

**MINUTES OF COUNCIL REGULAR MEETING – APRIL 5, 2011**

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THE WEST VALLEY CITY COUNCIL MET IN REGULAR SESSION ON TUESDAY, APRIL 5, 2011, AT 6:30 P.M., IN THE COUNCIL CHAMBERS, WEST VALLEY CITY HALL, 3600 CONSTITUTION BOULEVARD, WEST VALLEY CITY, UTAH. THE MEETING WAS CALLED TO ORDER AND CONDUCTED BY MAYOR WINDER.

THE FOLLOWING MEMBERS WERE PRESENT:

Mike Winder  
Russ Brooks  
Steve Buhler  
Carolynn Burt  
Don Christensen  
Corey Rushton  
Steve Vincent

Wayne Pyle, City Manager  
Sheri McKendrick, City Recorder

STAFF PRESENT:

Paul Isaac, Assistant City Manager  
Russell Willardson, Public Works Director  
Jim Welch, Finance Director  
Kevin Astill, Parks and Recreation Director  
John Evans, Fire Chief  
Nicole Cottle, CED Director  
Layne Morris, Community Preservation Director  
Buzz Nielsen, Police Chief  
Eric Bunderson, Acting City Attorney  
Marshall Hendrickson, Law Department  
Jason Ericson, Parks and Recreation Department  
Aaron Crim, Administration  
DeAnn Varney, Administration  
Kevin Conde', Administration  
Craig Thomas, Administration  
Owen Jackson, Administration  
Jake Arslanian, Public Works Department

15266

**OPENING CEREMONY**

The Opening Ceremony was conducted by Steve Buhler who discussed the West Valley City English Language Initiative and shared comments made during launch of the initiative in January of 2011. He also congratulated those in attendance at the meeting and stated they would be recognized for their accomplishments later this night.

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15267

**APPROVAL OF MINUTES OF REGULAR MEETING HELD MARCH 15, 2011**

The Council read and considered the Minutes of the Regular Meeting held March 15, 2011. There were no changes, corrections or deletions.

After discussion, Councilmember Vincent moved to approve the Minutes of the Regular Meeting held March 15, 2011, as written. Councilmember Burt seconded the motion.

A roll call vote was taken:

Mr. Vincent	Yes
Mr. Brooks	Yes
Mr. Buhler	Yes
Ms. Burt	Yes
Mr. Rushton	Yes
Mr. Christensen	Yes
Mayor Winder	Yes

Unanimous.

15268

**APPROVAL OF MINUTES OF REGULAR MEETING HELD MARCH 22, 2011**

The Council read and considered the Minutes of the Regular Meeting held March 22, 2011. There were no changes, corrections or deletions.

After discussion, Councilmember Vincent moved to approve the Minutes of the Regular Meeting held March 22, 2011, as written. Councilmember Burt seconded the motion.

A roll call vote was taken:

Mr. Vincent	Yes
Mr. Brooks	Yes
Mr. Buhler	Yes
Ms. Burt	Yes
Mr. Rushton	Yes
Mr. Christensen	Yes
Mayor Winder	Yes

Unanimous.

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15269        **PROCLAMATION RECOGNIZING APRIL 2011, AS CHILD ABUSE PREVENTION MONTH IN WEST VALLEY CITY**  
Councilmember Burt read a Proclamation recognizing April 2011, as Child Abuse Prevention Month in West Valley City.

15270        **PROCLAMATION DECLARING APRIL 2011, AS FAIR HOUSING MONTH IN WEST VALLEY CITY**  
Councilmember Christensen read a Proclamation declaring April 2011, as Fair Housing Month in West Valley City.

15271        **PROCLAMATION DESIGNATING APRIL 3 THROUGH APRIL 9, 2011, AS COMMUNITY DEVELOPMENT BLOCK GRANT WEEK IN WEST VALLEY CITY**  
Councilmember Rushton read a Proclamation designating April 3 through April 9, 2011, as Community Development Block Grant Week in West Valley City.

15272        **PRESENTATION OF THE WEST VALLEY CITY ENGLISH ACHIEVEMENT AWARDS**  
Mayor Winder expressed excitement for the very first West Valley City English Achievement Awards presentation. He thanked all individuals who had taken the time and made the effort to learn English. He indicated many classes were several levels and the City Council applauded efforts to learn English in order to communicate with neighbors and others. On behalf of the City Council, the Mayor expressed pride in the students and extended appreciation to the teachers.

Upon invitation by Mayor Winder, the students introduced themselves after which the City Council congratulated all participants of the English program.

Certificates of achievement were presented to students from the schools listed, as follows:

**English Skills Learning Center**

Djordjo Djukic  
Gajas Dozagic  
Oliverio Lopez  
Adravko Kovacic  
Zoran Greda

**Granger Peaks Learning Center**

Victorine Agbabli  
Adel Altameemi  
Laura Patricia Alvarado  
Rosalba Alvarez

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Jacky Cerron  
Yueh-Hsia Chen  
Francisco Javier Esparza  
Helen Fong  
Carme Huarcaya  
Anacely Lugo  
Abigail Maldonado  
Rosana Oliva  
Sandra Yvette Perez  
Tri Duc Pham  
Martha Leticia Ramirez  
Da Reh  
Antonio Rincon  
Miguelita Roman  
Ru Z Tan Yu  
Ming Ron Wei  
Yu-Fen Wei  
Horacio Lobato

**Monroe Elementary**

Jose Santos Rosales  
Francisca Uzarraga  
Anastacia Matilde Alvarez  
Elvira Labastida  
Dalia Perez  
Juan Rodriguez  
Hilda Hurdadfo  
Nanci Rosales

**Redwood Elementary**

Norma Alejandra Rubio

**Granger High School**

Maria Laura Alvarez  
Alejandra Aranda  
Humberta Arellano  
Cecillio Arellano Vargas  
Alfonso Aroni  
Luis Enrique Banchs Negron  
Victoria Beltram  
Thao Xuan Bui  
Soksreypouv Chan  
Daniel Chavez Chvaz-Lopezx  
Elida C Dardon

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Gabriela Irasema Dardon  
Son Cha DeJong  
Minh Tam T Dunn  
Maribel Estrada  
Eduardo Castro Galeano  
Hilda Sanchez Galvan  
Sadio Hassan  
Francisca Hernandez  
Monir Houshmand  
Navjot Kaur  
Yessica Liztthe Llra  
Ros Imelda Mejia  
Lucrecia Morales  
Hung Nguyen  
Hiep Nguyen  
Phanomphone Nonkeointhichak  
Gualberto Olivas  
Beatriz Alicia Parra  
DAnh Cong Pham  
Rosa Preciado  
Patricia Yanez Qintero  
Migdalia Ramos Rosario  
Juana Resendiz  
Guillermo Romero  
Juana Serrato  
Edwin Sucuzhanay  
Zamzam Takal  
Quang Thi Tran  
Josefina Ugalde  
Samuel Valades  
Erika Vargas  
Cecilia Zamora

15273

**COMMENT PERIOD**

Upon inquiry by Mayor Winder there was no one in attendance who desired to address the City Council during the comment period.

15274

**RESOLUTION NO. 11-39, AWARD A CONTRACT TO A TO Z LANDSCAPING, INC., FOR LANDSCAPE MAINTENANCE ON CERTAIN CITY-OWNED PROPERTIES**

City Manager, Wayne Pyle, presented proposed Resolution No. 11-39 which would award a contract to A to Z Landscaping, Inc., in the amount of \$39,496.50, for landscape maintenance on certain City-owned properties.

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Mr. Pyle stated the current landscape maintenance contract had expired and a request for bids was placed in the newspapers, and seven bids were received, as follows:

Earthworks	\$38,854.32
TruCo	\$51,940.00
A to Z	\$39,496.50
Innovative	\$46,272.62
Affordable Lawn Care	\$24,505.00
RBI	\$71,000.00
Progreen	\$70,322.00

The City Manager reported the lowest qualified and responsible bid had been submitted by A to Z. He reported all but TruCo, A to Z and Progreen had been disqualified due to lack of meeting the bidding requirements. He also reported funding would come from the Park Maintenance budget by not filling one full-time position and two seasonal positions.

Mr. Pyle indicated the Park Maintenance Division subcontracted out the landscape maintenance on 10 different City-owned properties. He stated over the years many benefits had been realized such as having enough time to properly maintain maintenance equipment, and other projects being able to be completed such as better weed control in parking lots, sidewalks, and turf. Also, he explained we were able to better keep up with safety issues such as the impact material in the playground areas.

The City Manager stated the Park Maintenance Division would again like to subcontract the same areas as last year to be able to continue realizing the above listed and other benefits.

After discussion, Councilmember Burt moved to approve Resolution No. 11-39, a Resolution Awarding a Contract to A to Z Landscaping, Inc., for Landscape Maintenance on Certain City-Owned Properties. Councilmember Buhler seconded the motion.

A roll call vote was taken:

Mr. Vincent	Yes
Mr. Brooks	Yes
Mr. Buhler	Yes
Ms. Burt	Yes
Mr. Rushton	Yes
Mr. Christensen	Yes
Mayor Winder	Yes

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Unanimous.

15275

**RESOLUTION NO. 11-40, APPROVE A MEMORANDUM OF UNDERSTANDING BETWEEN WEST VALLEY CITY AND THE AMERICAN RED CROSS, GREATER SALT LAKE AREA CHAPTER, FOR ASSISTANCE WITH ANIMAL CARE IN THE EVENT OF A DISASTER**

City Manager, Wayne Pyle, presented proposed Resolution No. 11-40 which would approve a Memorandum of Understanding between West Valley City and the American Red Cross, Greater Salt Lake Area Chapter, for assistance with animal care in the event of a disaster.

Mr. Pyle stated the proposal would provide for the assistance needed when an animal emergency was determined and temporary domestic animal sheltering for pet animals was required.

After discussion, Councilmember Christensen moved to approve Resolution No. 11-40, a Resolution Approving a Memorandum of Understanding between West Valley City and the American Red Cross, Greater Salt Lake Area Chapter, for Assistance with Animal Care in the Event of a Disaster. Councilmember Vincent seconded the motion.

A roll call vote was taken:

Mr. Vincent	Yes
Mr. Brooks	Yes
Mr. Buhler	Yes
Ms. Burt	Yes
Mr. Rushton	Yes
Mr. Christensen	Yes
Mayor Winder	Yes

Unanimous.

15276

**RESOLUTION NO. 11-41, APPROVE A MEMORANDUM OF UNDERSTANDING BETWEEN WEST VALLEY CITY AND THE UTAH EMERGENCY ANIMAL RESPONSE COALITION (UEARC) FOR ASSISTANCE WITH ANIMAL CARE IN THE EVENT OF A DISASTER**

City Manager, Wayne Pyle, presented proposed Resolution No. 11-41 which would approve a Memorandum of Understanding between West Valley City and the Utah Emergency Animal Response Coalition (UEARC) for assistance with animal care in the event of a disaster.

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Mr. Pyle stated the proposal would provide for the assistance needed when an animal emergency had been determined and temporary domestic animal sheltering for animals was required. He further stated a memorandum of understanding was needed for that purpose.

After discussion, Councilmember Rushton moved to approve Resolution No. 11-41, a Resolution Approving a Memorandum of Understanding between West Valley City and the Utah Emergency Animal Response Coalition (UEARC) for Assistance with Animal Care in the Event of a Disaster. Councilmember Christensen seconded the motion.

A roll call vote was taken:

Mr. Vincent	Yes
Mr. Brooks	Yes
Mr. Buhler	Yes
Ms. Burt	Yes
Mr. Rushton	Yes
Mr. Christensen	Yes
Mayor Winder	Yes

Unanimous.

15277

**RESOLUTION NO. 11-42, APPROVE AN EMERGENCY RESPONSE PLAN FOR ANIMAL CARE IN THE EVENT OF A DISASTER**

City Manager, Wayne Pyle, presented proposed Resolution No. 11-42 which would approve an emergency response plan for animal care in the event of a disaster.

Mr. Pyle stated the proposal would provide for the implementation of an animal disaster emergency response plan within West Valley City to protect and preserve both the animal population and the resident population in case of a disaster.

After discussion, Councilmember Burt moved to approve Resolution No. 11-42, a Resolution Approving an Emergency Response Plan for Animal Care in the Event of a Disaster. Councilmember Brooks seconded the motion.

A roll call vote was taken:

Mr. Vincent	Yes
Mr. Brooks	Yes
Mr. Buhler	Yes
Ms. Burt	Yes
Mr. Rushton	Yes



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Mr. Christensen	Yes
Mayor Winder	Yes

Unanimous.

15278

**RESOLUTION NO. 11-43, APPROVE AN AGREEMENT BETWEEN WEST VALLEY CITY AND THE UTAH DEPARTMENT OF TRANSPORTATION FOR THE REDESIGN AND RECONSTRUCTION OF WEST RIDGE GOLF COURSE**

City Manager, Wayne Pyle, presented proposed Resolution No. 11-43 which would approve an agreement between West Valley City and the Utah Department of Transportation (UDOT) for the redesign and reconstruction of West Ridge Golf Course.

The City Manager stated the Mountain View Corridor was planned to go through a portion of West Ridge Golf Course such that the entire Course needed to be redesigned and reconstructed. He further stated under terms of the agreement, UDOT would purchase certain property owned by the Redevelopment Agency of West Valley City. He indicated UDOT would then trade that purchased property for City-owned property on West Ridge Golf Course to accommodate construction of the Mountain View Corridor. He explained, in addition to the property purchase and trade, UDOT would incur cost of the redesign and reconstruction of West Ridge Golf Course by compensating the City \$18,290,935.00. He stated \$875,000.00 of that total would be paid at the execution of the agreement.

Mr. Pyle reported as the Mountain View Corridor was planned to go through the back nine holes of West Ridge Golf Course the impact required a complete redesign and reconstruction of all 18 holes of the Course. He advised that the City had been negotiating with UDOT for several months to facilitate an agreement on the process and the agreement proposed set forth that understanding.

After discussion, Councilmember Brooks moved to approve Resolution No. 11-43, a Resolution Approving an Agreement between West Valley City and the Utah Department of Transportation for the Redesign and Reconstruction of West Ridge Golf Course. Councilmember Buhler seconded the motion.

A roll call vote was taken:

Mr. Vincent	Yes
Mr. Brooks	Yes
Mr. Buhler	Yes
Ms. Burt	Yes

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Mr. Rushton	Yes
Mr. Christensen	Yes
Mayor Winder	Yes

Unanimous.

15279

**HEAR AND CONSIDER APPEAL OF CIMARON NEUGEBAUER, SALT LAKE TRIBUNE, REGARDING FEES CHARGED FOR RECORDS REQUEST**

City Manager, Wayne Pyle, stated an appeal had been received from Cimaron Neugebauer, Salt Lake Tribune, regarding fees charged for a records request. Mr. Pyle recommended the City Council hear from the appellant first, and then hear from Marshall Hendrickson, the City's attorney.

Mayor Winder opened the hearing regarding the matter of the appeal of Cimaron Neugebauer, Salt Lake Tribune, regarding fees charged for a records request.

Cimaron Neugebauer, Salt Lake Tribune, Appellant, addressed the City Council and introduced himself and Tony Semerad, Editor. Mr. Neugebauer stated he had made a records request several months ago (November 2010) and he provided details regarding the specific records requested. He stated it had taken two months after his initial request, but he did receive information regarding police responses to a specific address in the last year. He indicated he was notified there was a flat fee of \$10 for each report. He stated he informed the City he would pay the fee, but planned to protest it later. He explained this was the first time to his recollection that the Tribune had to pay fees for police reports. He inquired of staff regarding breakdown of fees when he was told of the cost. He expressed his understanding there was a fee schedule previously approved by the City Council. He stated he had not yet received a breakdown of staff time and resources used to provide the reports. He reiterated the request for a cost breakdown and stated he believed it was in the Tribune's interest and public interest to have that information. He gave reasons why they felt there should not be a flat fee for a record. He stated they understood time and resources were needed to fulfill records requests. He indicated the Tribune paid fees on a regular basis, but they should reflect time and resources actually needed to fill a request. He suggested flat fees, however calculated, might under or over charge, but overlook relative ease or difficulty of a request be factored in. He stated when overcharged, such fees harmed the public and access to records, which essentially made government less transparent, but when undercharged, it hurt the City's budget. He stated in the case of West Valley City's fees they had been adopted in 1993, but he questioned how accurate those fees were today in the age of automation. He discussed language in the Government Records Access and Management Act (GRAMA) section of the State Code that stated requests that took less than 15 minutes be provided without fee. He quoted other language in the GRAMA section of the

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code. He indicated he was not asking for a complete waiver of fees, but that the City Council take into account the effect of a flat fee in the long run. He requested the City Council reconsider the flat fee approach for police reports and records in general and adopt an actual cost approach for all records.

Tony Semerad addressed the City Council and distributed written material including a statement and copy of the referenced State Code section on fees.

Mr. Neugebauer and Mr. Semerad expressed appreciation to the City Council for their time and consideration.

Marshall Hendrickson, West Valley City's attorney, addressed the City Council. Mr. Hendrickson explained how City staff addressed GRAMA issues, in particular regarding police records. He gave background information and timeline regarding fees and dates of any increases. He stated fees had been increased over the years to reflect technology. He gave a detailed explanation of information contained in police reports which could include private and/or protected information, photographs, witness statements, and other data. He indicated when releasing a record that was contained, managed and retained by the Police Department, and sometimes of a sensitive nature, the information must be reviewed in order to determine if private/protected information needed to be redacted. He also read sections of the GRAMA code regarding actual costs that could be associated with releasing records. He advised in most cases compilation and review was needed to determine if information could be released to the public. He further explained reasoning for a \$10 fee and read aloud language in the City's ordinance adopted in 1993. He indicated this fee was required to be adopted and approved by the City Council. He stated the City and Police Department concluded the fee was reasonable and provided for the maintenance and reception of GRAMA requests.

The Appellant and City's attorney answered questions from members of the City Council.

Mr. Semerad addressed the City Council and stated there was a separate argument regarding the \$10 flat fee which might be excessive for some records such as incident reports, but might undercharge for others which affected the City's budget. He also stated impetus for coming to the City Council was the inability for staff to provide a cost breakdown.

Councilmember Brooks stated he had been on the City Council when the fees were implemented and he gave an overview of discussions at that time and reasons for charging the \$10 fee.

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Mr. Semerad addressed the City Council and stated there were options in the GRAMA code to exempt fees if clearly in the public good to release information. He stated the media often had fees waived as they were presumably serving the public good by getting information out. He also reminded regarding the 15 minute provision in the GRAMA Code.

The Appellant, Mr. Neugebauer, addressed the City Council and stated other cities typically charged duplication fees rather than a flat fee.

City staff and the Appellant answered additional questions from members of the City Council and provided additional information.

Mayor Winder closed the hearing.

Upon discussion, Councilmember Vincent stated it might be time to review the fee schedule so records were not under or over charged.

Mayor Winder recapped and discussed three issues: 1) flat fee, 2) documents having to be reviewed, and 3) code section providing for no fee if release of the records was for the public good.

Upon further discussion, Councilmembers discussed and commented summarized as follows:

- Fee is currently in the ordinance
- Senior officer review necessary in some cases
- If providing information serves broader purpose
- No arbitrariness in actions or decisions by staff
- Balancing act of accessible and open records and on the other hand preventing abuses
- Issue if Tribune charged appropriately per the City's Code
- Incumbent upon Police Department to comply with ordinance
- How to determine higher/greater purpose exception; if it would be granted only on appeal
- Who judges whether public really needs or wants to know
- This is not a good forum to waive fees
- The issue of fee waiver needs to be addressed in the future
- Appreciation for this issue being brought to City Council's attention

After further discussion, Councilmember Rushton moved to deny the appeal of Cimaron Neugebauer, Salt Lake Tribune, regarding fees charged for records request. Councilmember Buhler seconded the motion.

A roll call vote was taken:

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Mr. Vincent	Yes
Mr. Brooks	Yes
Mr. Buhler	Yes
Ms. Burt	Yes
Mr. Rushton	Yes
Mr. Christensen	Yes
Mayor Winder	No

Majority.

City Manager, Wayne Pyle, advised staff would be instructed to prepare the appropriate order reflecting the decision of the City Council.

THERE BEING NO FURTHER BUSINESS OF THE WEST VALLEY COUNCIL, THE REGULAR MEETING OF TUESDAY, APRIL 5, 2011, WAS ADJOURNED AT 7:49 P.M., BY MAYOR WINDER.

I hereby certify the foregoing to be a true, accurate and complete record of the proceedings of the Regular Meeting of the West Valley City Council held Tuesday, April 5, 2011.

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Sheri McKendrick, MMC  
City Recorder