

MINUTES OF THE AUGUST 17, 2010, ROY CITY COUNCIL MEETING

1. Approval of August 3, 2010, minutes
2. Recognition of August 2010 Employee of the Month
3. Public comments
4. Discussion regarding modifications to the Zoning Ordinance regarding Tobacco Oriented Retail and modifications to the Business and License Regulations regarding Class A Beer licenses
5. City Manager's report
6. Mayor and Council reports
7. Adjourn
8. Summary of actions charged

Minutes of the Roy City Council Meeting held August 17, 2010, 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 members were in attendance:

Mayor-Pro Tem Larry Peterson
Councilman Willard Cragun
Councilman Brad Hilton
Councilman Michael Stokes
Councilman Dave Tafoya

City Manager Chris Davis
City Attorney Andy Blackburn
Secretary Michelle Drago

Excused: Mayor Joe H. Ritchie

Also present were: Ross Oliver, Public Works Director; Tony Reynolds, Community and Economic Development Director; Jared Hall, Planner; Brandon Edwards; Kimber Edwards; Cody Weaver; and Rachel Trotter.

Moment of Silence: Councilman Cragun

Pledge of Allegiance: Councilman Cragun

1. APPROVAL OF AUGUST 3, 2010, MINUTES

Councilman Hilton moved to approve the minutes of August 3, 2010, as written. Councilman Cragun seconded the motion. Council members Cragun, Hilton, Stokes, and Tafoya voted "aye." The motion carried.

2. RECOGNITION OF AUGUST 2010 EMPLOYEE OF THE MONTH

Mayor Pro-Tem Peterson stated that Rusty Tubbs and Ross Oliver had nominated Cody Weaver as the August 2010 Employee of the Month. Cody Weaver worked in the Building Maintenance Department. He was a very hard worker with a positive, upbeat attitude. Any job he was given was done with accuracy and confidence. Cody went the extra mile while working with carpeting crews as they re-carpeted the Municipal Building. Cody worked long and odd hours to make sure the job was handled professionally and that many secure places of the building were not breached. Cody was also instrumental in the maintenance duties with the construction of the Hope Community Center and still continued to handle many duties there.

Councilman Tafoya moved to accept the nomination of Cody Weaver as the August 2010 Employee of the Month. Councilman Stokes seconded the motion. Council members Cragun, Hilton, Stokes, and Tafoya voted "aye." The motion carried.

Mayor Pro-Tem Peterson presented Cody Weaver with a check and recognition plaque.

3. PUBLIC COMMENTS

There were none.

4. DISCUSSION REGARDING MODIFICATIONS TO THE ZONING ORDINANCE REGARDING TOBACCO ORIENTED RETAIL AND MODIFICATIONS TO THE BUSINESS AND LICENSE REGULATIONS REGARDING CLASS A BEER LICENSES

Tony Reynolds, Community and Economic Development Director, stated that the discussions regarding Tobacco-Oriented Retail and Class A Beer licenses were the result of Temporary Zoning Regulation Ordinances which were recently adopted. The TZRO which identified Tobacco Oriented Retail as a prohibited use was approved on April 6th. It would expire on October 6th. The Planning Commission would hold a public hearing on August 24th and take public comment. The staff hoped to present the Planning Commission's recommendation to the City Council at the second meeting in September. The TZRO prohibiting the issuance of Class A Beer licenses was approved on May 5th and would expire on November 4th. The Planning Commission would not consider regulations for Class A Beer licenses because they were not part of the Zoning Ordinance; they were part of the Business and Licensing regulations. The staff hoped to make recommendations regarding Class A Beer licenses at the first meeting in September as well.

Jared Hall, Planner, stated that the staff had made minor changes to the Tobacco Oriented Retail regulations discussed with the Council in a recent work session. The staff proposed the creation of a new category for Tobacco Oriented Retail in the Table of Uses in Chapter 17 of the Zoning Ordinance. The definition for that category would be:

Tobacco Oriented Retail. A commercial establishment with less than 10,000 square feet of total sales area, where the sale and/or display of tobacco and/or tobacco related products accounts for greater than 10% of the sales floor and display areas, or where the sale of tobacco and/or tobacco related products accounts for more than 30% of gross sales receipts, or any commercial establishment of any size declaring itself through name or advertising to be oriented specifically to the selling of tobacco or tobacco related products. Tobacco Oriented Retail uses may not be located within 600 feet of one another at the closest property lines.

Mr. Hall said the Tobacco Oriented Retail would be a conditional use and would be limited to the Regional Commercial Zones and would be a conditional use. Tobacco Oriented Retail businesses would not be allowed within 600 feet of another establishment of that kind. There was currently one Tobacco Oriented Retail business in the Community Commercial Zone that would become non-conforming if the proposed changes were approved.

Councilman Cragun felt the staff had done a good job in preparing the definition for the new category. It was what the Council had had in mind.

Councilman Stokes asked if a non-conforming use was based on a change in ownership or a change in use. Mr. Hall said it was based on a change of use.

Councilman Hilton asked if the Sinclair Station on 4000 South had declared themselves as a tobacco oriented retail. Would they be eligible to declare themselves as tobacco oriented retail, or would they have a non-conforming use? Mr. Hall said the City would probably consider them to be a Tobacco Oriented Retail because a lot of their space was for tobacco products. Councilman Hilton asked if Sinclair would have to apply for a conditional use. Mr. Hall said they were outside of the Regional Commercial zoning.

Tony Reynolds stated that a Class A Beer license was not a land use matter; it was a licensing and regulation action. Regulations for Class A Beer licenses were in Title 3 of the Roy City Code. The staff's proposed modifications were based on discussions with the Council in the June work session. The staff proposed three changes. One was to define all "grocery items" as groceries that could be purchased with food stamps. The second was to change the dollar amount of sales and inventory averages, and the last was to prohibit any Tobacco Oriented Retail from having a Class A Beer license. The draft language was:

Title 3 - Business License Regulations
Chapter 2 - Alcoholic Beverages
Section 3 - Beer Licenses
Subsection (1)(3) - Minimum Requirements

No class A license shall be issued to any business, except those engaged in the sale of grocery items and where weekly grocery sales **that are eligible for purchase with food stamps in the State of Utah** amount to not less than one thousand two hundred dollars (\$1,200.00) per week and inventory averages not less than three thousand (\$3,000.00) for food **and stamp eligible** items. ~~excluding from both the weekly sales average and the minimum inventory amount all beer sales and beer held in inventory. Gasoline sales and gasoline as inventory cannot be counted in meeting the standard hereby established.~~ **No class A license shall be issued to any business classified by the Roy City Zoning Ordinance as Tobacco Oriented Retail.**

Mr. Reynolds said the staff had learned a lot about food stamps. The State said food stamps could be used for edible food, seeds, and fruit trees. Food stamps could not be used for hot foods and alcoholic beverages. That significantly restricted the number of items that could be classified as grocery items. The dollar amount had not been changed since 1998. The staff proposed doubling the dollar amount for the sale of grocery related items in the proposed draft from \$1,200 and \$3,000 to \$2,400 and \$6,000. The Consumer Price Index adjustment was \$1,572 and \$3,930.

Councilman Tafoya asked if the Council could simply restrict the sale of alcoholic beverages in Tobacco Oriented Retail businesses. Tony Reynolds said that was an option if all the Council was interested in doing was prohibiting beer sales in Tobacco Oriented Retail businesses. If the Council wanted to tie beer sales to food items, the first two options should be considered.

Councilman Stokes didn't want to exclude smaller establishments. Mr. Reynolds said just increasing the amount of dollar sales wouldn't affect convenience stores, but adding the regulations about food stamps would.

Councilman Cragun felt that there should be limitations on beer sales, or someone could open a business and simply sell beer. He felt bars and convenience stores were pretty well policed. He wasn't sure how much policing of other business types were done.

Mayor Pro-Tem Peterson pointed out that Class A Beer licenses were conditional uses.

Councilman Stokes stated that the Council had an obligation to approve a conditional use with conditions. It would be hard to deny a conditional use unless conditions were listed in the ordinance. He felt the changes to Tobacco Oriented Retail and the Class A Beer licenses were tied together. He was concerned about businesses that sold only tobacco and alcohol and just alcohol. He didn't feel just restricting Tobacco Oriented Retail from selling alcohol would be sufficient. He wanted to prevent the creation of the image that the business district was a place where people went to purchase alcoholic products. If the Council was going to impose conditions there had to be guidelines.

Councilman Hilton felt the staff had given the City some guidelines.

Councilman Stokes felt that part of the issue was enforcement. There had to be something in black and white.

Mayor Pro-Tem Peterson stated that when businesses applied for renewal of their licenses, they would have to provide proof they were complying with the new conditions.

Councilman Stokes felt the staff's recommendations complied with the spirit of what the City was trying to do.

Councilman Tafoya didn't feel the first two changes proposed by the staff were necessary. He felt the amendment needed to be straight forward. The City was not trying to govern moral values. It wanted to keep a clean business environment. It didn't want to have the reputation of being the place to purchase alcohol. He felt that should be clearly outlined in the ordinance rather than bringing in other issues, like food stamps.

Mayor Pro-Tem Peterson felt the felt all three changes would give the City a second line of protection.

Councilman Stokes felt the guidelines were an attempt to turn the focus to grocery sales. The changes were not about trying to restrict the consumption of alcoholic beverages. The City wanted to have a certain look and feel in its business district. The City was trying to create a threshold for the business district. Increasing the dollar amounts might affect smaller retail establishments.

Mayor Pro-Tem Peterson stated that the City could change the threshold level any time it wanted to.

Councilman Tafoya asked when convenience stores came into play. Mr. Reynolds said the staff did not know. That was why it had been careful about proposing an increase in the dollar numbers.

Councilman Stokes felt that the definition of grocery items and dollar amounts were hand-in-hand.

Councilman Hilton stated that the sale of grocery items eligible for food stamps was a different ball game.

Councilman Cragun asked if the staff had met with convenience store owners. Mr. Reynolds said they had not. Councilman Cragun said that might be a starting point. He didn't feel grocery store retailers would be affected by the proposed change; some convenience stores would.

Councilman Tafoya felt the ordinance should be plain and simple. The City didn't want the sale of tobacco and alcohol together.

Councilman Stokes was concerned about having retail establishments that felt like a liquor store.

Councilman Hilton felt that the current ordinance pretty much stayed the same, except for the restriction regarding Tobacco Oriented Retail.

Councilman Stokes stated that the discussion in the work session was about the lack of a definition for a "grocery item."

Mayor Pro-Tem Peterson felt that grocery items eligible for purchase by food stamps meant food stamps as administered by the USDA.

Councilman Stokes asked if the staff could contact the convenience store owners to see if the new threshold level would be difficult for them to meet.

Councilman Cragun asked if any existing businesses would become non-conforming. Andy Blackburn stated that there were licensing issues and property issues. Councilman Stokes stated that

when the current license expired, a business had to comply with the ordinance or be done. Andy Blackburn said they could appeal.

Mayor Pro-Tem Peterson asked 'almost tobacco' type products. Andy Blackburn said the staff might have to look at how tobacco products were defined. Mayor Pro-Tem Peterson said the Council wanted to make the ordinance as encompassing as it legally could.

5. CITY MANAGER'S REPORT

Chris Davis reported that Roy Days 2010 had been very successful. The carnival planned to come back and was willing to come a day earlier. There was a discussion about the car show. Mayor Pro-Tem Peterson felt the Miss Roy Days Pageant went well. Mr. Davis said Janet Van Eerden was willing to run the pageant again next year. The parade continued to grow. Mayor Pro-Tem Peterson felt the employees had done a great job getting everything ready.

Chris Davis stated that due to the cost of transporting concrete, the City would no longer allow concrete in the dumpsters at the Public Works Building. It also planned to curtail dumping by commercial people.

Chris Davis stated that the staff was working on a RFP for the waste removal contract which would be discussed at the first meeting in September. Waste Management was graciously continuing to work under the old contract, which expired in July.

Chris Davis stated that the administration wanted to schedule a regular Council work session on the last Wednesday of every month beginning September 29th at 6:00 p.m. He would email various topics to the Council. The Council could then decide what it wanted to discuss. Roy Water Conservancy District wanted to have a joint work session with the Council. They were interested in purchasing more of the City's contracted water from Weber Basin. The pertinent department heads would be at the work sessions.

6. MAYOR AND COUNCIL REPORTS

Councilman Cragun asked if anyone had contacted the Dolman family about the memorial they planned to put in the Hope Community Center. Chris Davis said Mayor Ritchie had talked with family members. The City had not heard from them since. Councilman Hilton wasn't sure the entrance of the Hope Center was large enough for the display the Dolman family had in mind. Councilman Stokes felt someone should contact the Dolman family to see what their feelings were.

7. ADJOURN

Councilman Stokes moved to adjourn at 6:52 p.m.

8. SUMMARY OF ACTIONS CHARGED

1. Staff to contact convenience store owners to see if the threshold level proposed for Class A Beer licenses would be difficult for them to meet.
2. Staff to contact the Dolman family.

Larry Peterson
Mayor Pro-Tem

Attest:

Michelle Drago
Secretary

dc:caug2010