx, Stokes, and Yeoman voted "aye." The motion carried.

Commissioner Kirch moved to recommend that the City Council approve the annexation petition submitted by BJA, LLC; Dee E. and Trudi Nelson; and Utah Power & Light Company with an R-1-8 be Zone subject to the conditions of the staff and that animal rights for the Dee Nelson property be grandfathered in accordance with Weber County's current regulations. Commissioner Merx seconded the motion. Commission members Hilton, Hoopes, Kirch, Merx, Stokes, and Yeoman voted "aye." The motion carried.

4. APPROVAL OF RESOLUTION NO. 852 ESTABLISHING PLANNING COMMISSION MEETING DATES FOR FY2006

There was a discussion about whether to continue holding work sessions from 6:00 to 6:30 p.m. before the Planning Commission meetings. Commissioner Stokes felt that minutes should kept for the work sessions or they should be discontinued. The Planning Commission concurred to do away with the work sessions unless there was a need and that the regular meetings should begin at 6:30 p.m.

Commissioner Kirch moved to approve Resolution No. 852 establishing regular Planning commission meeting dates for FY2006 subject to the changes recommended by the Planning Commission: Regular meetings to begin at 6:30 p.m. with no work sessions from 6:00 to 6:30 p.m. Commissioner Yeoman seconded the motion. A roll call vote was taken: Commission members Hoopes, Kirch, Stokes, Yeoman, and Hilton voted "aye". The motion carried. (Copy filed for record).

5. OTHER DISCUSSION

Tony Reynolds reported that the City Council adopted the new Zoning Ordinance on June 7, 2005. It was effective immediately.

6. ADJOURN

Planning Commission Minutes
June 14, 2005
Page 12

Commissioner Kirch moved to adjourn at 8:21 p.m. Commissioner Yeoman seconded the motion. Commission members Hilton, Hoopes, Kirch, Merx, Stokes, and Yeoman voted "aye." The motion carried.

Brad Hilton
Chairman

Attest:

Michelle Drago
Secretary

dc:pjun1405