

CITY COUNCIL MEETING – March 1, 2010

STATE OF COLORADO)
COUNTY OF OTERO) SS
CITY OF LA JUNTA)

Subject to approval at the
March 15, 2010 Regular
Council Meeting.

CALL TO ORDER: A regular meeting of the City Council of the City of La Junta, Colorado, was called to order by Mayor Don Rizzuto on Monday, March 1, 2010, at 7:30 p.m. in the Council Chambers of the Municipal Building.

PLEDGE OF ALLEGIANCE: Mayor Rizzuto led everyone in the Pledge of Allegiance.

INVOCATION: The City Clerk gave the invocation.

ROLL CALL: The following Council Members were present:

- Jackie Abrams, Ward 1
- Eugene Mestas, Ward 1
- Billie Johnson, Ward 2
- Don Rizzuto, Mayor
- Bill Schmidt, Ward 2
- Bob Freidenberger, Ward 3
- Michael Moreno, Ward 3

Absent: None

- Also present:
- Rick Klein, City Manager
 - Bill Jackson, Assistant City Manager/Director of Public Safety
 - Phillip F. Malouff, Jr., City Attorney
 - Jan Schooley, City Clerk
 - Lloyd Smith, Electric Utility Director
 - Sandy Messick, Director of Library Services
 - Mike Steeves, IT Manager
 - Aaron Eveatt, Fire Chief
 - Ron Davis, Economic Development
 - Nancy Bennett, La Junta
 - Robert Schwinger, La Junta
 - Ron Tomlin, Library Board
 - Lynn Horner, La Junta
 - Ann Kuebbeler, Library Board
 - Kristina Lofing, Arkansas Valley Community Center
 - Mac McCune, La Junta
 - Jan Church, La Junta
 - Barbara Martin, La Junta
 - Gail Martin, La Junta
 - Brad Rose, La Junta
 - Mahesh Patel, Stagecoach Motel
 - Nick Patel, Mid-Town Motel
 - Cheryl Lindner, La Junta
 - Bev Babb, La Junta
 - Lance Benninghoff, Otero County
 - Frank McKenzie, Jodi's Grill LLC
 - Basiel Layton, La Junta
 - Gary Wyant, La Junta
 - Cheryl Lindner, La Junta
 - Felix Lucero, Trinidad
 - Bette McFarren, The Local Buzz
 - Lisa Steeves, Tribune-Democrat

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MINUTES OF PREVIOUS MEETINGS: Mayor Rizzuto asked if there were any corrections to the minutes of the February 16, 2010, Regular City Council Meeting. Hearing none, he declared the minutes approved as published.

PUBLIC HEARINGS

- A. **Application for Transfer of Ownership of a Hotel and Restaurant license by Jodi's Grill LLC, d/b/a Jodi's Grill, 208 Santa Fe Avenue.** The City Attorney opened the public hearing gave some general information about the applicant. He then presented his Preliminary Findings as follows:

PRELIMINARY FINDINGS

The City of La Junta as the liquor licensing agency submits herewith its findings required by Section 12-47-137 of the Colorado Revised Statutes concerning the results of the City's investigation. Those findings are as follows:

1. That the application is in proper order, the necessary fees having been paid, and the requisite checks and drawings are in order.
2. That the premises sought to be licensed is located at 208 Santa Fe, in La Junta, Colorado.
3. That the premises is presently zoned in a manner that will accommodate the proposed business.
4. That the premises sought to be licensed is currently under a similar type of liquor license.
5. That the premises is properly occupied by the applicant.
6. That the proposed outlet is not within 500 feet of any public school or parochial school.
7. Notice of hearing has been given by posting of the premises as required by law and by publication in a newspaper of general circulation within the City of La Junta, being the La Junta Tribune-Democrat, more than ten days prior to the hearing date.
8. That the neighborhood to be served is designated as the City of La Junta.
9. That the closest outlet with a liquor license within the City of La Junta is B.J.'s Sports Bar, 10 E. 2nd Street, La Junta, Colorado, which is approximately .1 miles from the premises sought to be licensed.
10. That there are other outlets of a similar nature within the neighborhood (see Exhibit "A").

Mr. Malouff then asked the applicant, Jodi Hughes to come forward. She answered questions from Mr. Malouff and the Council. Mr. Malouff then asked if anyone wished to speak either for or against this application. Speaking in favor were Harrison "Mac" McCune, Brenda Haller and Frank McKenzie. No one spoke in opposition. The City Attorney closed the hearing.

Mayor Rizzuto asked Council what action they would like to take regarding this application.

MOTION TO APPROVE THE TRANSFER OF OWNERSHIP OF A HOTEL AND RESTAURANT LIQUOR LICENSE FOR JODI'S GRILL LLC: Freidenberger

SECOND: Johnson

DISCUSSION: None

VOTE: The motion carried 7-0.

- B. **Renewal of a retail liquor store license by Roy's Liquor LLC, d/b/a Roy's Liquors, 420 E. 1st Street.** The City Attorney opened this hearing and explained to City Council that whenever the City receives an application to renew a liquor license, a checklist is sent to the various City Departments and the supervisors indicate whether or not the applicant is in compliance with various State and City laws. If there are problem areas, then the applicant needs to remedy the situation. In the case of this applicant, there are three areas that need to be addressed. The first is that this license holder was subject to a suspension action in January of this year that was undertaken by the State of Colorado. Secondly, we need to be assured that this applicant and his employees have taken a seller/server course. Thirdly, there seems to be a repeated series of violations with regard to the Fire Code. Mr.

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Roy Thomas, owner of Roy's Liquor LLC was questioned by Mr. Malouff. In regard to the suspension of his license by the State, Mr. Thomas said he bought another liquor store and a bar in Rocky Ford, which is illegal under State Law. His license was suspended for 15 days in January of 2010 and his business was closed from January 11 to the 26th. Regarding the seller/server training, Mr. Thomas said his employees have gone through the training, and any future employees will also be trained.

Regarding the Fire Code violations, Mr. Thomas said he has corrected these problems. Mr. Malouff went on to say that recently when the Fire Officials did their inspection they found things that he was written up for in 2009 were still not taken care of. Mr. Thomas said he was not aware of this but would be happy to correct any problems.

After questioning Mr. Thomas, Mr. Malouff asked if any of the Council Members had any questions. Mestas asked what happens if Council grants the renewal at this time, but later on Mr. Thomas is out of compliance, what would happen. Mr. Malouff said Council could take some type of disciplinary action similar to what the State took. Johnson asked Mr. Thomas if he has met all of the obligations that the Fire Department has put forward as far as cleaning up his store. Mr. Thomas said yes, the Fire Department hasn't come back and inspected it, but he has pictures he can show proving he has cleaned it up.

There being no further questions, Mr. Malouff closed the hearing.

MOTION TO GRANT THE RENEWAL OF THE RETAIL LIQUOR STORE LICENSE FOR ROY'S LIQUOR LLC: Freidenberger

SECOND: Schmidt

DISCUSSION: Freidenberger asked if Council may make a stipulation that if non-compliance arises again, we will take the necessary measures for enforcement as allowed by law. Mr. Malouff said, yes, that is what we are here for and every applicant needs to comply with the law and we have punitive sanctions available to us if they are found and determined after a hearing to have violated those things. So the caveat is that we have concerns as to whether this establishment is being run in conformance with Colorado laws and now with our local rules in regard to fire code violations. Freidenberger then asked if some type of timeline is necessary. Mr. Malouff said we have historically given 30 days to all of the applicants to make sure that there is compliance with the Fire Code. He suggested that the Fire Inspector be sent out tomorrow to determine what the current status of the building is and if there is a problem, give him 30 days to correct it. Mr. Freidenberger said he would like to amend his motion then as follows:

MOTION TO AMEND THE MAIN MOTION TO INSTRUCT THE FIRE SAFETY CODE OFFICER TO INSPECT ROY'S LIQUOR STORE AGAIN AND THEN GO BACK IN THIRTY DAYS AND IF THEY FIND NON-COMPLIANCE THE CITY COUNCIL GOES FORWARD WITH THE APPROPRIATE ACTION: Freidenberger

SECOND: Schmidt

DISCUSSION: Johnson said if Council grants this can they have an inspection any time it wants to? Mr. Malouff said yes.

MAYOR RIZZUTO CALLED FOR THE VOTE ON THE AMENDMENT TO THE MAIN MOTION: The motion carried 7-0.

MAYOR RIZZUTO CALLED FOR THE VOTE ON THE MAIN MOTION TO GRANT THE RENEWAL: The motion carried 7-0

CITIZEN PARTICIPATION:

- A. Mr. Nick Patel, owner of the Mid-Town Motel presented a letter signed by ten other persons, mostly motel owners, requesting that the City "expand the tourism board to be more broad-based and representative of the businesses and institutions in town that directly provide services to tourists."
- B. Mr. Mahash Patel from the Stagecoach Motel asked the City Council what kind of demographic do they use in terms of somebody constructing a new hotel in town. The City Manager said that would be up to the developer coming in to investigate whether there is a need for that type of service or not. Once that is determined, then the developer must abide by the City zoning and building codes.

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- C. Brad Rose, Vice President of Information Technology at the State Bank said that about two years ago the City helped them install a power generator and he would like to thank the City for that help. The City also helped them when a truck struck their power transformer at their drive-up this past December.

REPORTS

- A. **Economic Development.** Ron Davis gave his report.

UNFINISHED BUSINESS

- A. **Second Reading/AN ORDINANCE AMENDING EXEMPTIONS TO VENDOR LICENSE REQUIREMENTS; PEDDLERS LICENSE; AND CLARIFYING REQUIREMENTS OF LICENSE HOLDERS AND PERMIT HOLDERS.** The ordinance was read by title only, there being copies available to those in attendance.

MOTION TO ADOPT THE ORDINANCE ON SECOND READING: Freidenberger

SECOND: Mestas

DISCUSSION: Mestas asked if the vendors that come in and park on the curve by the highway, do they have to get a permit. Mr. Klein said yes. They get a peddlers permit and a sales tax license.

VOTE: The motion carried 7-0.

NEW BUSINESS

- A. **Special Events Application by Arkansas Valley Community Center, Kristina Lofing, Event Manager.** The event is the Cinco de Mayo Celebration to be held May 1, 2010 from 11 AM to 11 PM at the City parking lot at 11 E. 2nd Street. The application is in order and has been reviewed by City Supervisors for compliance with City and State codes. Appropriate fees are attached and the premises have been posted. The City Attorney recommends approval.

MOTION TO GRANT THE SPECIAL EVENTS PERMIT TO THE ARKANSAS VALLEY COMMUNITY CENTER: Moreno

SECOND: Schmidt

DISCUSSION: None

VOTE: The motion carried 7-0.

- B. **Woodruff Memorial Library Long Range Plan.** Ann Kuebbeler, Chairman of the Library Board spoke to Council about the plan developed by the Library Board. This plan has been in development for over a year. Planning began in the late fall of 2008 with a meeting attended by member of the Library staff, WML Friends, City administration and personnel, and City Council. The plan is intended to reach through 2015, though some activities may have to be put off for various reasons, such as the state of the economy, or the needs of the community change. The full plan, including activities, timelines and persons responsible will be available in the Library between March 1 and March 31, 2010 for comment. A community meeting will be held at the Library on March 11 from 6:30 to 7:30. Comments are welcome at that time or put them in the suggestion box at the Library.

C. Committee/Board Reports

1. Freidenberger reported on the recent ARPA Board meeting.
2. Moreno reported on the CML Police Committee meeting held in Denver.

D. City Manager's Comments

1. Youth Basketball has concluded and Youth Soccer registration has started.
2. We have replaced part of a playground slide at College Overlook Park.
3. Baseball and softball games have started.
4. A Hunter Safety class is being offered at the Senior Center on March 16 and 18.
5. The Water Tank project is going well.

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6. We are rebuilding a lift pump at the Wastewater Treatment Plant.
7. We getting the design done on a lift station near McDonald's.
8. The Street Crew has been cutting brush in the Anderson Arroyo in the area of Highway 50 and 3rd and 5th Streets.
9. We have two people trained on our street sweeper which is helping with the trash problem on the streets.
10. The switch is in at the Lewis Rail Spur project.
11. Sidewalk, curb and gutter is being constructed at 8th and Belmont.
12. The Electric Department is demolishing the old substation at 14th Street behind the water tank.
13. We will not know until the end of March if we will be receiving any grant money from the FAA.
14. We have a Boy Scout Explorer Program through our Police Department. Ten boys have joined.
15. A tree care program presented by the Forest Service will be given at the Library on March 18.

E. City Attorney's Comments

1. I attended a meeting of the Tourism Board and would like to report that the Board is working on getting organized. The request from the citizenry in regard to expansion of their board has not gone unheard and it will be addressed in the intermediate term.
2. Mr. Malouff answered question from Felix Lucero about what kind of decisions the Tourism Board is making at this time. They have been working on their by-laws and the application process for entities that want to apply for funds.

F. Governing Body's Comments

1. Schmidt reminded everyone that the East Otero School District Board of Education has scheduled a public meeting for tomorrow at the High School auditorium to explain the funding issues involved and the possible ways of balancing next year's budget. They are encouraging input from the public.
2. Mayor Rizzuto introduced Felix Lucero who has done some designs for the concrete stamp project that Urban Renewal is doing.
3. Freidenberger said the dedication ceremony for the new Tiger Stadium was very nice.
4. MOTION TO GO INTO EXECUTIVE SESSION FOR A CONFERENCE WITH THE CITY ATTORNEY FOR THE PURPOSE OF RECEIVING LEGAL ADVICE ON SPECIFIC LEGAL QUESTIONS UNDER C.R.S. 24-6-402 (4) (b): Abrams

SECOND: Johnson

DISCUSSION: Mayor Rizzuto said no business will be conducted during the executive session and no votes taken. Council will reconvene to adjourn the meeting.

VOTE: The motion carried 7-0.

Council went into executive session at 8:40 p.m. The session ended at 9:40 p.m., whereupon the regular meeting was reconvened and there being no further business the meeting adjourned.

ATTEST:

CITY OF LA JUNTA

Janice L. Schooley, City Clerk

Don Rizzuto, Mayor