

MINUTES OF COUNCIL REGULAR MEETING – SEPTEMBER 13, 2011

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THE WEST VALLEY CITY COUNCIL MET IN REGULAR SESSION ON TUESDAY, SEPTEMBER 13, 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 PRO TEM RUSHTON.

THE FOLLOWING MEMBERS WERE PRESENT:

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

Wayne Pyle, City Manager
Sheri McKendrick, City Recorder

ABSENT: Mike Winder

STAFF PRESENT:

Paul Isaac, Assistant City Manager
Nicole Cottle, CED Director
Russell Willardson, Public Works Director
John Evans, Fire Chief
Kevin Astill, Parks and Recreation Director
Layne Morris, CPD Director
Jim Welch, Finance Director
Eric Bunderson, City Attorney
Mike Wells, Acting Police Chief
Steve Lehman, CED Director
Jake Arslanian, Public Works Department

15467

OPENING CEREMONY

The Opening Ceremony was conducted by Councilmember Vincent who mentioned the recent tragic loss of the Mayor's mother in a fatal auto accident and expressed deepest sympathy and condolences for the Winder family. He also encouraged those in attendance to take the opportunity to express love to their own family members because it is never known when tragedy will strike taking loved ones away.

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RECOGNITIONS

Mayor Pro Tem Rushton recognized candidates for the primary election who were in attendance at the meeting.

Mayor Pro Tem Rushton turned time over to Councilmember Burt for a special recognition. Councilmember Burt informed she “had her own 9/11” on Sunday when one of her apartment buildings had burned down. She expressed appreciation to the Fire Department and mentioned the names of individuals that assisted during the incident. She also thanked everyone involved for the quick response and efforts in putting out the fire. Councilmember Burt stated the firefighters had concern for her along with the safety and well-being of the tenants and neighbors, which was very much appreciated. She expressed the need to fairly compensate all City employees, especially fire and police who risked their lives every day. She read an essay by an unknown author regarding firefighters. She expressed love and caring for all employees of the City and her appreciation for their service.

15469

APPROVAL OF MINUTES OF REGULAR MEETING HELD AUGUST 23, 2011

The Council read and considered Minutes of the Regular Meeting held August 23, 2011. There were no changes, corrections or deletions.

After discussion, Councilmember Christensen moved to approve the Minutes of the Regular Meeting held August 23, 2011, as written. Councilmember Brooks seconded the motion.

A roll call vote was taken:

Mr. Vincent	Yes
Mr. Brooks	Yes
Mr. Buhler	Yes
Ms. Burt	Yes
Mr. Christensen	Yes
Mayor Pro Tem Rushton	Yes

Unanimous.

15470

EMPLOYEE OF THE MONTH, SEPTEMBER, 2011 – UBALDO TAPIA, PUBLIC WORKS DEPARTMENT

City Manager, Wayne Pyle, stated Ubaldo Tapia, Public Works Department, was scheduled to receive the Employee of the Month Award for September 2011. He

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explained Mr. Tapia was out of town and unable to attend the meeting; therefore, the City Recorder would reschedule this item to a future meeting.

15471 **COMMENT PERIOD**

Upon inquiry by Mayor Pro Tem Rushton, the following individual addressed the City Council during the comment period:

Fynbo (no first name given), addressed the City Council and expressed appreciation to Councilmember Brooks for his service and representation in District 3 during his years on the City Council. He also thanked Councilmember Burt for her service on the City Council. He encouraged everyone to exercise their right to vote in the upcoming election.

15472 **PUBLIC HEARING, ACCEPT PUBLIC INPUT REGARDING APPLICATION NO. SV-1-2011, FILED BY DUANE WILKEY AND DAVID MILLER, REQUESTING TO VACATE AN EXISTING SCHOOL WALKWAY LOCATED AT 4326 SOUTH WORMWOOD DRIVE**

City Manager, Wayne Pyle, stated a public hearing had been advertised in order for the City Council to accept public input regarding Application No. SV-1-2011, filed by Duane Wilkey and David Miller, requesting to vacate an existing school walkway located at 4326 South Wormwood Drive. He discussed proposed Ordinance No. 11-21 related to the Application to be considered by the City Council subsequent to the public hearing, as follows:

City Manager, Wayne Pyle, presented proposed Ordinance No. 11-21 which would vacate an existing walkway located at approximately 4326 South Wormwood Drive in West Valley City.

Mr. Pyle stated the subject walkway provided access to the Hunter Elementary School and the purpose for the vacation would be to mitigate a wide range of problems occurring to the property owners living adjacent to the walkway.

The City Manager reported the subject walkway was located between Lots 344 and 345 of the Woodledge No. 3 Subdivision. He stated the plat had been recorded with the Salt Lake County Recorder's Office in April of 1977, and as part of the plat, a six-foot walkway was situated between the subject lots providing access to a large field owned by the LDS Church. He indicated eventually the property had been sold to the Granite School District who subsequently constructed the Hunter Elementary School in 1980. The walkway had been used since that time. He advised that in conversations with the Granite School District, they expressed the benefits of having the walkway; however, the District did not desire to own or maintain it. He further advised the walkway was six-feet wide and fenced on both sides with chain link. He stated due to an

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elevation difference, the west end of the walkway included a stairway up to the school property.

Mr. Pyle reported the applicants had provided letters outlining the problems they encountered over the years. He indicated although many of the problems were likely not created by students using the school, the walkway did allow access with limited visibility thus causing other problems. He reported if the walkway was vacated streets on the north and south sides of the school did have sidewalk and the school did have an area for children to be dropped off from vehicles.

City Manager, Wayne Pyle, discussed background information regarding City staff exploring options with Granite School District with a proposed temporary solution to allow the walkway to stay open and eliminate problems of the past. He stated the applicants were amenable to seeing if the proposed solution would work. He recommended the City Council continue action to no date certain after receiving input from the public. He stated the matter could then be revisited in the future if the problems were not resolved.

Mayor Pro Tem Rushton opened the public hearing.

David Miller, applicant, addressed the City Council. Mr. Miller discussed letters sent to City staff outlining concerns and problems. He stated vacating the property was the goal as they did not believe all problems would be solved with gates. He stated safety of kids was high on the list as well. He also discussed safety concerns when parents dropped off or picked up students. Mr. Miller indicated he did not believe the walkway was safe during or after school and gave reasons for that opinion. He explained there had been issues regarding the walkway for 30 years, in particular regarding safety, traffic, and other matters. He advised other issues of concern were outlined in letters submitted to City staff and forwarded to members of the City Council. He stated ownership should be taken by someone regarding the walkway and then the problems should be solved. He indicated problems had escalated over the years and vandalism was a matter of record with some being retaliation. He informed of problems in the neighborhood near the walkway which was a normal route through the area at all hours of the day and night.

Cindy Turner, PTA President at Hunter Elementary School, addressed the City Council. Ms. Turner stated City staff informed there would be a recommendation tonight due to a compromise proposed by the Granite School District. She also stated she did not feel wanting to leave the walkway open was dismissing concerns of neighbors. Ms. Turner indicated the custodian would clean up the litter and trash in the walkway. She stated parents were sympathetic to the problems, but wanted the walkway to remain open due to safety concerns for students who walked to school. She indicated most of the problems and concerns

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with the walkway were not due to students who used it, but rather occurred during non-school hours. She explained residents also used the walkway to go to the local park. Ms. Turner expressed her realization and understanding of the concerns of the applicants and that retaliation might have occurred in the past. She stated some of the things happening to the applicants were affecting other residents. She stated the walkway should remain open.

Duane Wilkey, applicant, addressed the City Council. Mr. Wilkey discussed estimates for repairs that he thought were directly related to retaliation regarding his application to close the walkway. He also stated he personally was out over \$8,000 directly attributed to the walkway. He indicated all e-mails to staff regarding these issues mentioned how dangerous the drop-off and pickup situation was in front of the school. Mr. Wilkey indicated he had not seen administrators or teachers in front of the school to monitor the situation. He stated there were also sidewalks in front of the school, but parents let students out of cars in the road without concern for their safety. He stated there needed to be additional adult supervision before and after school. Mr. Wilkey indicated safety was number one and it would be good if all those who wanted to keep the walkway open would take some responsibility. He advised he was “paying the price” for the walkway and would like someone else to take responsibility.

Marcelle Nordfelt addressed the City Council. Ms. Nordfelt stated she was a parent of students at Hunter Elementary School and a member of the PTA organization. She also stated her children did not use the walkway, but they did walk to school. She inquired if the walkway would be closed if vacated. She stated the major problems seemed to be vandalism, safety issues, and general misuse of the walkway. Ms. Nordfelt inquired regarding the difference between vacating the walkway and just locking the gate during non-school hours. She stated those individuals misusing the walkway should be denied access while allowing students to use it to get to and from school. She invited the City Council to visit the school to view the “nightmare” during pick up and drop off time. She stated there would be more problems and traffic if walking children could not use the walkway.

Councilmember Burt suggested the PTA or school classes “adopt” the walkway and keep it clean of trash.

Ms. Nordfelt addressed the City Council and inquired if the real issue was the school children or some “hoodlums” were causing the problems and vandalism. She stated most of the problems seemed to be happening after school hours.

Mike Markham addressed the City Council. Mr. Markham stated this problem was not an isolated case. He discussed problems in his neighborhood regarding a

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walkway to Valley Jr. High School. He stated older kids would break down the gate and the custodian did not clean the walkway or remove snow.

There being no one else to speak either in favor or in opposition, Mayor Pro Tem Rushton closed the public hearing.

Upon discussion, Councilmember Vincent advised that his children attended Hunter Elementary School but did not use the subject walkway. He stated the problems were real and it seemed prudent to test the proposed solution for a few months to determine if the problems could be resolved. He further stated if the problems were not resolved then the City Council could vacate the walkway. He advised the option that served the community best would be to allow students to use the walkway. Councilmember Vincent indicated there might be safety issues with drug paraphernalia so it would not be wise to have children pick up trash. He expressed his preference would be to test gates as proposed by the School District and see if that would solve the problems. He stated perhaps the school could increase efforts of educating parents regarding the problems. He indicated the school should encourage parents that the street in front of the school should be used for walking and not a drop off zone. Councilmember Vincent also expressed the need to look for additional solutions for cleanup and patrol of the area. He expressed the desire for the City to work with the District in negotiating a binding agreement and work with the applicants to solve other issues.

Councilmember Christensen stated he had been a former school principal and spent 25 years trying to educate parents regarding safety issues in drop off zones, which had not been very successful. He indicated walking schools were a particular problem because most parents continued to drive children to school causing traffic congestion and other safety concerns. He also further discussed closing gates on the subject walkway.

Councilmember Buhler stated he applauded the applicants for their efforts, which seemed to have brought forth a proposed solution from the Granite School District. Councilmember Buhler indicated in the interest of seeing if the proposed solution would work, he would suggest action be continued and have the applicants return to the City Council if the issues were not resolved.

Mayor Pro Tem Rushton stated he was acquainted with both of the applicants and knew they were reasonable individuals. He indicated this was one of those issues in which government was asked to become involved as there seemed to be no other solution. He also stated the neighborhood around Hunter Elementary had been designed to be walkable. He expressed favor of postponing action in order to allow the community to come together for reasonable solutions to the problem.

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Councilmember Brooks stated he could see how the Planning Commission made their recommendation to the City Council after listening to comments from those in attendance at the meeting tonight. He indicated he had not realized that similar issues occurred in other neighborhoods with school walkways. Councilmember Brooks stated there could possibly be other similar complaints in the future. He expressed agreement with other Council members' comments and stated he would like to see the proposal by the Granite School District be considered.

ACTION: CONSIDER ORDINANCE NO. 11-21, VACATING AN EXISTING WALKWAY LOCATED AT APPROXIMATELY 4326 SOUTH WORMWOOD DRIVE IN WEST VALLEY CITY

The City Council previously held a public hearing regarding Application No. SV-1-2011, filed by Duane Wilkey and David Miller, requesting to vacate an existing school walkway located at 4326 South Wormwood Drive.

After discussion, Councilmember Vincent moved to continue action regarding proposed Ordinance No. 11-21 to no date certain in order to implement a solution proposed by Granite School District and allow time to see if it resolved the problems. Councilmember Christensen seconded the motion.

A roll call vote was taken:

Mr. Vincent	Yes
Mr. Brooks	Yes
Mr. Buhler	Yes
Ms. Burt	Yes
Mr. Christensen	Yes
Mayor Pro Tem Rushton	Yes

Unanimous. Proposed Ordinance No. 11-21 Continued to No Date Certain.

Upon further discussion, Councilmember Vincent suggested the City Manager ensure that the actions by Granite School District were expedited regarding this matter.

15473

RESOLUTION NO. 11-136, AUTHORIZE THE CITY TO GRANT A PERPETUAL NON-EXCLUSIVE CABLE AND FACILITIES EASEMENT TO UTOPIA FOR PLACEMENT OF A CABINET AT 2975 SOUTH 5990 WEST

City Manager, Wayne Pyle, presented proposed Resolution No. 11-136 which would authorize the City to grant a perpetual non-exclusive Cable and Facilities Easement to UTOPIA for placement of a cabinet at 2975 South 5990 West.

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Mr. Pyle stated UTOPIA was currently constructing its telecommunications infrastructure in the City and required the use of certain cabinets to connect the infrastructure. He also stated it had been proposed one of the cabinets be placed at 2975 South 5990 West.

After discussion, Councilmember Burt moved to approve Resolution No. 11-136, a Resolution Authorizing the City to Grant a Perpetual Non-Exclusive Cable and Facilities Easement to UTOPIA or Placement of a Cabinet at 2975 South 5990 West. Councilmember Vincent seconded the motion.

A roll call vote was taken:

Mr. Vincent	Yes
Mr. Brooks	Yes
Mr. Buhler	Yes
Ms. Burt	Yes
Mr. Christensen	Yes
Mayor Pro Tem Rushton	Yes

Unanimous.

15474

RESOLUTION NO. 11-139, AUTHORIZE WEST VALLEY CITY TO ENTER INTO A FINANCING LETTER WITH WILLIAM BLAIR & COMPANY, L.L.C. FOR PURPOSES OF SECURING FINAL FUNDING FOR THE FAIRBOURNE STATION HOTEL

City Manager, Wayne Pyle, presented proposed Resolution No. 11-139 which would authorize West Valley City to enter into a financing letter with William Blair & Company, L.L.C. for purposes of securing final funding for the Fairbourne Station Hotel.

Mr. Pyle stated the Redevelopment Agency was financing and constructing an Embassy Suites Hotel containing approximately 163,019 square feet with surrounding parking. He further stated the Embassy Suites Hotel would be a seven story hotel containing 162 guest rooms, three meeting facilities, three banquet facilities, a restaurant, bar and lounge, an indoor swimming pool, sun deck, exercise room, business center, gift shop and reception area.

The City Manager explained the Financing Letter set forth the abbreviated terms of final funding but included the most significant information including the term, interest rate, and total amount. He stated the terms of the final funding would be substantially similar to the provisions of the Financing Letter. He indicated as routinely required in bond financing, the Financing Letter included securing the City as a tenant pursuant to a Master Lease Agreement.

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Mr. Pyle reported although the City was leasing the Embassy Suites Hotel, West Valley Lodging Initiatives, LLC would sublease and operate the Embassy Suites Hotel and make rent payments to cover the debt service associated with the financing.

City Manager, Wayne Pyle, stated the City Center Redevelopment Plan had been adopted by the Redevelopment Agency in 2004, and was recently updated. He indicated this plan involved urban renewal of the area that included the Valley Fair Mall, property surrounding West Valley City Hall, and the area to the west of City Hall. He explained this urban renewal area had recently been renamed Fairbourne Station.

Mr. Pyle indicated the Embassy Suites Hotel was the flagship development for Fairbourne Station. He stated the City Council approved a Term Sheet Agreement with Bonneville Q/10 that had commenced the process of securing funding. That process had come to a conclusion with the Financing Letter setting forth the terms for final funding. He stated, once executed, the Financing Letter committed the lender to funding as set forth therein.

After discussion, Councilmember Christensen moved to approve Resolution No. 11-139, a Resolution Authorizing West Valley City to Enter Into a Financing Letter with William Blair & Company, L.L.C. for Purposes of Securing Final Funding for the Fairbourne Station Hotel. Councilmember Burt seconded the motion.

A roll call vote was taken:

Mr. Vincent	Yes
Mr. Brooks	Yes
Mr. Buhler	Yes
Ms. Burt	Yes
Mr. Christensen	Yes
Mayor Pro Tem Rushton	Yes

Unanimous.

15475

RESOLUTION NO. 11-140, APPROVE A MASTER LEASE AGREEMENT WITH THE REDEVELOPMENT AGENCY OF WEST VALLEY CITY FOR THE LEASE OF PROPERTY AND A HOTEL LOCATED AT APPROXIMATELY 3524 SOUTH MARKET STREET IN WEST VALLEY CITY

City Manager, Wayne Pyle, presented proposed Resolution No. 11-140 which would approve a Master Lease Agreement with the Redevelopment Agency of

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West Valley City (RDA) for the lease of property and a hotel located at approximately 3524 South Market Street in West Valley City.

Mr. Pyle stated the Redevelopment Agency was financing and constructing an Embassy Suites Hotel containing approximately 163,019 square feet with surrounding parking. He further stated the Embassy Suites Hotel would be a seven story hotel containing 162 guest rooms, three meeting facilities, three banquet facilities, a restaurant, bar and lounge, an indoor swimming pool, sun deck, exercise room, business center, gift shop and reception area.

The City Manager indicated as was routinely done for bond financing, the RDA's financing of the Hotel included securing the City as a tenant pursuant to a Master Lease Agreement. He indicated the City would in turn sublease the Hotel to an entity called West Valley Lodging Initiatives, LLC, which would operate and ultimately purchase the Hotel.

City Manager, Wayne Pyle, stated the City Center Redevelopment Plan had been adopted by the Redevelopment Agency in 2004, and was recently updated. He indicated this plan involved urban renewal of the area that included the Valley Fair Mall, property surrounding West Valley City Hall, and the area to the west of City Hall. He explained this urban renewal area had recently been renamed Fairbourne Station. He also stated the Embassy Suites Hotel was a flagship development for Fairbourne Station.

After discussion, Councilmember Vincent moved to approve Resolution No. 11-140, a Resolution Approving a Master Lease Agreement with the Redevelopment Agency of West Valley City for the Lease of Property and a Hotel Located at Approximately 3524 South Market Street in West Valley City. Councilmember Buhler seconded the motion.

A roll call vote was taken:

Mr. Vincent	Yes
Mr. Brooks	Yes
Mr. Buhler	Yes
Ms. Burt	Yes
Mr. Christensen	Yes
Mayor Pro Tem Rushton	Yes

Unanimous.

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15476

RESOLUTION NO. 11-141, APPROVE A SUBLEASE AND OPERATING AGREEMENT WITH THE REDEVELOPMENT AGENCY OF WEST VALLEY CITY AND WEST VALLEY LODGING INITIATIVES FOR PROPERTY AND A HOTEL LOCATED AT APPROXIMATELY 3524 SOUTH MARKET STREET IN WEST VALLEY CITY

City Manager, Wayne Pyle, presented proposed Resolution No. 11-141 which would approve a Sublease and Operating Agreement with the Redevelopment Agency of West Valley City (RDA) and West Valley Lodging Initiatives (WVLI) for property and a hotel located at approximately 3524 South Market Street in West Valley City.

Mr. Pyle stated the Redevelopment Agency was financing and constructing an Embassy Suites Hotel containing approximately 163,019 square feet with surrounding parking. He further stated the Embassy Suites Hotel would be a seven story hotel containing 162 guest rooms, three meeting facilities, three banquet facilities, a restaurant, bar and lounge, an indoor swimming pool, sun deck, exercise room, business center, gift shop and reception area.

The City Manager reported as was routinely done for bond financing the RDA's financing of the Hotel included securing the City as a tenant pursuant to a Master Lease Agreement. He indicated the Sublease and Operating Agreement included all of the City's obligations under the Master Lease Agreement and many other relevant provisions for the operation of the Hotel. WVLI would be responsible for the payment of rent, which would service the RDA's debt, as well as all aspects of the maintenance, repair, inventory and operation of the Hotel.

City Manager, Wayne Pyle, stated the City Center Redevelopment Plan had been adopted by the Redevelopment Agency in 2004, and was recently updated. He indicated this plan involved urban renewal of the area that included the Valley Fair Mall, property surrounding West Valley City Hall, and the area to the west of City Hall. He explained this urban renewal area had recently been renamed Fairbourne Station. He also stated the Embassy Suites Hotel was a flagship development for Fairbourne Station.

After discussion, Councilmember Brooks moved to approve Resolution No. 11-141, a Resolution Approving a Sublease and Operating Agreement with the Redevelopment Agency of West Valley City and West Valley Lodging Initiatives for Property and a Hotel Located at Approximately 3524 South Market Street in West Valley City. Councilmember Buhler seconded the motion.

A roll call vote was taken:

Mr. Vincent

Yes

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Mr. Brooks	Yes
Mr. Buhler	Yes
Ms. Burt	Yes
Mr. Christensen	Yes
Mayor Pro Tem Rushton	Yes

Unanimous.

THERE BEING NO FURTHER BUSINESS OF THE WEST VALLEY COUNCIL, THE REGULAR MEETING OF TUESDAY, SEPTEMBER 13, 2011, WAS ADJOURNED AT 7:40 P.M., BY MAYOR PRO TEM RUSHTON.

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, September 13, 2011.

Sheri McKendrick, MMC
City Recorder