

MINUTES OF A REGULAR CITY COUNCIL MEETING HELD AUGUST 18, 2011 AT THE CIVIC CENTER, 83 WEST MAIN, HYRUM, UTAH.

CONVENED: 6:30 p.m.

CONDUCTING: Mayor Pro-Tempore Martin L. Felix

ROLL CALL: Councilmembers Martin L. Felix, Thomas C. LaBau, and Stephanie Miller present.

EXCUSED: Mayor W. Dean Howard and Councilmembers Paul C. James, and Craig Rasmussen.

CALL TO ORDER: There being three members present and three members representing a quorum, Mayor Pro-Tempore Felix called the meeting to order.

OTHERS PRESENT: City Administrator D. Brent Jensen, Zoning Administrator Ron Salvesen, and five citizens. City Recorder Stephanie Fricke recorded the minutes.

WELCOME: Mayor Pro-Tempore Felix welcomed everyone in attendance.

PLEDGE OF ALLEGIANCE: Councilmember LaBau led the governing body and the citizens in the Pledge of Allegiance.

INVOCATION: Councilmember Miller

APPROVAL OF MINUTES:

ACTION Councilmember LaBau made a motion to approve the minutes of August 4, 2011 as written. Councilmember Miller seconded the motion and all three councilmembers present voted aye.

AGENDA ADOPTION: A copy of the notice and agenda for this meeting was faxed to The Herald Journal, mailed to each member of the governing body, and posted at the Civic Center more than forty-eight hours before meeting time.

ACTION Councilmember Miller made a motion to approve the agenda for August 18, 2011 as written. Councilmember LaBau seconded the motion and all three councilmembers present voted aye.

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8. SCHEDULED DELEGATIONS:
 - A. Shaylon Christensen, Cliff Hanger Recreation - To request a Home Occupation Business License at 579 Glenwood Drive for the rental of a climbing wall, inflatable slides, and other miscellaneous equipment.
9. INTRODUCTION AND ADOPTION OF AN ORDINANCE:
 - A. Ordinance 11-05 - An ordinance amending Sections 2.72.060 and 2.72.070 of Chapter 2.72 the Hyrum Senior Center Board of the Hyrum City Municipal Code to set the term limit for a Board Member to serve one five year term; and to specify all Board Members are covered under the Director's Food Management Permit.
10. OTHER BUSINESS:
 - A. Mayor and City Council reports.
11. ADJOURNMENT

SCHEDULED DELEGATIONS:**SHAYLON CHRISTENSEN, CLIFF HANGER RECREATION - TO REQUEST A HOME OCCUPATION BUSINESS LICENSE AT 579 GLENWOOD DRIVE FOR THE RENTAL OF A CLIMBING WALL, INFLATABLE SLIDES, AND OTHER MISCELLANEOUS EQUIPMENT.**

Shaylon Christensen said he is the owner of Cliff Hanger Recreation which provides climbing walls, inflatable slides, bounce houses etc. for private parties and at public events.

Councilmember LaBau said he is not in favor of granting Shaylon a Home Occupation Business License because his business does not comply with the Home Occupation Business License Ordinance. The Home Occupation Business License Ordinance prohibits the outside storage of goods or material and the hiring of employees that do not live at the owner's residence. A home occupation business should not change the character of the residence or the residential neighborhood. Cliff Hanger Recreation employs people who do not live at 579 Glenwood Drive and trailers with climbing walls, slides, and other types of equipment are continually parked on the sides of City streets.

Shaylon Christensen said he does not have any employees. He has a storage yard for his equipment, but will sometimes park his equipment on the City street. He is in the process of widening his driveway, so that he can park his equipment on his own property.

Councilmember LaBau asked Shaylon why he didn't initial all of the requirements listed on the Home Occupation Business License Application and when he stopped hiring employees who did not live

at his residence.

Shaylon Christensen said he does not have employees that live outside of the residence. He hires people as independent contractors not as employees. When he filled out the Home Occupation Business License Application he didn't realize he had to initial all of the requirements. However, someone from the City Offices contacted him this week and he came down that same day and initialed all of the requirements on the application.

Councilmember LaBau said independent contractors working for him are still considered employees. Over the past several years the City has received complaints about equipment trailers on Glenwood. Residents have difficulty backing out of driveways when the trailers are present. The trailers create a safety hazard to other drivers as well as pedestrians.

Councilmember Miller read the following letter from Councilmember Rasmussen:

Councilmembers,

I will not be at the council meeting this evening but wanted to take an opportunity to share my thoughts regarding the request for business license renewal for Cliffhanger Rec. Cliffhanger Rec. provides a valuable recreation service for the community. My family has participated as users of their equipment and as employees of this company on several occasions.

I have read the comments from neighbors in the subdivision where the Christensen's live and have carefully reviewed the application with respect to Hyrum's ordinance.

Based on what I have studied, I am not in favor of approving the application for a home occupation business for Cliffhanger Recreation. The applicant does not appear to meet the requirements of Hyrum's ordinance for such an occupation. In completing the application, the applicant has not initialed the applicable items on the application that indicate the occupation is in conformance with Hyrum's ordinance. This tells me that the applicant is aware that the business is not in conformance, and that he cannot in good faith say that the business conforms to the ordinance. The application is not signed.

I suggest that the council allow services to continue through this season upon payment of fees to bring the license holder current from past years when the license was

not renewed. But that the applicant not be granted a renewed license. After this season of operation, the applicant should establish the business in a commercial district. Should operations continue out of the home next year, I suggest that fines be imposed of operating without a business license.

Hope these considerations are helpful.

Sorry to not attend council meeting tonight. I am at a family reunion.

Craig Rasmussen

Councilmember Miller said Councilmember James was not able to attend tonight's meeting but mentioned he did not have a problem with renewing the business license if there wasn't any outside storage at the residence.

City Administrator D. Brent Jensen said the City mailed letters to neighbors inviting them to attend tonight's meeting and/or to submit written comments to the City regarding the City issuing Cliff Hanger Recreation a Home Occupation Business License. The City received letters from neighbors who did not object and those who did object and don't understand why the City has taken so long to address this issue. Cliff Hanger Recreation is a commercial business with employees and it does not meet the conditions of a Home Occupation Business License. The City has not received a business license renewal application from Cliff Hanger Recreation since 2007. City staff's recommendation is for Shaylon to pay all past due business license fees, then either close down, move to a commercial zone and facility, or else bring his business into compliance with the home occupation regulations.

Councilmember Miller asked Shaylon if he could move his business to a commercial location.

Shaylon Christensen said due to the economy he can't afford to rent a commercial building. He does have an agreement with a business owner in a commercial district in Hyrum to store his equipment. He doesn't always park his equipment there because it is not as convenient as parking it in front of his house. He takes the equipment home so he can charge the batteries.

Mayor Pro-Tempore Felix asked Shaylon if he could take the batteries off of the equipment and just charge the batteries at his residence rather than parking the equipment there.

ACTION

Councilmember LaBau made a motion to deny Cliff Hanger Recreation a Home Occupation Business License.

Councilmember Miller suggested amending Councilmember LaBau's motion to allow Cliff Hanger Recreation's owner Shaylon Christensen to continue taking calls at the residence with the following conditions: 1) All past due business license fees must be paid; 2) All equipment must be parked off site in a commercial zone; and 3) All employees must park their vehicles at the commercial site.

Councilmember LaBau said he would not accept Councilmember Miller's amendment to the motion because Cliff Hanger Recreation does not meet the requirements listed in City Code for a Home Occupation Business License. It is a commercial business and needs to be located in a commercial zone. He is concerned about the impact on the neighborhood and the safety issues associated with this type of equipment in a residential neighborhood. Councilmember LaBau's motion failed due to no second.

City Administrator D. Brent Jensen suggested allowing Cliff Hanger Recreation to continue to operate until the end of the season as a Home Occupation Business, but for 2012 he must move his business to a commercial zone.

ACTION

Councilmember LaBau made a motion to deny Cliff Hanger Recreation's request for a Home Occupation Business License, but if all past due business license fees are paid, the equipment is stored at a commercial location, and employees park at the commercial location the City will allow Shaylon Christensen to operate his business at his residence through the end of his business' season (November 1, 2011). Councilmember Miller seconded the motion and all three councilmembers present voted aye.

Councilmember Miller said she does not want Shaylon's business to fail and he has done a lot for the community, but he needs to find a commercial location to operate his business and store his equipment.

Shaylon Christensen said Hyrum Tire is the business that allows him to park his equipment behind its shop. He asked the City Council if he could register his business at that location and

then in a couple of years when his business is paid for he could afford to lease a place just for his business.

Zoning Administrator Ron Salvesen asked Shaylon to contact him and he will provide a list of commercial property owners and help him through the process of obtaining a commercial business license.

INTRODUCTION AND ADOPTION OF AN ORDINANCE:

ORDINANCE 11-05 - AN ORDINANCE AMENDING SECTIONS 2.72.060 AND 2.72.070 OF CHAPTER 2.72 THE HYRUM SENIOR CENTER BOARD OF THE HYRUM CITY MUNICIPAL CODE TO SET THE TERM LIMIT FOR A BOARD MEMBER TO SERVE ONE FIVE YEAR TERM; AND TO SPECIFY ALL BOARD MEMBERS ARE COVERED UNDER THE DIRECTOR'S FOOD MANAGEMENT PERMIT.

Councilmember LaBau asked if Board Members or any other person could legally be covered under the Director's Food Management Permit. His understanding is that anyone working in a kitchen that serves food to the public has to have a Food Handler's Permit from the Bear River Health Department. He is also concerned about limiting term limits for a Board Member to serve only one five year term. If a Board Member wants to continue to serve on the Board and is doing a good job why limit that person to five years. Allowing Board Members to serve continuous terms provides continuity to the Board of Directors.

A short discussion ensued as to the legality of the Director's Food Management Permit and the reasons for limiting all Board Members to one five-year term.

ACTION Councilmember Miller made a motion to table Ordinance 11-05 for further discussion until the next City Council Meeting. Councilmember LaBau seconded the motion and all three councilmembers present voted aye.

OTHER BUSINESS:

MAYOR AND CITY COUNCIL REPORTS

Mayor Pro-Tempore Felix said he attended the Utah Rural Summit in Cedar City and the classes were excellent. He will provide the City Council with information he received from the summit.

Councilmember Miller said Stephanie Carlson designed and constructed Hyrum City's Fair Booth for the Cache County Fair. The booth took second place. Hyrum City's Holiday at Hardware Ranch is scheduled for December 10 from 11:00 to 2:00. Hardware

Ranch is moving the dates for the Elk Festival from October to Saturday, December 17.

ADJOURNMENT:

ACTION **There being no further business before the City Council, the Council Meeting adjourned at 7:15 p.m.**

W. Dean Howard
Mayor

ATTEST:

Stephanie Fricke
City Recorder

Approved: September 1, 2011
As written