

MINUTES OF THE SEPTEMBER 7, 2010, ROY CITY COUNCIL MEETING

1. Approval of August 17, 2010, minutes
2. Ratification of the Mayor's appointment to the Planning Commission
3. Consideration of Ordinance No. 1032 amending Table 17-2, Table of Uses - Non-residential Zoning Districts, of the Roy City Zoning Ordinance by adding the use category of Tobacco Oriented Retail
4. Consideration of Ordinance No. 1033 amending Title 3 - Business and License Regulations, Chapter 2 - Alcoholic Beverages, Section 3 - Beer Licenses, of the Roy City Code by clarifying the minimum grocery sales required for the issuance of Class A Beer Licenses, and prohibiting the issuance of Class A Beer Licenses to businesses clarified by the Roy City Zoning Ordinance as Tobacco Oriented Retail
5. Public comments
6. Consideration of Roy City Hope Community Center Multipurpose Room Rental Agreement
7. Consideration of Resolution No. 978 authorizing the sale of surplus police motorcycles
8. Consideration of Ordinance No. 1031 amending Roy City Code Section 6-1-2 regarding fire lane and bus loading parking zones
9. City Manager's report
10. Mayor and Council reports
11. Adjourn

Minutes of the Roy City Council Meeting held September 7, 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 Joe H. Ritchie	City Manager Chris Davis
Councilman Willard Cragun	City Attorney Andy Blackburn
Councilman Brad Hilton	Secretary Michelle Drago
Councilman Larry Peterson	
Councilman Michael Stokes	
Councilman Dave Tafoya	

Also present were: Tony Reynolds, Community and Economic Development Director; Jared Hall, Planner; Greg Whinham, Police Chief; Mike Elliott, Deputy Police Chief; Bert Visser; Niven Turner; Connie Turner; Rhett Zito; and Rachel Trotter.

Moment of Silence: Councilman Cragun

Pledge of Allegiance: Councilman Cragun

1. APPROVAL OF AUGUST 17, 2010, MINUTES

Councilman Cragun moved to approve the minutes of August 17, 2010, as written. Councilman Tafoya seconded the motion. Council members Cragun, Hilton, Peterson, and Tafoya voted "aye." The motion carried.

2. RATIFICATION OF THE MAYOR'S APPOINTMENT TO THE PLANNING COMMISSION

Mayor Ritchie stated that the retirement of Dave Collins had left a vacancy on the Planning Commission. He and the Developer Services' staff had interviewed Rhett Zito. Rhett lived in the central part of the community. Rhett was extremely interested in the Planning Commission and wanted to be involved. Mayor Ritchie had invited Rhett to become a member of the Planning Commission. He asked the Council to ratify the appointment.

Councilman Tafoya moved to ratify the Mayor's appointment of Rhett Zito to the Planning Commission to serve a three year term beginning July 1, 2010. Councilman Hilton seconded the motion. Council members Cragun, Hilton, Peterson, and Tafoya voted "aye." The motion carried.

1. CONSIDERATION OF ORDINANCE NO. 1032 AMENDING TABLE 17-2, TABLE OF USES - NON-RESIDENTIAL ZONING DISTRICTS, OF THE ROY CITY ZONING ORDINANCE BY ADDING THE USE CATEGORY OF TOBACCO ORIENTED RETAIL

Jared Hall stated that the Planning Commission held a hearing on August 24th regarding a proposed amendment to the Zoning Ordinance regarding the creation of a category for Tobacco Oriented Retail. The Planning Commission recommended that Table 17-2, Table of Uses, in Chapter 17 of the Zoning Ordinance be amended by adding a new use called Tobacco Oriented Retail. Mr. Hall explained that when the administration and Council recognized that the City currently did not regulate Tobacco Oriented Retail businesses, a temporary zoning regulation (TZRO) was passed. Ordinance No. 1032 proposed a way for the City to regulate Tobacco Oriented Retail and ended the TZRO. The proposed category defined Tobacco Oriented Retail in specific ways:

Commercial retail establishments of less than 10,000 square feet. This would eliminate almost all true grocers or markets from the possibility of being included in this category.

Sales and display areas. More than 10% of the sales and/or display area was used for tobacco and related products.

Gross Sales Receipts. More than 30% of the gross sales receipts came from the sale of tobacco and tobacco related products.

Self Declaration. The business identified itself to be 'tobacco oriented' through name or advertising. This particular identifier was applied regardless of the size (square footage) of the establishment.

The proposed use would be defined as:

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 as measured at the closest property line.

Mr. Hall stated that the proposed amendment would make Tobacco Oriented Retail businesses a conditional use and limited them to the Regional Commercial Zone. There were three existing businesses that would be allowed by the zoning designation. There was one Tobacco Oriented Retail located in the Community Commercial Zone that would become a non-conforming use. Non-conforming uses were sometimes referred to as 'grandfathered.' If a non-conforming business went out of business, a new use would not be permitted in that zone. Two of the existing Tobacco Oriented Retail businesses located in the Regional Commercial Zone were located less than 600 feet from each other. They would become non-conforming due to their location. If either business

closed, a new one would not be allowed closer than 600 feet from an existing Tobacco Oriented Retail. The non-conforming status would only be a problem if a business wanted to expand.

Councilman Stokes arrived at 6:10 p.m.

Councilman Tafoya stated that it appeared that four Tobacco Oriented Retail businesses could be located in the Regional Commercial Zone. Mr. Hall said the maximum would probably be five.

Councilman Hilton asked about the measurement of the 600 foot distance. Mr. Hall said it was measured from property lines.

Mayor Ritchie said the newspaper had accused Roy City of trying to legislate morality. That was not what the City was doing.

Councilman Tafoya asked how the proposed amendment would affect convenience stores. Jared Hall said convenience stores would most likely not be affected. Councilman Tafoya asked about the Sinclair Station on 4000 South. Mr. Hall said Sinclair's display area would have to be measured. The City would do that if a use were in dispute. The regulations were designed to exclude gas stations and grocery stores. Councilman Tafoya asked what would happen if the Sinclair station on 4000 South had a tobacco display area larger than 10%. Would it be considered a Tobacco Oriented Retail and regulated under the new regulations? Mr. Hall felt their solution would be to reduce the amount of floor space devoted to tobacco sales.

Councilman Tafoya asked if a business would be identified as a Tobacco Oriented Retail due to advertising of products. Councilman Peterson stated that convenience stores advertised everything from gas to candy. A Tobacco Oriented Retail would one whose sole product was tobacco and related products.

Councilman Hilton stated that the Council had suggested that the staff had someone measure display areas in convenience stores to make sure they didn't fall into this category. Had that been done? The City didn't want to run anyone out of business. Mr. Hall said he had measured the convenience stores. The only one that came close to being a Tobacco Oriented Retail was the Sinclair on 4000 South.

Councilman Tafoya stated that the City was not regulating smoking. The Council felt the City could only handle and support so many Tobacco Oriented Retail establishments.

Councilman Peterson moved to approved Ordinance No. 1032 amending Title 10, Chapter 17 of the Roy City Zoning Ordinance, adding Tobacco Oriented Retail to Table 17-2, and terminating Ordinance No. 1026 establishing temporary land use regulations regarding the same. Councilman Hilton seconded the motion. A roll call vote was taken: Councilman

Cragun abstained due to a conflict of interest; Council members Hilton, Tafoya, Peterson, and Stokes voted “aye.” The motion carried. (Copy filed for record).

2. CONSIDERATION OF ORDINANCE NO. 1033 AMENDING TITLE 3 - BUSINESS AND LICENSE REGULATIONS, CHAPTER 2 - ALCOHOLIC BEVERAGES, SECTION 3 - BEER LICENSES, OF THE ROY CITY CODE BY CLARIFYING THE MINIMUM GROCERY SALES REQUIRED FOR THE ISSUANCE OF CLASS A BEER LICENSES, AND PROHIBITING THE ISSUANCE OF CLASS A BEER LICENSES TO BUSINESSES CLARIFIED BY THE ROY CITY ZONING ORDINANCE AS TOBACCO ORIENTED RETAIL

Tony Reynolds stated that Ordinance No. 1033 would amend the Business License Regulations, not the Zoning Ordinance. The Zoning Ordinance did regulate beer licenses as conditional uses. Those conditional uses came before the Planning Commission and City Council for approval. That was a separate issue from the issuance of a license. A Class A Beer license was a retail license for consumption off premise. Earlier in the year, questions were raised about the review process and eligibility requirements for a Class A Beer license. A temporary zoning regulation (TZRO) was passed to allow the Council and staff time to consider the license requirements. The current Class A requirements, which had been in place since 1998, stated that:

No Class A license shall be issued to any business, except those engaged in the sale of grocery items and where weekly grocery sales amount to not less than one thousand two hundred dollars (\$1,200.00) per week and inventory averages not less than three thousand dollars (\$3,000.00) for food and grocery 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.

Mr. Reynolds said the TZRO was the result of concern regarding Tobacco Oriented Retail businesses having Class A beer licenses. When discussions began, the staff had some difficulty identifying what a ‘grocery’ item was. The proposed language defined a ‘grocery’ item was one that could be purchased with food stamps in the State of Utah, which were edible foods, fruit trees, and seeds. Edible food could be prepared but not could not be hot. Alcoholic beverages could not be purchased with food stamps. The staff also proposed that Class A beer licenses be prohibited in Tobacco Oriented Retail businesses. The new requirements would read:

No Class A license shall be issued to any business, except those engaged in the sale of grocery items and where weekly grocery sales amount to not less than one thousand two hundred dollars (\$1,200.00) per week and inventory averages not less than three thousand dollars (\$3,000.00) for ~~food~~ and grocery items, excluding from both the weekly sales average and the minimum inventory amount all beer sales and beer held in inventory.

Grocery items are defined as items that are eligible for purchase with food stamps in the State of Utah. 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.

Councilman Tafoya stated that the City Council had been over this issue numerous times. He was back to where it started. He could go into any grocery store or convenience store and buy smokes and beer. He had been able to do that for over 19 years. He didn't know why the City needed to regulate Class A beer licenses in Tobacco Oriented Retail. As a governing body, the Council controlled conditional uses. If something came up in the investigation required for a beer license, the Council could deny the license. It could revoke an existing license. He felt the existing regulations were enough to govern with.

Councilman Stokes moved to approve Ordinance No. 1033 amending Title 3, Chapter 2, Section 3 of the Roy City Code by clarifying the minimum grocery sales required for the issuance of Class A beer licenses, and prohibiting the issuance of Class A beer licenses to businesses classified by the Roy City Zoning Ordinance as Tobacco Oriented Retail, and terminating Ordinance No. 1027 which established temporary land use regulations regarding the same. Councilman Hilton seconded the motion. A roll call vote was taken: Councilmember's Stokes, Peterson, and Hilton voted "aye." Councilman Cragun abstained due to a conflict of interest, and Councilman Tafoya voted "nay." The motion carried. (Copy filed for record).

3. PUBLIC COMMENTS

Niven Turner, 2108 West 5750 South, directed comments to those members of the City Council to whom they applied. He had invited other members of the community to attend this meeting as a show of support. Those residents included an employee at Hill AFB, grandmas, and those with top security clearance. Some of them smoked and some drank beer. He referred to a cartoon and article published in the *Standard Examiner* on August 25, 2010. He had visited the Municipal Building and spoke with the staff about it. Contrary to belief, the newspaper did not make the news; it printed it. The City Council had made the news. Years ago there was a \$500,000 shortfall for which the City received negative press. If that negative press had been the newspaper's fault, it should be printed a retraction. It never had. Mr. Turner said the first time the newspaper printed an article about the proposed beer license changes, he had given the City Council the benefit of a doubt. Smoke shops had been in the City for some time. Why were they an issue now? Maybe it was the product they sold; maybe they were too visible; or maybe it was just the people that used them. It raised the question about the Council's concept to govern. He did not understand the logic behind the food sales requirement. He referred to comments made by Councilmen Peterson and Stokes quoted by the *Standard Examiner* expressing concern about Roy City becoming known as the community where anyone could purchase alcohol. He had asked people what they thought about the issue. One person commented that there was a little clique running the City. What he and other people saw was a blatant patronization of the LDS Church. This was not January 16, 1920.

Councilman Stokes stated that he was not concerned about religion. He had studied similar situations that had occurred in Washington, D.C. and the Berkley/Oakley area in California. Governments in those areas tried to clean up areas with liquor businesses from a business development perspective. The City Council saw that as the business area declined, these businesses moved it. The City didn't want to see clustering of these businesses that would prevent new businesses from coming in as the economy and development began to swing upward. The current regulations had been on the books for years. The City Council was simply trying to clarify them.

Councilman Peterson stated that the editor of the *Standard Examiner* was not present at the Council meeting in question. It was obvious the editor had not read his correspondent's article. This issue was about keeping the business district viable.

Niven Turner stated that he did not believe Councilmen Stokes and Peterson. He was hearing mumbo jumbo. He knew an end run when he saw one.

4. CONSIDERATION OF ROY CITY HOPE COMMUNITY CENTER MULTIPURPOSE ROOM RENTAL AGREEMENT

Mayor Ritchie stated that the City Council had approved a rental agreement for Hope Center's multi-purpose. This was simply the form the applicant's would use. It was for the Council's information. No action was necessary.

5. CONSIDERATION OF RESOLUTION NO. 978 AUTHORIZING THE SALE OF SURPLUS POLICE MOTORCYCLES

Police Chief, Greg Whinham, stated that the Police Department was requesting that the City Council approve Resolution No. 978 which declared two motorcycles as surplus property and authorize their sale.

Deputy Chief Mike Elliott stated that both of the motorcycles were 2004 Harley Davidson's. The first was fully functional. Its retail blue book value was \$10,350 to \$12,500. The Police Department proposed to sell it for \$9,700.00. The second motorcycle was involved in an accident on June 2010 and was ruled a total loss by the insurance provider. Payment was made to the City by the insurance provider in the amount of \$11,269.66. That was after \$3,134.00 was deducted for the City to retain the motorcycle. The Police Department planned to list the bike for \$5,000.00. If only the minimum bid of \$5,000 was received, the City would have acquired a total of \$16,269.66. The Police Department estimated that the sale of both bikes and insurance payments would total \$25,969.66. Deputy Chief Elliott said the Police Department wanted to purchase two new 2010 Honda motorcycles as replacements. The bikes had several safety features over the Harley Davidson's. The new bikes were being offered to the City at the invoice price of \$13,999.00. The bikes were utilized by other police departments in the State. Each bike would need to be equipped for a total cost of \$17,849.99 each, and a total cost of \$35,699.98 for both. The difference between the sales of the surplus bikes and the purchase price for the new ones was \$9,730.32.

Mayor Ritchie felt the maintenance cost of the Hondas would be less than the Harley's. He asked about the equipment on the Harley's. Deputy Chief Elliott said the Police Department would be able to remove and reuse the siren and controller on the Honda's. The lighting packages would be removed from the Harley's and marketed to other police departments.

Councilman Peterson asked how the Police Department planned to fund the \$9,730.32 difference. Police Chief Whinham stated that in the current budget money was set aside in the traffic budget for police equipment. It had not been budgeted as the Police Department wanted to have some funds available. Councilman Peterson asked if that money was encumbered. Chief Whinham said it was not.

Councilman Cragun felt motorcycles were valuable tools for law enforcement. They could maneuver through congested traffic areas.

Councilman Cragun moved to approve Resolution No. 978 declaring certain property as surplus and authorizing its sale. Councilman Stokes seconded the motion. A roll call vote was taken: Council members Hilton, Tafoya, Cragun, Stokes, and Peterson voted "aye." The motion carried. (Copy filed for record).

6. CONSIDERATION OF ORDINANCE NO. 1031 AMENDING ROY CITY CODE SECTION 6-1-2 REGARDING FIRE LANE AND BUS LOADING PARKING ZONES

Andy Blackburn stated that Ordinance No. 1031 would make it illegal for any vehicle to stop, stand, or park upon any street or part of a street when signs or 'no parking' traffic markings were erected or painted. When the City tried to enforce the illegal parking occurring at the Hope Community Center and Boys & Girls Club it discovered that the ordinance only referred to illegal parking in school bus loading zones. This amendment would correct that problem.

Councilman Tafoya asked if the Police Department would let people know they were parking illegally or just cite them. Chief Whinham said the officers had tried to educate people. They would continue to do so as well as enforce the ordinance.

Councilman Hilton moved to approve Ordinance No. 1031 amending Title 6, Chapter 2, Illegally Parked and Abandoned Vehicles, making it unlawful for any vehicle stopped, standing or parked upon any street, part of a street or roadway, when signs or traffic markings are erected or painted by the City which gives notice that parking is prohibited. Councilman Cragun seconded the motion. A roll call vote was taken: Council members Peterson, Cragun, Hilton, Stokes, and Tafoya voted "aye." The motion carried. (Copy filed for record).

Chris Davis stated that he had met with Matt from the Boys & Girls Club about the parking problem. Matt had encouraged the City to become involved because he concerns had fallen on deaf ears.

7. CITY MANAGER'S REPORT

Chris Davis stated that the annual youth service project would take place on Saturday, September 11th from 8:00 to 11:00 a.m. The project typically involved 400 to 800 youth. This year the project included installing sod at the Municipal Building and cemetery and taking out and replacing fill material at the Municipal Elementary playground. At the conclusion of the service project, the Aquatic Center would be opened for the participants. It would then be closed for the season.

Chris Davis stated that there would be a work session on September 29th at 6:00 p.m. The Council would meet with the Roy Water Conservancy District and elected State officials. He asked that the Council let him know if there were specific items they wanted to discuss with the State officials.

Chris Davis stated that League meetings would be held next week.

Chris Davis stated that the football dinner scheduled for the evening of Thursday September 9th would have to be rescheduled due to homecoming activities.

8. MAYOR AND COUNCIL REPORTS

Mayor Ritchie stated that Keith Homer, a prominent member of the community had passed away. He served as the City's grand marshal last year.

Councilman Cragun suggested that the City send a token of condolences to Sheriff Craig Dearden regarding the death of his son. Mayor Ritchie said it had already been taken care of.

9. ADJOURN

Councilman Peterson moved to adjourn at 7:03 p.m.

Joe H. Ritchie
Mayor

Attest:

Michelle Drago
Secretary
dc:csep710