

A Special Meeting of the Royal Oak City Commission was held on Monday, February 15, 2010, in Room 309 of City Hall, 211 Williams, Royal Oak. The Meeting was called to order by Mayor Ellison at 6:05 p.m. Present were Mayor Ellison, Commissioner Andrzejak, Commissioner Capello, Commissioner Drinkwine, Commissioner Poulton, Commissioner Rasor (6:08 p.m.) and Commissioner Semchena. Also present were City Manager Johnson, City Attorney Gillam, and City Clerk Halas.

Adjourned to Closed Session

Moved by Commissioner Andrzejak
Seconded by Commissioner Capello

BE IT RESOLVED that the City Commission hereby adjourns to Closed Session for purposes of Collective Bargaining.

ROLL CALL VOTE

AYES: Commissioners Andrzejak, Capello, Drinkwine, Poulton, Semchena and Mayor Ellison

NAYS: None

MOTION ADOPTED

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A Regular Meeting of the Royal Oak City Commission was held on Monday, February 15, 2010, in the City Hall, 211 Williams, Royal Oak. The Meeting was called to order by Mayor Ellison at 7:33 p.m.

Commissioner Andrzejak gave the Invocation. Everyone present gave the Pledge of Allegiance.

ROLL CALL	PRESENT	ABSENT
Mayor	Ellison	
Commissioners	Andrzejak Capello Drinkwine Poulton Rasor Semchena	

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ANNOUNCEMENTS

Mayor Ellison read a list of upcoming board and committee meetings.

UPCOMING EVENTS

Tuesday, February 16

Pronto! will be donating proceeds towards the Boys and Girls Club for every breakfast, lunch and dinner; dine in or carry-out-all day Tuesday.

Royal Oak Restaurant Association is sponsoring a Royal Oak Pub Crawl, with proceeds to benefit the Royal Oak Animal Shelter. Advance tickets for adults are only \$5 and are available through the Restaurant Association - www.rorainfo.com/events.html

Saturday, February 20

Royal Oak Farmers Market from 9:00 am to Noon farmers and volunteers will be making sauerkraut. Shredded cabbage will be available for \$1 a pound. Bring your own crock and join the fun.

Tuesday, February 23

The Ancient Order of Hibernians is hosting a Spaghetti Dinner from 6:00 to 8:30 PM at the Royal Oak Elks Club, 2401 E. Fourth St. \$10 for adults, \$6 for children under 12. All proceeds from the dinner will go towards the St. Patrick's Day Parade scheduled for March 13th. For more information call (248) 541-2500 or (586) 822-6713.

Sunday, February 28

Royal Oak Youth Assistance annual Bowl-A-Thon at Thunderbird Lanes in Troy from noon to 4:00 PM. Be a lane sponsor, donate a prize or register a team. For information please contact Youth Assistance at (248) 546-8282.

Sunday, March 21

Royal Oak Optimist's Club annual fund-raising event, the 2010 Bowlabration will be at 1:30 PM at AstroLanes in Madison Heights. This is a \$25 fee per bowler, 4 man team, 9-pin no-tap event. Interested bowlers should contact Patty Dunstan at (248) 760-6876. If you'd like to become a sponsor, contact Bonnie Bourque at (586) 764-9889. www.royaloakoptimists.org

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**RECOGNITION
BRETT TILLANDER**

Mayor Ellison presented Mr. Brett Tillander with a proclamation in appreciation for his assistance with the goal setting sessions.

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PUBLIC COMMENT

Mr. Ryan Shelby, 628 N. Dorchester, was in favor of fire pits. People have been burning in Royal Oak and will continue to do so. The reason it wasn't a problem was that people were considerate.

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Mr. Jeff Plachta, 2621 Bembridge, supported the use of outdoor fireplaces. He noted that his street was very torn up and requested that it be looked at.

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Mr. Kristopher Hoemke, 1312 Hickory, supported open burning. His family grew up on Royal Oak having fires and wanted to continue the tradition with his family.

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Mr. Kevin Hoemke, 1003 Ferris, spoke in support of opening burning.

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Mr. Mike Wilson, 911 N. Gainsborough, was in favor of removing the ban on fires. The fires would be small and controlled. If neighbors don't care for the fires for any reason their objections would be respected.

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Mr. Frank Houston, 622 Walnut, saw an open burning ordinance as an opportunity to educate the public about fire safety. He also invited everyone to attend the final interview for Library Director on Saturday.

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Mr. Joe Gentilini, 1907 E Lincoln, stated his neighbors all have fires and no one seems to have a problem with them.

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Mr. Pete Collins, 1008 Ferris, supported outdoor burning.

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Mr. Brian Carlson, 1706 N. Connecticut, was in favor of outdoor burning. They've always had bonfires and had no problem. It was a big part of summer and fall and he couldn't imagine not being able to have them.

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Mr. Mike Fournier, 711 S. Alexander, supported outdoor burning.

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Mr. Bill Shaw – theshaw10@yahoo.com – asked how much the public safety contracts would cost, where would the money come from, what were the issues and why was there a lack of public discussion. He read a letter from the Michigan Municipal League to the Senate regarding SB 1072, 1085 and 1086. They need to look to reform and change and the changes need to come from Lansing. If required they should begin a public initiative to enlighten their representatives.

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Mr. Justin Wiles, 1218 E. 12 Mile Rd., supported lifting the ban on outdoor burning.

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APPROVAL OF AGENDA

Moved by Commissioner Rasor
Seconded by Commissioner Capello

BE IT RESOLVED that the City Commission hereby approves the agenda for the February 15, 2010 meeting as published.

ADOPTED UNANIMOUSLY

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CONSENT AGENDA

Moved by Commissioner Capello
Seconded by Commissioner Drinkwine

BE IT RESOLVED that the City Commission hereby approves the consent agenda as follows:

- A. BE IT RESOLVED that the City Commission Minutes of January 23, 25 and February 1, 2010 are hereby approved.

- B. BE IT RESOLVED that the claims of February 9, 2010 in the amount of \$917,065.26 and February 12, 2010 in the amount of \$1,021,950.51 and audited by the Department of Finance are hereby approved.
- C. BE IT RESOLVED that Greg Rassel continues to serve as Royal Oak's representative on the Woodward Dream Cruise Inc. Board of Directors, and that Donald E. Johnson shall serve as the alternate delegate.
- D. BE IT RESOLVED that the City Commission hereby approves the agreement between the City of Royal Oak and the Water Works Theatre Company, Inc. for Shakespeare in the Park in Royal Oak at Starr Jaycee Park July 14-August 10, 2010.
- E. BE IT RESOLVED that the City Commission hereby approves the 2010 inspection and maintenance work for \$9,250.00, be added to Contract No. SBP-ENG-03-003 for the "Star Dream" Sculpture Inspection and Maintenance work with Venus Bronze Works, Inc., of Detroit, Michigan.
- F. BE IT RESOLVED that the City Commission hereby approves the addition of the survey work listed in Table I be added to contract SA-0401 with Nowak & Fraus, PLLC, of Royal Oak for \$28,249.80.
- G. BE IT RESOLVED that the City Commission hereby authorizes the Mayor and City Clerk to execute the Grant of Easement agreement with the GFS MARKETPLACE, LLC for the new storm water detention facilities at the proposed Gordon's Food Service store site at 4849 Crooks Road.
- H. BE IT RESOLVED that the City Commission hereby approves the additional sewer televising/cleaning work, and the additional work shall be awarded to Terra Contracting, LLC as a change order to Contract S-0801 for the amount of \$37,495.00.
- I. BE IT RESOLVED that the City Commission authorizes the City Manager to approve and execute leases for office space at 225 S. Troy Street.
- J. BE IT RESOLVED that the City Commission waives the delinquent penalty fee of \$10 on Saturday, April 10, 2010, during the Rabies Vaccination Clinic.
- K1. BE IT RESOLVED that the City Commission hereby approves a special land use request and SP-10-02-02, a site plan to establish a residential accessory off-street parking lot for an adjacent 42-unit multiple-family residential development at 518 Oakland Ave. (parcel no. 25-16-461-026), with the following contingencies as recommended by the Planning Commission:
 - 1. The residential accessory off-street parking lot may encroach into the prevailing front setback of Oakland Avenue as shown on the approved site plan.
 - 2. The petitioner shall demolish and remove all existing structures from the property, including the detached garage located toward the rear (north) of the property.
 - 3. The petitioner shall provide confirmation of approval from the Oakland County Drain Commission and/or Michigan State Department of Natural Resources for any encroachments into the Allen Drain easement.
 - 4. The petitioner shall submit a master signage plan for review and approval by the Building Department for any new signage, which shall comply with the Sign

Ordinance (Chapter 607 Signs, Article II Sign Regulations), or receive the necessary variance(s) from the Planning Commission.

5. All exterior lighting shall comply with § 770-96 (B) of the Zoning Ordinance and other city codes and ordinances, including being directed downward and shielded so as not to shine on adjacent property, and with maximum permitted illumination levels.
 6. Any improvements to the public right-of-way shall be in accordance with the specifications and standards of the City Engineer.
 7. A performance bond shall be posted in an amount to be determined by the Building Official.
 8. The site plan shall meet all other Code and Ordinance requirements, as determined by the Building Official and City Engineer, prior to issuance of any building permit.
- K2. BE IT RESOLVED, that the City Commission hereby approves the proposed License Agreement with Amber Crossings L.L.C., for the use of a portion of the Oakland Avenue right-of-way as a residential accessory off-street parking lot.

BE IT FURTHER RESOLVED, that the Mayor and City Clerk are hereby authorized to execute the proposed License Agreement on behalf of the City.

ADOPTED UNANIMOUSLY

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**PUBLIC HEARING CONTINUED
BISTRO LICENSE APPLICATION
7.ONE.ONE BISTRO (F/K/A CLOVERLEAF)**

City Attorney Gillam explained this was a continuation of the Public Hearing opened January 25th on the request for a Bistro License for 7.One.One Bistro. The police have no objection to the revised Plan of Operation.

Ms. Kelly Allen, attorney for the applicants, noted that all the language in the ordinance was included in the Plan of Operation. The food to alcohol ratio was anticipated to be 80:20. The alcohol would be primarily wine and craft beers. They revised the floor plan removing the lounge area. The plans showed three outdoor seating areas. The garden level was preferred by the applicant. There would be 24 seats no matter which was chosen.

Mayor Ellison continued the Public Hearing. There being no one who wished to speak the Public Hearing was closed.

Moved by Commissioner Capello
Seconded by Commissioner Rasor

BE IT RESOLVED, that the request of 711 Bistro, L.L.C. for a new Class C license to be issued under MCL 436.1521a(1)(b) to be located at 711 S. Main Street, Suite 200, Royal Oak, Michigan 48067, Oakland County (which is within the City of Royal Oak Downtown Development Authority District, which has been designated by the City Commission as a Redevelopment Project Area pursuant to MCL 436.1521a), is hereby recommended for approval above all others, for the following reasons:

- Total number of similar licenses in the City;

- Input from residents and surrounding business owners;
- Impact of the establishment on surrounding businesses and neighborhoods
- Parking availability;
- Amount invested in the facility/establishment;
- Substantial renovation of an existing building;
- Preservation or restoration of a historic building;
- Ratio of food to alcohol sales;
- Percent of floor area devoted to dining versus bar area;
- No dance floor;
- Type or character of the establishment;
- Overall benefit of the plan to the City of Royal Oak; and
- Other unspecified factors having a positive effect on the health, safety and welfare or the best interests of the community.

BE IT FURTHER RESOLVED, that the proposed Plan of Operation for 711 Bistro, L.L.C. dated February 9, 2010, is hereby approved.

Commissioner Andrzejak suggested they consider requiring POS.

FRIENDLY AMENDMENT OFFERED BY COMMISSIONER SEMCHENA AND ACCEPTED BY COMMISSIONERS CAPELLO AND RASOR THAT THE MOTION BE AMENDED TO INDICATE OPTION 2 GARDEN LEVEL SEATING AS THE PREFERRED CHOICE FOR OUTDOOR SEATING

MOTION NOW READS:

BE IT RESOLVED, that the request of 711 Bistro, L.L.C. for a new Class C license to be issued under MCL 436.1521a(1)(b) to be located at 711 S. Main Street, Suite 200, Royal Oak, Michigan 48067, Oakland County (which is within the City of Royal Oak Downtown Development Authority District, which has been designated by the City Commission as a Redevelopment Project Area pursuant to MCL 436.1521a), is hereby recommended for approval above all others, for the following reasons:

- Total number of similar licenses in the City;
- Input from residents and surrounding business owners;
- Impact of the establishment on surrounding businesses and neighborhoods
- Parking availability;
- Amount invested in the facility/establishment;
- Substantial renovation of an existing building;
- Preservation or restoration of a historic building;
- Ratio of food to alcohol sales;
- Percent of floor area devoted to dining versus bar area;
- No dance floor;
- Type or character of the establishment;
- Overall benefit of the plan to the City of Royal Oak; and
- Other unspecified factors having a positive effect on the health, safety and welfare or the best interests of the community.

BE IT FURTHER RESOLVED, that the proposed Plan of Operation for 711 Bistro, L.L.C. dated February 9, 2010, is hereby approved.

BE IT FURTHER RESOLVED, that Option 2 Garden Level Seating is the preferred choice for outdoor seating.

Commissioner Andrzejak verified this license would be considered as part of 2009's quota because the process was started last year.

ADOPTED UNANIMOUSLY

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**REQUEST FOR NON-PROFIT STATUS
EQUALITY FOR A CAUSE**

City Manager Johnson stated the group had not provided the necessary information therefore they were recommending denial.

Mr. Michael Deszi incorporated Equality for a Cause to promote equality and diversity in communities. Using national speakers in roundtable discussions they hoped to promote equality and diversity in both the private and public sectors. Eventually they would like to have panel discussions at universities and get students involved. The State did not require he have a 501C3 exemption. They allowed submittal of financial records in lieu of a 501C3 exemption. Because the group was only recently formed it doesn't yet have financial records.

Moved by Commissioner Semchena
Seconded by Commissioner Drinkwine

BE IT RESOLVED, that the City Commission denies the application for Designation of Non-Profit Status for Equality for a Cause.

FRIENDLY AMENDMENT OFFERED BY COMMISSIONER RASOR THAT THE MOTION BE AMENDED TO POSTPONE THIS ITEM TO THE NEXT MEETING TO ALLOW THE APPLICANT TO SUBMIT THE NECESSARY PAPERS; REJECTED BY COMMISSIONER SEMCHENA

AYES: Commissioners Andrzejak, Capello, Drinkwine, Poulton, Semchena and Mayor Ellison

NAYS: Commissioner Rasor

MOTION ADOPTED

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**LCC RECOMMENDATIONS
MEZZA MEDITERRANEAN GRILLE**

Moved by Commissioner Drinkwine
Seconded by Commissioner Poulton

BE IT RESOLVED, that the request of Piada, L.L.C. for a new Class C license to be issued under MCL 436.1521a(1)(b) to be located at 212 West Fifth Street, Royal Oak, Michigan 48067, Oakland County (which is within the City of Royal Oak Downtown Development Authority District, which has been designated by the City Commission as a Redevelopment Project Area pursuant to MCL 436.1521a), is hereby recommended for approval above all others, for the following reasons:

- Total number of similar licenses in the City;
- Input from residents and surrounding business owners;
- Impact of the establishment on surrounding businesses and neighborhoods
- Business history;
- Business experience;
- Ratio of food to alcohol sales;
- Percent of floor area devoted to dining versus bar area;

- No dance floor;
- Type or character of the establishment;
- Overall benefit of the plan to the City of Royal Oak; and
- Other unspecified factors having a positive effect on the health, safety and welfare or the best interests of the community.

BE IT FURTHER RESOLVED, that the proposed Plan of Operation for Mezza Mediterranean Grille dated January 15, 2010, is hereby approved

ADOPTED UNANIMOUSLY

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D'AMATO'S/GOODNITE GRACIE'S DANCE PERMIT

Moved by Commissioner Drinkwine
Seconded by Commissioner Poulton

BE IT RESOLVED, that the City Commission hereby recommends that the request from Legacy Restaurant Group, L.L.C. for a new Dance Permit to be held in conjunction with a 2009 Class C licensed business, located at 222-224 Sherman, Royal Oak, MI 48067, Oakland County (2 areas), be approved.

BE IT FURTHER RESOLVED, that the amended Plan of Operation for D'Amato's Restaurant/Goodnite Gracie's is approved, contingent upon the licensee entering into the accompanying Agreement Regarding Dance Permit.

BE IT FURTHER RESOLVED, that the accompanying Agreement Regarding Dance Permit is approved, and the Mayor and City Clerk are authorized to execute the same on behalf of the City.

AYES: Commissioners Andrzejak, Capello, Drinkwine, Poulton, Rasor and Mayor Ellison

NAYS: Commissioner Semchena

MOTION ADOPTED

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DISCUSSION PROPOSED AMENDMENT OPEN BURNING ORDINANCE

Mr. Johnson stated that open burning is not currently permitted in Royal Oak. The City responds when there is a complaint. Chief White's recommendation was against modifying the ordinance. His concern was more on the issue of smoke than fire. In one of these devices a fire was no more dangerous than a barbecue grill. Under no circumstances did he want to see open burning on the ground. They would not object to altering the ordinance if there was an additional provision allowing them to revoke a permit and require fires to be extinguished because of complaints by neighbors.

Moved by Commissioner Rasor
Seconded by

BE IT RESOLVED, that the City Commission refer the issue to staff to draft an ordinance regarding an Open Burning Ordinance.

MOTION DIES DUE TO LACK OF SUPPORT

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PROPOSED CITY MANAGER AGREEMENT

Moved by Commissioner Andrzejak
Seconded by Commissioner Semchena

BE IT RESOLVED, that the City Commission hereby approves the proposed Employment Agreement between the City and Donald E. Johnson.

BE IT FURTHER RESOLVED, that the Mayor and City Clerk are authorized to execute the proposed Agreement on behalf of the City.

Commissioner Andrzejak noted some of the highlights of the agreement including Mr. Johnson paying 10% of his health care premium, the purchase of service time was reduced from 5 to 3 years, salary amended to the amount of \$130,000, the language regarding attendance to the annual ICMA conference was tweaked, and any severance (up to 180 days) would not count toward service time for retirement. There would also be repealing language where Mr. Johnson's agreement would be reopened if wage and benefit concessions were made with other bargaining units in the future.

Commissioner Capello indicated that we just completed the negotiation of concessionary contracts and that the city is facing a \$2.5M shortfall this year. The proposed contract is richer than the last city manager's contract and it sends the wrong message to the employees and to the taxpayers. She also indicated that she objects to different rules for the employees and for the boss. She strongly objected to the purchase of service time, as it was negotiated out of most contracts already and it is just cost-prohibitive. She said that we are currently carrying at least 496 years of service in our retirement fund that have never been worked and that this is not fair to the citizens of Royal Oak.

Commissioners Drinkwine and Poulton stated, with all respect to Mr. Johnson, that they would not support the motion because the City could not afford it.

AYES: Commissioners Andrzejak, Rasor, Semchena and Mayor Ellison

NAYS: Commissioners Capello, Drinkwine and Poulton

MOTION ADOPTED

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Upon Motion of Commissioner Andrzejak, Seconded by Commissioner Rasor, and adopted unanimously, the Regular Meeting was adjourned at 10:02 P.M.

Melanie Halas, City Clerk

The foregoing Minutes of the Regular Meeting held on February 15, 2010, having been officially approved by the City Commission on Monday, March 1, 2010, are hereby signed this first day of March.

James B. Ellison, Mayor