

**MINUTES OF COUNCIL REGULAR MEETING – APRIL 9, 2013**

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THE WEST VALLEY CITY COUNCIL MET IN REGULAR SESSION ON TUESDAY, APRIL 9, 2013, 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  
Steve Buhler  
Don Christensen  
Tom Huynh  
Karen Lang  
Corey Rushton  
Steve Vincent

Wayne Pyle, City Manager  
Sheri McKendrick, City Recorder

STAFF PRESENT:

Nicole Cottle, Assistant City Manager/CED Director  
Eric Bunderson, City Attorney  
Jim Welch, Finance Director  
Layne Morris, CPD Director  
Kevin Astill, Parks and Recreation Director  
Russell Willardson, Public Works Director  
Anita Schwemmer, Acting Police Chief  
Stan Varney, Acting Fire Chief  
Kevin Conde', Administration  
Aaron Crim, Administration  
Jake Arslanian, Public Works Department

16113      **OPENING CEREMONY**

The Opening Ceremony was conducted by Tom Huynh who led the Pledge of Allegiance to the Flag.

16114      **SCOUTS**

Mayor Winder welcomed Scout Troop No. 741 in attendance to complete requirements for the Citizenship in the Community and Communications merit badges.

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16115      **APPROVAL OF MINUTES OF REGULAR MEETING HELD MARCH 26, 2013**

The Council read and considered Minutes of the Regular Meeting held March 26, 2013. There were no changes, corrections or deletions.

After discussion, Councilmember Christensen moved to approve the Minutes of the Regular Meeting held March 26, 2013, as written. Councilmember Vincent seconded the motion.

A roll call vote was taken:

Mr. Vincent	Yes
Ms. Lang	Yes
Mr. Buhler	Yes
Mr. Huynh	Yes
Mr. Rushton	Yes
Mr. Christensen	Yes
Mayor Winder	Yes

Unanimous.

16116      **PRESENTATION OF ENGLISH ACHIEVEMENT AWARDS**

Mayor Winder recognized those in attendance to receive English Achievement Awards.

Students from the English Skills Learning Center and Granite Peaks introduced themselves to the City Council. The students were then presented with Certificates of Achievement.

The City Council congratulated the recipients on their achievements.

16117      **PROCLAMATION RECOGNIZING APRIL 9, 2013, AS "NATIONAL SERVICE RECOGNITION DAY" IN WEST VALLEY CITY**

Councilmember Christensen read a Proclamation recognizing April 9, 2013, as "National Service Recognition Day" in West Valley City.

16118      **COMMENT PERIOD**

A.      **PUBLIC COMMENTS**

Upon recognition by Mayor Winder the following individuals addressed the City Council during the comment period:

Phil Conder, 4709 W. Delta Park Circle, West Valley City, addressed the City Council. Mr. Conder stated he had been a West Valley City resident

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for more than 20 years. He informed that he was a member of the Planning Commission and had given a significant amount of time to helping create a community of which to be proud. He expressed concern that many of the positive things about the City had been offset by actions of the Police Department. Mr. Conder stated with several recent high profile incidences related to the Police Department being reported in the media, the City's image had taken a beating. He explained his personal interaction with the Police Department had suggested systemic problems being condoned at the highest levels. Mr. Conder also stated he had been told by officers that a report would be filed against him indicating things had been said and done that he did not do or say. He explained a report had been filed against him and he had the entire incident recorded. He explained that after filing a citizen's complaint and waiting months for his complaint to be adjudicated by internal affairs, the Acting Police Chief Anita Schwemmer stated the substantive things in the report that were wrong did not warrant correction. He stated he then talked with the City Manager, Wayne Pyle, and those discussions could be summed up with a flippant "mistakes are made so sue us." Mr. Conder indicated he had come to the conclusion the Police Department culture not only made mistakes, but there was willful falsification by police officers. Mr. Conder stated he and many others had lost confidence in the West Valley City police force and as elected officials it was the duty of the City Council to root out corruption and fix processes. He indicated changes needed to be made to protect the good officers in the force. Mr. Conder called for the removal of Acting Police Chief Anita Schwemmer and the resignation of City Manager, Wayne Pyle.

Brett Rawson, General Counsel for the Utah Fraternal Order of Police, addressed the City Council and stated his office was located at 15 West South Temple, Salt Lake City, Utah. Mr. Rawson stated he desired to discuss the Professional Standards Review Board (PSRB) and the suggestion by the City Council that changes be made. He indicated one proposed change in particular caused him concern, that being a police officer would be removed from a position on the PSRB. He explained nationally there were 350,000 police officers in the Fraternal Order of Police and in Utah, there were many hundreds of officers that he represented from time to time. Mr. Rawson advised he had been enrolled in and completed the Police Academy courses and had become a police officer, which gave him insight and a great respect for those individuals whom he represented. Mr. Rawson stated he would not have known how difficult a police officer's job actually was without having gone through that educational process himself. He cited the many job duties required of a police officer including being a fighter and protector, a psychologist, an event planner and a communication's specialist. Mr. Rawson urged the

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City Council to reconsider removing a police officer from the PSRB as the information, perspective and context provided by a line officer or police advisor was invaluable in the review process. Mr. Rawson also spoke regarding Detective Shaun Cowley and stated in light of the fact there was a transition period and the Federal Bureau of Investigations (FBI) was investigating the Neighborhood Narcotics Unit, it would be premature to take action against the detective prior to the completion of that investigation.

Lindsay Jarvis, Attorney, 8813 South Redwood Road, West Jordan, Utah, representing Detective Shaun Cowley, addressed the City Council. Ms. Jarvis stated she had interned with the West Valley City Attorney's Office and served as a prosecutor for the City for five years. She expressed concern regarding any officer who was put in a position where a weapon had to be fired. She also expressed concern that on April 3, 2013, the Police Department made a statement to news media that they were going to enroll the FBI with the intent to conduct an independent review to provide transparency, to restore public trust, and take pressures off investigators, and ultimately provide a fair and accurate investigation. Ms. Jarvis stated that 24 hours later a recommendation had been made by the West Valley City Police Department, through Mr. Quinlan, that her client had been recommended for termination. She expressed concern that her client's file was scheduled to be sent to the Professional Standards Review Board (PSRB) this upcoming Thursday and with the possible revamping of the PSRB this was troubling. She also expressed concern that members of the Neighborhood Narcotics Unit had been responsible for conducting the audit of the Unit, which resulted in the involvement of the FBI. She discussed an unconfirmed report that the U.S. Attorney's Office was dismissing eight more cases, not necessarily involving her client but the Neighborhood Narcotics Unit as a whole. She requested the City allow the FBI to complete its investigation of Detective Shaun Cowley. Secondly, she requested if the matter went through the PSRB it be delayed until that body was revamped. She further requested the independent investigation by the FBI be completed prior to any recommendation regarding termination.

### B. CITY MANAGER COMMENTS

City Manager, Wayne Pyle, stated staff and administration greatly appreciated the Fraternal Order of Police and the availability of counsel for the police officers who sometimes found themselves in situations of alleged or potential wrongdoing. He explained the process regarding possible disciplinary action of an employee, which included investigation, review, and recommendations, all prior to a final decision. He stated no decision had been made in the case of allegations regarding Detective

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Cowley. He reported the investigative process was underway and still had further review levels to be completed including that of the Professional Standards Review Board (PSRB). He indicated City administration could be challenged with sometimes lengthy review processes in order for all evidence to be fairly considered. He explained to the contrary, for legal counsel representing an accused party there could never be enough time. He stated for the City to insure that all interests were served it needed to make certain all processes and procedures were properly and legally followed.

Mr. Pyle stated although the City Council had made suggested alternatives for consideration regarding functions of the PSRB, that in no way implied the Board was not functioning within the originally established scope and guidelines established by the City.

The City Manager referenced the above comments made by Phil Conder and informed that he and Mr. Conder had met several times and, among other things, reviewed the audio tape. Mr. Pyle expressed sensitivity to some current troubling issues in Mr. Conder's life and indicated he therefore had met with him out of courtesy. He stated every courtesy had been extended to Mr. Conder and the statement regarding involving lawyers was patently unfair and incorrect. He advised processes had been followed regarding Mr. Conder's complaint including review by internal affairs at multiple levels by a number of people. The City Manager reported he concurred with decisions and recommendations made by Acting Police Chief Anita Schwemmer regarding this matter.

### C. CITY COUNCIL COMMENTS

Upon inquiry by Mayor Winder, the Acting Police Chief Anita Schwemmer discussed various types of complaints reviewed by the Professional Standards Review Board (PSRB). She advised the Board received and considered all formal complaints and received a summary of all informal complaints where the complainant might, for example, have requested a supervisor speak to an officer about an issue. She also advised the PSRB had the option of requesting additional information in their process of review of complaints.

Mayor Winder stated he desired to give kudos to Brian Baity, a West Valley City resident and former member of the Arts Council, for being chosen to carve the official White House Easter Egg, which had been presented by the American Egg Board to First Lady, Michelle Obama, at the 2013 White House Egg Roll.

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16119

**RESOLUTION NO. 13-51, APPROVE AN AGREEMENT WITH LEWIS YOUNG ROBERTSON & BURNINGHAM, INC. TO CREATE A CAPITAL FACILITIES PLAN FOR THE CITY**

City Manager, Wayne Pyle, presented proposed Resolution No. 13-51 which would approve an Agreement with Lewis Young Robertson & Burningham, Inc., in the amount of \$40,000.00, to create a capital facilities plan for the City.

Mr. Pyle stated it would be advantageous for the City to have a professional firm create a capital facilities plan that identified and prioritized future capital facilities projects. He informed that in addition the plan would set forth financing options for each project. He indicated the City would like to assess the different capital facilities projects that would become necessary investments in the future. In order to ensure future investments were timely, appropriate, and sustainable, the City would utilize a professional consultant to analyze the City's capital facilities needs, identify and prioritize those needs, and create financing options to fund those needs. The City Manager reported Lewis & Young was a professional firm with the qualifications and expertise to perform the analysis and develop a Capital Facilities Plan for West Valley City.

After discussion, Councilmember Rushton moved to approve Resolution No. 13-51, a Resolution Approving an Agreement between West Valley City and Lewis Young Robertson & Burningham, Inc. to Create a Capital Facilities Plan for the City. Councilmember Vincent seconded the motion.

A roll call vote was taken:

Mr. Vincent	Yes
Ms. Lang	Yes
Mr. Buhler	Yes
Mr. Huynh	Yes
Mr. Rushton	Yes
Mr. Christensen	Yes
Mayor Winder	Yes

Unanimous.

16120

**RESOLUTION NO. 13-52, AUTHORIZE THE CITY TO ENTER INTO A RIGHT-OF-WAY CONTRACT WITH DESERET TITLE HOLDING CORPORATION FOR PROPERTY LOCATED AT 6511 WEST 6200 SOUTH AND TO ACCEPT A SPECIAL WARRANTY DEED**

City Manager, Wayne Pyle, presented proposed Resolution No. 13-52 which would authorize the City to enter into a Right-of-Way Contract with Deseret Title Holding Corporation for property located at 6511 West 6200 South, and to accept a Special Warranty Deed.

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Mr. Pyle stated Deseret Title Holding Corporation had agreed to sign the Right-of-Way Contract for the 6200 South Extension Project.

He indicated the 1.631 acre parcel was one of the properties to be acquired for the project that would extend 6200 South to State Highway No. 111, westerly from its current terminus at Mountain View Corridor. He reported compensation for the purchase of this parcel would be in the amount of \$206,100.00 pursuant to an appraisal report prepared by Free and Associates, Inc. He indicated funding for the acquisition would be facilitated through the State Corridor Preservation Fund. He also reported although the funding for this acquisition had not yet been approved, the contract was required to be completed in order to submit the funding application.

After discussion, Councilmember Christensen moved to approve Resolution No. 13-52, a Resolution Authorizing the City to enter into a Right-of-Way Contract with Deseret Title Holding Corporation for Property Located at 6511 West 6200 South and to Accept a Special Warranty Deed. Councilmember Lang seconded the motion.

A roll call vote was taken:

Mr. Vincent	Yes
Ms. Lang	Yes
Mr. Buhler	Yes
Mr. Huynh	Yes
Mr. Rushton	Yes
Mr. Christensen	Yes
Mayor Winder	Yes

Unanimous.

16121

**RESOLUTION NO. 13-53, AUTHORIZE THE CITY TO ENTER INTO A RIGHT-OF-WAY CONTRACT WITH DESERET TITLE HOLDING CORPORATION FOR PROPERTY LOCATED AT 7011 WEST 6200 SOUTH AND TO ACCEPT A SPECIAL WARRANTY DEED**

City Manager, Wayne Pyle, presented proposed Resolution No. 13-53 which would authorize the City to enter into a Right-of-Way Contract with Deseret Title Holding Corporation for property located at 7011 West 6200 South, and to accept a Special Warranty Deed.

Mr. Pyle stated Deseret Title Holding Corporation had agreed to sign the Right-of-Way Contract for the 6200 South Extension Project.

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He stated the 3,309 square foot parcel was one of the properties to be acquired for the 6200 South Extension Project. He indicated the project would extend 6200 South to State Highway No. 111, westerly from its current terminus at Mountain View Corridor. He reported compensation for the purchase would be in the amount of \$9,600.00 pursuant to an appraisal report prepared by Free and Associates, Inc. He stated funding for the acquisition would be through the State Corridor Preservation Fund. He explained although the funding for this acquisition had not yet been approved, the contract was required to be completed in order to submit the funding application.

After discussion, Councilmember Vincent moved to approve Resolution No. 13-53, a Resolution Authorizing the City to enter into a Right-of-Way Contract with Deseret Title Holding Corporation for Property Located at 7011 West 6200 South, and to Accept a Special Warranty Deed. Councilmember Buhler seconded the motion.

A roll call vote was taken:

Mr. Vincent	Yes
Ms. Lang	Yes
Mr. Buhler	Yes
Mr. Huynh	Yes
Mr. Rushton	Yes
Mr. Christensen	Yes
Mayor Winder	Yes

Unanimous.

**THERE BEING NO FURTHER BUSINESS OF THE WEST VALLEY CITY COUNCIL, THE REGULAR MEETING OF TUESDAY, APRIL 9, 2013, WAS ADJOURNED AT 7:11 P.M., BY MAYOR WINDER.**

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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 9, 2013.

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Sheri McKendrick, MMC  
City Recorder