

## MINUTES OF THE DECEMBER 18, 2012, ROY CITY COUNCIL MEETING

1. Approval of the December 4, 2012, minutes
2. Presentation of awards for the 2012 Christmas Lighting Contest
3. Public comments
4. Consideration of Ordinance No. 1051 amending Title 10 of the Roy City Municipal Code for the purpose of augmenting enforcement of the Roy City Zoning Ordinance
5. Discussion regarding the salary of the Roy City Justice Court Judge
6. Consideration of a request for a conditional use allowing a new retail development on property located at approximately 5305 South 1900 West
7. Discussion and consideration of Resolution No. 1013 setting fees for the Aquatic Center
8. Approval and acceptance of Domestic Violence Advocate Grant and hiring part-time employee
9. Consideration of Resolution No. 1014 adopting Safe Harbor Window for part-time employees
10. City Manager's report
11. Mayor and Council reports
12. Adjourn

Minutes of the Roy City Council Meeting held December 18, 2012, 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  
Councilman John Cordova  
Councilman Willard Cragun  
Councilman Brad Hilton  
Councilman Stokes  
Councilman Dave Tafoya

City Manager Christ Davis  
City Attorney Andy Blackburn  
Secretary Michelle Drago

Also present were: Cathy Spencer, Management Services Director; Jared Hall, Planner; Sherry May, Code Enforcement Officer; Judge Scott Waterfall; Tonya Littlefield; Rachel Trotter; Melissa Naylor; Shelby Rathburn; Dennis Wells; Linda Wells; Bryce Red; Dakota Silva; Jennifer Baldwin; Taylor Magana; Shaylee Erickson; Jacob Bingham; McKenzie Bowers; Kayla Moss; Jessie Johnson; Rachel Alvord; Rowene Visser; Tom Lint; Debbie Lint; Sarah Shane; Adam Bowers; Skyler Coombs; Hector Hurtado; Gaby Lopez; Tim Jenkins; Frank Lundquist; and Stan Hoellein.

Moment of Silence: Councilman Stokes

Pledge of Allegiance: Councilman Stokes

Mayor Ritchie welcomed students from Roy High School.

#### 1. APPROVAL OF DECEMBER 4, 2012, MINUTES

**Councilman Cordova moved to approve the minutes of December 4, 2012, as corrected. Councilman Cragun seconded the motion. Council members Cordova, Cragun, Hilton, and Tafoya voted “aye.” The motion carried**

#### 2. PRESENTATION OF AWARDS FOR THE 2012 CHRISTMAS LIGHTING CONTEST

Mayor Ritchie said the judging committee felt the lights for this year were the best the City had ever had. This year's awards were being given in categories rather than first, second, third, and honorable mention.

Most Creative & Unique:  
Steve & Jerry Goralski- 5843 South 2950 West

Most Traditional:  
Stan & Kaye Hoellein – 4307 South 2675 West

Most Energy Efficient:  
Tom & Debbie Lint – 5296 South 3750 West

Most Likely to Take Out a Loan for Their Power Bill:  
Dennis Wells – 2679 West 6000 South

Honorable Mentions -

Bryson Jones:	4181 South 2725 West
Allen & Crystal Elmer:	4821 South 3200 West
Sandra Malone:	4593 Promenade Drive
Austin Schultz:	4124 West 4950 South
Jason Skeen:	5718 South 3950 West
Dennis & Betty Peck:	2194 West 5100 South
Anna Eastman:	2080 West 5750 South

3. PUBLIC COMMENTS

Rowene Visser, 5210 South 1900 West, stated that she had owned property in Roy City since 1960. Three to four years ago she wanted to improve her property at 5200 South 1900 West so she put in two pondless waterfalls. The ponds did use water. However, her sewer bill had gone up in proportion to the amount of water she used. She only had two restrooms in her business, and the waterfalls were not connected to the sewer. Her residential sewer bill was \$25.90. The sewer bill for her commercial property had gone up to \$162. She asked the Water Department to adjust the sewer on her bill, but the staff said they didn't have the authority to do that.

Mayor Ritchie suggested that Ms. Visser meet with the City Manager regarding her sewer bill. If he wasn't able to help her she could come back to the Council.

4. CONSIDERATION OF ORDINANCE NO. 1051 AMENDING TITLE 10 OF THE ROY CITY MUNICIPAL CODE FOR THE PURPOSE OF AUGMENTING ENFORCEMENT OF THE ROY CITY ZONING ORDINANCE

Andy Blackburn, City Attorney, stated that Ordinance No. 1051 amended the Municipal Code to allow for greater enforcement of the Zoning Ordinance. It moved Code Enforcement from the Community and Economic Development Department to the Police Department and combined the Code Enforcement and Animal Control positions so that the three positions could do the same functions.

**Councilman Cordova moved to postpone approval of Ordinance No. 1051 until it could be discussed in a work session. Councilman Hilton seconded the motion.**

**Council members Cordova, Cragun, Hilton, Stokes, and Tafoya voted “aye.” The motion carried.**

Mayor Ritchie stated that a work session was scheduled for January 8<sup>th</sup>. This item would be added to the agenda.

5. DISCUSSION REGARDING THE SALARY OF THE ROY CITY JUSTICE COURT JUDGE

Mayor Ritchie stated that the City Council met with Judge Waterfall some time ago to discuss his salary. At that time, the Council promised it would look at his salary again within six months, but had not done so.

Judge Scott Waterfall stated that he met with the City Council in March of 2010 – two years and nine months ago. At that time the Council was trying to decide whether to contract with Weber County to provide court services. The Council did enter into agreements with other entities. A Justice Court was different. It could only hear certain types of cases. It dealt with misdemeanors and some civil lawsuits with money damages with a maximum of \$10,000. Its jurisdiction was territorial. It could only deal with cases from within Roy City boundaries, or within the boundaries of the entities it contracted with. The Roy City Justice Court just celebrated its 10<sup>th</sup> anniversary. Since the decision in March of 2010, the court’s revenues had increased. The net to the General Fund was over \$1 million. One of the Council’s initial concerns was whether the Court would be able to meet its expenses.

Councilman Tafoya asked where Judge Waterfall got his numbers from. Judge Waterfall said they came from City’s Accountant, Matt Andrews.

Judge Waterfall stated that there were a number of things which helped the court be successful. The number of cases filed impacted how the court functioned. The cases came from Roy City, Weber County, and other entities. The number of cases could not be manipulated by outside sources. Another factor was the financial ability of the defendants. The current economic conditions impacted how much money could be collected. A dedicated, competent staff impacted the court’s ability to do well. He didn’t feel the current salaries of the court clerks were competitive. The court revenues seemed to follow the same trend as sales tax revenue. The City’s sales tax revenue had been down but now seemed to be going up. The number of filings had been down for the past few years. Judge Waterfall felt they would go up.

Judge Waterfall said the additional cases had changed the Roy Justice Court from a Class 2 court to a Class 1. Judges in Class 1 courts were not allowed to practice law, which meant his family income had decreased. The salary he had discussed with the Council in March of 2010 was the same salary Judge Storey, the former Weber County Justice Court Judge, had received - \$107,523. He felt the Council had accepted that

salary, but was concerned about expenditures versus revenue. The Council was also concerned that he was working as a judge for South Ogden. In good faith, he had terminated his contract with South Ogden. In March 2010, the Council left his salary at \$90,000 with the anticipation that it would be reviewed again in three months. His perception was that the City Council intended to increase his salary to \$107,523. He reviewed the judicial salaries of other judges in the area. Some of their salaries and benefit packages were \$179,522/Davis County, \$161,383/Midvale; and \$168,163/Ogden.

Councilman Tafoya asked how many hours a week those judges worked. Judge Waterfall said judges were not paid by the hour. The courts he mentioned were full time courts. The Roy City Justice Court was open four days a week twice a month and two days a week twice a month.

Judge Waterfall reviewed the compensation packages of his peers at Roy City, other department heads. He would like to receive a similar compensation package but was willing to live with the salary agreed upon in 2010 - \$107,523. He also asked that the City conduct an independent salary study for the court employees. He didn't feel the current wages were sufficient to attract and keep good employees. Judge Waterfall felt the court would be function better if they didn't have to continually train new clerks. He acknowledged that the court was doing well, but not as well as everyone initially hoped.

Mayor Ritchie asked where Judge Waterfall got his numbers regarding sales tax revenue. Judge Waterfall said he received the numbers from Cathy Spencer, the City's Management and Services Director. Cathy Spencer said the City's sales tax revenue was doing better than it had last year.

Councilman Tafoya stated that Judge Waterfall was a part time judge. The salary for a part time judge should be \$27,000. Judge Waterfall had talked the Council into giving him \$90,000 and allowing him to continue working in South Ogden. He had left South Ogden of his own free will. Now he was asking for more money for the same amount of work.

Judge Waterfall stated that the bottom line was that the court was making money for Roy City. It was meeting its expenses.

Councilman Hilton stated that the bottom line was that expenses in 2008 were \$174,000. When the City took over Weber County's cases, expenses jumped up to \$409,000 while revenue decreased.

Judge Waterfall felt the court revenues followed the same trend as sale tax revenue.

Councilman Hilton stated that the City would be discussing the salaries of all of the employees during the next Council work session. Good people were leaving Roy City because the City couldn't pay them what they felt they were worth.

Judge Waterfall stated that when office work in the court didn't get done collections went down. If there weren't good employees to service the customers of the court, it would be reflected in the financial bottom line.

Councilman Cragun stated that there was a lot of concern when the City took over Weber County's Justice Court. The Council had considered whether the justice court would cost the taxpayers additional money to maintain. The City had a lot of employees who had not had a salary increase in five years and had had to pick up additional insurance costs. The City had just been hit by the State retirement system with a tremendous increase in retirement costs. The City had a lot of issues to deal with. He didn't question whether Judge Waterfall was worth the salary he was asking for. The issue was where did the City get the money? The City was asking a lot from all of its employees. The City needed to address all of its employees and where it would get the money to adjust salaries. The City had been running very, very lean for a long time.

Judge Waterfall asked that the court salaries be addressed in a timely manner. He was asking for the salary he felt the Council had committed to almost three years ago - \$107,523 – in spite of the fact that his court peers and peers at Roy City were getting more. Councilman Hilton said he had made a motion to revisit the issue of salary and see where the court was at and then discuss whether or not to increase the Judges salary. Councilman Hilton also stated that in the June meeting, even though the item was not on the Agenda, the matter was brought up in the City Managers report. At that time the City Manager indicated that the court was not doing as well as we expected, therefor there was no reason to consider an increase in the Judges wage.

Councilman Cragun asked that this discussion be tabled until the Council could discuss a comprehensive salary survey in a work session.

Councilman Stokes asked that Judge Waterfall provide the Council with salary information from other courts along with their case loads. Judge Waterfall said could provide that information the following day.

Councilman Tafoya asked when Judge Waterfall's contract with the City would expire. Judge Waterfall said he didn't have a contract. His appointment was good until the next election.

Councilman Tafoya stated that realistically the City might be able to squeeze out 1% for all of the employees. Anything more than that would require a tax increase.

Mayor Ritchie felt it was unfortunate that the State would not allow judges of Class 1 courts to continue their private practice.

Councilman Cordova asked what constituted a Class 1 court. Judge Waterfall it was based on the number of cases filed. The threshold was 500 per month. Roy City met the requirements for a Class 1 court before March of 2010, but had asked the State for leniency. Councilman Cordova asked how many cases were being filed per month. Judge Waterfall said there were about 700 cases per month. Ogden City had 2½ judges with 900 cases per month; Davis County was about the same.

Councilman Stokes stated that he was willing to consider a salary increase, but he was only one vote out of five. Money was tight, and the Council had to be cautious and careful.

Judge Waterfall hoped the City would take care of the court staff. Mayor Ritchie asked Judge Waterfall if he was comfortable with the number of positions in the court. Judge Waterfall said there were three full time positions and one part time. The court was in a quandary. They were cautioned to economize. However, if the City attracted and kept good people, it would be reflected in the revenues.

Councilman Stokes asked about changing the court positions from full time to part time. Judge Waterfall felt it would create commotion. The City would get more knowledgeable people in full time positions than part time.

Judge Waterfall stated that right now the court employees were working overtime, which was the most expensive way to get the work done.

Councilman Tafoya asked Judge Waterfall's opinion about getting rid of the Weber County cases. Judge Waterfall said the number of cases originally anticipated had not happened. Getting rid of Weber County's cases would drop Roy City back to a Class 1 court. Cancelling the contract with Weber County and the other entities was an administrative decision.

Mayor Ritchie assured Judge Waterfall that when the salary survey was done, he and the court employees would be included.

6. CONSIDERATION OF A REQUEST FOR A CONDITIONAL USE ALLOWING A NEW RETAIL DEVELOPMENT ON PROPERTY LOCATED AT APPROXIMATELY 5305 SOUTH 1900 WEST

Jared Hall, Planner, stated that the Planning Commission had reviewed a site plan and requests for conditional use permits for a new pharmacy to be located at 5305 South 1900 West. The site consisted of four parcels that would be combined into one site. Two of the parcels were owned by the Redevelopment Agency, the third by Bryson's

Computers, and the fourth was occupied by a professional office building. Bryson's Computers and the professional office building would be demolished.

Mr. Hall said the new pharmacy would be located on the southwest corner of the site. The RDA parcels would become a parking field. The amount of proposed parking exceeded the requirements of the Zoning Ordinance. The pharmacy had requested approval of conditional use permits for a drive thru on the south side of the building and 24 hour operation. There would be entrances to the site on 1900 West, 5300 South, and 1950 West. Traffic for the drive thru would flow from the west to the east. The main entrance to the pharmacy would face the northeast. The building would be 14,500 square feet in size. The Planning Commission asked if this would be strictly a pharmacy or a retail operation as well. Mr. Hall said this would be a mixed retail. The landscaping along 1950 West would be intensified to help screen a remote loading area. A remote loading area could be allowed because of the lighter commercial use.

Mr. Hall said the architectural features and building materials met the requirements of the Zoning Ordinance and had been approved by the Development Review Committee. Both the DRC and the Planning Commission recommended that the site plan and conditional use permits be approved subject to the conditions recommended by the staff. The four parcels would have to be combined into one prior to the issuance of a building permit.

**Councilman Stokes moved to approve a site plan and conditional use permits for a new pharmacy at approximately 5305 South 1900 West based on the findings and recommendations of the staff and Planning Commission. Councilman Cordova seconded the motion. Council members Cordova, Cragun, Hilton, and Stokes voted "aye." Councilman Tafoya voted "nay." The motion carried.**

7. DISCUSSION AND CONSIDERATION OF RESOLUTION NO. 1013 SETTING FEES FOR THE AQUATIC CENTER

This item was removed from the agenda.

8. APPROVAL AND ACCEPTANCE OF DOMESTIC VIOLENCE ADVOCATE GRANT AND HIRING PART-TIME EMPLOYEE

Andy Blackburn stated that the City's prosecutor had applied for and received a grant for a domestic violence advocate. There wouldn't be a cost to the City. The grant would cover the cost of an employee to work 15 hours a week to provide counsel to victims of domestic violence, which would relieve pressure on the prosecutor. He asked that the Council accept the grant and approve the hiring of a part-time employee.

Mayor Ritchie asked if the City was required to match the grant. Mr. Blackburn said it was not. Mayor Ritchie asked what would happen to the position when the funding ended. Mr. Blackburn said the position would only be funded for length of the grant.

Councilman Cragun stated that there had been an increase in domestic violence. Victims didn't have anywhere to go for help. Many victims were not aware of their legal rights. He could see the need for this type of activity.

Councilman Stokes asked about the classification of domestic violence. Andy Blackburn said most cases were Class B Misdemeanors.

Mayor Ritchie felt the grant was important because it gave victims someone to go to for guidance, which could help reduce domestic violence.

Andy Blackburn stated that on court day the prosecutor did not have a lot of time to give to domestic violence victims.

Councilman Cordova commended the staff for going after the funding. Mr. Blackburn said the credit went to Trent Nelson, the City's prosecutor.

Councilman Stokes was concerned that the source of the grant was the federal government. Everyone had heard about the government's fiscal cliff and paying down the national debt. He realized this was a small amount of money, but when would the spending stop? The City could do its part and look for another source of funding.

Councilman Cordova asked if the State provided a similar type of funding. Mr. Blackburn did not know.

Councilman Cragun suggested that the City begin to lobby State legislators to provide a State program like this. The State had passed the domestic violence laws and put the burden on the City's to enforce them.

Mayor Ritchie said this could be referred to the Chamber of Commerce's legislative committee and the Utah League of Cities and Towns.

**Councilman Tafoya moved to accept the Domestic Violence Advocate Grant and to approve hiring a part-time employee for the length of the grant. Councilman Cordova seconded the motion. Council members Cordova, Cragun, Hilton, and Tafoya voted "aye." Councilman Stokes voted "nay." The motion carried.**

9. CONSIDERATION OF RESOLUTION NO. 1014 ADOPTING SAFE HARBOR WINDOW FOR PART-TIME EMPLOYEES

Andy Blackburn stated that the Patient Protection and Affordable Care Act placed certain requirements on employers. One of those requirements was to offer health

benefits to employees who worked an average of thirty or more hours per week. In order to determine whether an employee had worked an average of 30 hours per week, the City had to establish a measurement period. The administration recommended that the measurement period begin on January 1, 2013, and end on December 31, 2013. The measurement period would continue to be recalculated for the same period (January 1 to December 31) for every year thereafter. In order to begin the measurement on January 1, 2013, it had to be included in the Personnel Policy and Procedure Manual. Resolution No. 1014 amended the Personnel Policy and Procedure Manual Section 1021 by outlining how the City would determine if an employee had worked an average of 30 hours per week.

Mayor Ritchie asked if overtime would be counted. Mr. Blackburn said it would.

Councilman Tafoya asked if the health benefits would be offered on a continuing basis if an employee worked an average of more than 30 hours per week. Mr. Blackburn said the City only had to offer health benefits for the length of the measurement period.

Councilman Hilton felt this would force department heads to pay attention to the amount of hours worked by part-time employees. They would have to be more diligent.

Councilman Tafoya asked how much it would cost the City to offer benefits. Cathy Spencer, Management Services Director, said a family plan cost about \$900 a month.

Councilman Cordova asked how many part time employees the City had. Cathy Spencer said there were about 144 that were employed year round; that number doubled in the summer.

Chris Davis said an employee could work a maximum of 1,559 hours per calendar year before being eligible for health benefits. The challenge became tracking part-time firefighters.

Councilman Cordova asked how many part time firefighters were employed by the City. Mr. Davis said there were between 30 to 40. Ms. Spencer said the Fire Department had adopted a policy limiting the number of hours worked.

Councilman Tafoya asked who would oversee the hours worked. Cathy Spencer stated that the department heads would receive a report every three months listing how many hours their employees had worked.

**Councilman Hilton moved to approve Resolution No. 1014 amending the Roy City Personnel Policy and Procedure Manual adopting a Safe Harbor Window for part time employees by providing a one-year measurement period to determine if an employee works 30 or more hours per week and therefore is entitled to Health Benefits as provided by the Patient Protection and Affordable Care Act. Councilman Stokes seconded the motion. A roll call vote was taken: Council**

**members Cragun, Tafoya, Cordova, Stokes, and Hilton voted “aye.” The motion carried.** (Copy filed for record).

10. CITY MANAGER’S REPORT

Chris Davis reminded the Council members about the Council work session on January 8<sup>th</sup> at the Hope Center.

11. MAYOR AND COUNCIL REPORTS

Mayor Ritchie wished everyone a Merry Christmas.

12. ADJOURN

**Councilman Cordova moved to adjourn at 7:19 p.m.**

Attest:

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Joe H. Ritchie  
Mayor

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Amy Mortenson  
Recorder

dc:cdec1812