

MINUTES OF COUNCIL REGULAR MEETING DECEMBER 20, 2011

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THE WEST VALLEY CITY COUNCIL MET IN REGULAR SESSION ON TUESDAY, DECEMBER 20, 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

Paul Isaac, Acting City Manager
Sheri McKendrick, City Recorder

STAFF PRESENT:

Nicole Cottle, CED Director
Russell Willardson, Public Works Director
John Evans, Fire Chief
Kevin Astill, Parks and Recreation Director
Layne Morris, Community Preservation Director
Eric Bunderson, City Attorney
Mike Wells, Acting Police Chief
Jeannette Carpenter, Acting Finance Director
Steve Pastorik, CED Department
Jake Arslanian, Public Works Department

OTHERS PRESENT:

Karen Lang, Councilmember-elect

15593

OPENING CEREMONY

The Opening Ceremony was conducted by Don Christensen who read an “inventory list” for West Valley City regarding significant events, activities and awards for 2011. He also wished everyone a happy holiday season.

15594

APPROVAL OF MINUTES OF STUDY MEETING HELD DECEMBER 6, 2011

The Council read and considered Minutes of the Regular Meeting held December 6, 2011. There were no changes, corrections or deletions.

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After discussion, Councilmember Burt moved to approve the Minutes of the Regular Meeting held December 6, 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. Rushton	Yes
Mr. Christensen	Yes
Mayor Winder	Yes

Unanimous.

15595

COMMENT PERIOD

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

Bill Barton addressed the City Council. Mr. Barton stated there was a hidden problem regarding the illegal immigration issue aside from cost to social, health programs and jobs, education system, impacts to kids and families regarding stolen identities, uninsured drivers, unfair competition to businesses. He indicated the overlooked concern was hostility of some residents being fed by not protecting our own citizens. He stated bad feelings had been fostered among our citizenry and it was unfortunate that some people who looked different or had a minority name were labeled as "illegal." He submitted a written copy of his statements and list of West Valley City businesses using E-Verify to the City Recorder.

Amy Mena addressed the City Council and stated she was in attendance on behalf of animals at the shelter. Ms. Mena inquired regarding plans of the Council to fund the shelter properly for the upcoming year. She indicated there was not enough staff to care for the animals, but there was enough space. She also inquired if there were plans for the shelter to be open on Fridays and Saturdays and stay open later than 6:00 P.M. to accommodate families who wanted to adopt animals. Ms. Mena related a conversation with a department director regarding her concerns. She expressed concern regarding using a gas chamber for euthanizing animals at the shelter and discussed reasons. She further stated this was not a humane way for animals to die and could also damage an employee's health or gas tanks could explode. She stated most private and municipal shelters administered drugs to euthanize animals rather than using gas chambers. She

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encouraged the City Council to get involved with practices at the shelter and make animals a priority.

Merrill Cook addressed the City Council and stated he was the organizer of the signature drive for a lawful employment ordinance ballot initiative. He advised he had been gathering signatures for four months for both Salt Lake County and West Valley City ballot initiatives. He commended West Valley City for looking into using E-Verify in some capacity in the business licensing process. He discussed the foundation of the initiative proposal and stated it was based on Federal law. He discussed background information and the purpose of E-Verify. Mr. Cook stated he was a businessperson and hated extra regulations; however, E-Verify would keep unscrupulous employers from hiring against Federal law, stop identity theft, and stop illegal immigration. He indicated it was a good idea to put this forward and encouraged West Valley City to require businesses to use E-Verify when hiring new employees.

Tony Yapias addressed the City Council. Mr. Yapias discussed issues regarding undocumented immigrants and the misperceptions that they did not pay taxes, and used State and local resources. He stated there were unity, pride and progress in West Valley City; but he encouraged the City Council to deny the proposed resolution on tonight's agenda as it would negatively affect and send the wrong message to everyone in Utah.

Mark Alvarez addressed the City Council and stated West Valley City had embraced diversity. He stated he did sympathize with some comments made previously by Bill Barton. He indicated that because of his last name he got "brushed with the same brush" that people used to describe undocumented aliens. Mr. Alvarez also discussed the key to effective immigration law as well as comments made by earlier speakers. He discussed E-Verify and problems with that system. He discussed problems the City could experience regarding the proposed resolution to amend the business license application. Mr. Alvarez stated immigration reform had to come from the Federal government. He further stated if the City was encouraging development and new businesses, this proposal would stifle economic development and recruiting new businesses. He suggested the City Council seriously think about the proposal and the diversity of the community.

Rick Braithwaite addressed the City Council and stated this matter was not a Latino problem, but rather had to do with illegal immigration. He stated there were a great number of "illegals" from every country in the world in West Valley City and in the United States. He explained one way to begin resolving problems would be to require businesses to use the E-Verify system.

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Jose Gutierrez addressed the City Council and stated he was happy to live in West Valley City. He expressed his opinion that immigration and E-Verify were Federal issues. He stated West Valley City's proposal would not solve the illegal immigration problem. Mr. Gutierrez indicated he understood why people asked about immigration, but no one understood the problem was not the immigrant but rather the economy. He stated economic issues not only existed in the United States, but around the entire world. He suggested the City and residents work together to make a better community focusing efforts on security, education and learning English. He requested an appointment with someone representing the City discuss these issues further.

15596

RESOLUTION NO. 11-201, AUTHORIZE THE CITY MANAGER TO MODIFY ALL BUSINESS LICENSE APPLICATIONS TO INCLUDE A STATUS VERIFICATION SYSTEM

Acting City Manager, Paul Isaac, presented proposed Resolution No. 11-201 which would authorize modification of all business license applications to include a status verification system.

Mr. Isaac stated the proposed modification of the business license application would include a checkbox that would register a voluntary agreement on behalf of a private employer to use a status verification system to verify the Federal legal working status of all of that company's employees. He advised the City used five different business license applications: Home Business, Commercial Business, Minor Home Occupation, Temporary Business, and Fireworks Sale Application. He indicated all of the applications would be modified to include the checkbox wherein the business would indicate use of a status verification system. He further advised this would not necessarily be limited to E-Verify, as long as the system would verify the employee in question was valid to work in the United States.

The Acting City Manager reported Federal law prohibited the employment of unauthorized aliens. He stated to that end, the Federal government had established several systems to verify immigration status of any alien upon the request of a municipality. He also stated that under a recent United States Supreme Court case, *Chamber of Commerce v. Whiting*, municipalities were allowed to regulate issuance of business licenses as applied to unauthorized aliens.

After discussion, Councilmember Rushton moved to amend proposed Resolution No. 11-201, to replace the word "voluntary" with the word "independently". Councilmember Vincent 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	Yes

Unanimous.

After further discussion, Councilmember Christensen moved to approve Resolution No. 11-201, a Resolution Authorizing the City Manager to Modify All Business License Applications to Include a Status Verification System, as amended. Councilmember Rushton 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.

Upon further discussion, Councilmember Vincent expressed desire to review this matter in ordinance form in the near future and for consideration by the City Council. Some members of the City Council expressed individual comments regarding immigration issues, diversity, and the City's English language initiative.

15597

RESOLUTION NO. 11-202, AWARD A CONTRACT TO NEWMAN CONSTRUCTION FOR THE UTAH CULTURAL CELEBRATION CENTER CHINESE GATE FOUNDATION EARTHWORK PROJECT

Acting City Manager, Paul Isaac, presented proposed Resolution No. 11-202 which would award a contract to Newman Construction, in the amount of \$49,345.00, for the Utah Cultural Celebration Center (UCCC) Chinese Gate Foundation and Earthwork Project.

Mr. Isaac stated two bids had been received, as follows:

Newman Construction:	\$49,345.00
S&L Inc.:	\$100,107.61

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The Acting City Manager reported the engineer's estimate had been in the amount of \$54,325.00. He also reported Newman Construction had submitted the lowest responsible bid.

Mr. Isaac stated the referenced project included excavation of existing fill, placement and compaction of structural fill and surcharge material in preparation for a concrete footing to be placed at a later date.

Councilmember Vincent stated he was having a difficult time approving the subject contract, as it would bind the City to fund an additional \$150,000 for the project. He stated there were other more pressing needs like parks and a fire station on the west side of the City. Councilmember Vincent indicated he could support the project, but not at this time as there were other needed projects that would be of benefit to more City residents.

Councilmember Buhler stated the proposal was a beautiful project, but he did not believe the City was bound by decisions of past Councils and there had been a lack of policy and direction for this type of project.

Councilmember Rushton stated he shared the apprehension expressed by other members of the Council, but felt this was a bookkeeping item as funds should have been set aside by the past Council to fund the project.

Councilmember Brooks stated he appreciated the Council's comments and the points discussed were indeed valid. He indicated a City Council could not be totally bound by previous Council's decisions. He also reminded of past association with the Chinese community and the UCCC's desire to have a friendship gate to honor that association.

Mayor Winder stated the proposal was a commitment made by the City many years ago and, although not legally binding, it seemed to be morally binding as the Chinese community had been making on-going efforts in fundraising for the project. He indicated the sale of UCCC property should be used at that facility and he further discussed reasons.

After further discussion, Councilmember Burt moved to approve Resolution No. 11-202, a Resolution Awarding a Contract to Newman Construction and Authorizing Execution of a Contract for the Utah Cultural Celebration Center Chinese Gate Foundation Earthwork Project. Councilmember Christensen seconded the motion.

A roll call vote was taken:

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

Majority.

15598

RESOLUTION NO. 11-203, APPROVE A REIMBURSEMENT AGREEMENT WITH SUBURBAN LAND RESERVE, INC., FOR CONSTRUCTION OF A TRAFFIC ROUNDABOUT LOCATED AT 5370 WEST LAKE PARK BOULEVARD

Acting City Manager, Paul Isaac, presented proposed Resolution No. 11-203 which would approve a Reimbursement Agreement with Suburban Land Reserve, Inc., in the amount of \$484,737.00, for construction of a traffic roundabout located at 5370 West Lake Park Boulevard, as required in the Impact Fee Ordinance.

Mr. Isaac stated Suburban Land Reserve (SLR) was developing a shopping center north of Lake Park Boulevard between 5370 West and 5600 West which would include a Target store. He indicated as a new street would be constructed at 5370 West between 2455 South and Lake Park Boulevard, and in order to maintain consistency with all intersections on Lake Park Boulevard, a new roundabout would be necessary at that location.

The Acting City Manager reported the Impact Fee Ordinance required the City to reimburse developers for construction of infrastructure in excess of the development's impact on the City's road network. He indicated the subject agreement would allow the City to reimburse SLR for cost of the right-of-way and roundabout construction over a four year period from the date of completion. He explained all fees collected from the Highbury development would be dedicated to this reimbursement. He further explained reimbursement would be supplemented with fees collected from other areas, if necessary, to reach a minimum annual payment of 20%.

After discussion, Councilmember Vincent moved to approve Resolution No. 11-203, a Resolution Authorizing the City to enter into a Reimbursement Agreement with Suburban Land Reserve, Inc. for Construction of a Traffic Roundabout Located at 5370 West Lake Park Boulevard. Councilmember Brooks 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	Yes

Unanimous.

15599

RESOLUTION NO. 11-208, APPROVE AN AGREEMENT WITH THE UTAH TRANSIT AUTHORITY (UTA) FOR INSTALLATION OF IMPROVEMENTS ON THE PLAZA

Acting City Manager, Paul Isaac, presented proposed Resolution No. 11-208 which would approve an Agreement with the Utah Transit Authority (UTA) for installation of improvements on the Plaza.

Mr. Isaac stated UTA had acquired property at 2841 West Lehman Avenue to accommodate light rail. He indicated a wedge shaped portion of the property was west of the light rail tail track and had been retained by UTA because of catenary wires and poles for light rail constructed on the west portion of the property. He stated the City's Promenade design, which included hardscape and landscape improvements, incorporated the wedge shaped portion of UTA's property west of the tail track. He explained the subject agreement would allow the City to install and maintain the hardscape and landscape improvements for the Promenade on UTA's property. He advised the term of the agreement was for 50 years.

After discussion, Councilmember Christensen moved to approve Resolution No. 11-208, a Resolution Approving an Agreement with the Utah Transit Authority (UTA) for Installation of Improvements on the Plaza. 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.

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RESOLUTION NO. 11-209, APPROVE AN AGREEMENT WITH THE UTAH TRANSIT AUTHORITY (UTA) FOR INSTALLATION AND MAINTENANCE OF IMPROVEMENTS ON PROPERTY IN THE PROMENADE

Acting City Manager, Paul Isaac, presented proposed Resolution No. 11-209 which would approve an Agreement with the Utah Transit Authority (UTA) for installation and maintenance of improvements on property in the Promenade.

Mr. Isaac stated the City and UTA had worked together on the development of the Plaza for several years and had already entered into an Interlocal Agreement regarding the Plaza. He further stated the City desired to make additional improvements to the Plaza in order to make it compatible with the Promenade and other development in Fairbourne Station. He stated the License Agreement would allow the City to make more improvements to the Plaza within certain parameters as required by UTA.

After discussion, Councilmember Vincent moved to approve Resolution No. 11-209, a Resolution Approving an Agreement with the Utah Transit Authority for Installation and Maintenance of Improvements on Property in the Promenade. 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

Unanimous.

15601

CONSENT AGENDA:

A. RESOLUTION NO. 11-204, ACCEPT A WARRANTY DEED FROM WAT LAO SALT LAKE BUDDHARAM, INC., FOR PROPERTY LOCATED AT APPROXIMATELY 7010 PARKWAY BOULEVARD

Acting City Manager, Paul Isaac, presented proposed Resolution No. 11-204 which would accept a Warranty Deed from Wat Lao Salt Lake Buddharam, Inc. for property located at approximately 7010 Parkway Boulevard.

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Mr. Isaac stated the Warranty Deed had been executed for right-of-way on Parkway Boulevard. He further stated Wat Lao Salt Lake Buddharam (Buddhist Monastery) had proposed additions and expansions to its existing site and as a condition for approval for the site additions and modifications, additional right-of-way had been required. He indicated the City's Major Street Plan called for an 80 foot right-of-way (40 foot half width) along this portion of Parkway Boulevard and the Warranty Deed would convey approximately 11.5 feet of that additional width of right-of-way.

B. RESOLUTION NO. 11-205, RATIFY THE CITY MANAGER'S REAPPOINTMENT OF MIKE WINDER TO THE WEST VALLEY CITY HOUSING AUTHORITY COMMISSION, TERM: DECEMBER 20, 2011 – DECEMBER 19, 2016

Acting City Manager, Paul Isaac, presented proposed Resolution No. 11-205 which would ratify the City Manager's reappointment of Mike Winder to the West Valley City Housing Authority Commission for the term December 20, 2011, through December 29, 2016.

Mr. Isaac stated the Housing Authority Board was comprised of seven members each appointed for a five year term, with the advice and consent of the City Council.

C. RESOLUTION NO. 11-206, RATIFY THE CITY MANAGER'S APPOINTMENT OF TOM HUYNH TO THE WEST VALLEY CITY HOUSING AUTHORITY COMMISSION, TERM: JANUARY 3, 2012 – DECEMBER 31, 2016

Acting City Manager, Paul Isaac, presented proposed Resolution No 11-206 which would ratify the City Manager's appointment of Tom Huynh to the West Valley City Housing Authority Commission for the term January 3, 2012, through December 31, 2016.

Mr. Isaac stated the Housing Authority Board was comprised of seven members each appointed for a five year term, with the advice and consent of the City Council.

D. RESOLUTION NO. 11-207, RATIFY THE CITY MANAGER'S APPOINTMENT OF KAREN LANG TO THE WEST VALLEY CITY HOUSING AUTHORITY COMMISSION, TERM: JANUARY 3, 2012 – DECEMBER 31, 2016

Acting City Manager, Paul Isaac, presented proposed Resolution No. 11-207 which would ratify the City Manager's appointment of Karen Lang to the West Valley City Housing Authority Commission for the term January 3, 2012, through December 31, 2016.

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Mr. Isaac stated the Housing Authority Board was comprised of seven members each appointed for a five year term, with the advice and consent of the City Council.

After discussion, Councilmember Brooks moved to approve Resolution Nos. 11-204, 11-205, 11-206, and 11-207 as presented on the Consent Agenda. 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.

15602

ACKNOWLEDGE SERVICE AND EXPRESSION OF APPRECIATION TO COUNCILMEMBER RUSS BROOKS AND COUNCILMEMBER CAROLYNN BURT

Mayor Winder acknowledged the long time service and expressed appreciation to Councilmember Russ Brooks and Councilmember Carolynn Burt as this was their last Council meeting.

On behalf of City staff, the Acting City Manager, Paul Isaac, expressed appreciation to Councilmember Russ Brooks and Councilmember Carolynn Burt and stated they would be greatly missed.

THERE BEING NO FURTHER BUSINESS OF THE WEST VALLEY COUNCIL, THE REGULAR MEETING OF TUESDAY, DECEMBER 20, 2011, WAS ADJOURNED AT 7:29 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, December 20, 2011.

Sheri McKendrick, MMC
City Recorder