

MINUTES OF COUNCIL REGULAR MEETING – FEBRUARY 21, 2012

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THE WEST VALLEY CITY COUNCIL MET IN REGULAR SESSION ON TUESDAY, FEBRUARY 21, 2012, 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:

Paul Isaac, Assistant City Manager
Eric Bunderson, City Attorney
Kevin Astill, Parks and Recreation Director
John Evans, Fire Chief
Jim Welch, Finance Director
Layne Morris, CPD Director
Russell Willardson, Public Works Director
Mike Wells, Acting Police Chief
Mark Nord, Acting CED Director
Steve Lehman, CED Department
Lee Logston, CED Department
Aaron Crim, Administration
Kevin Conde', Administration
Cathie Alberico, Administration
Jake Arslanian, Public Works Department
Nancy Day, Parks and Recreation Department
April Naegle, Parks and Recreation Department
Chelsey Alberico, Parks and Recreation Department
Alise Garner, Parks and Recreation Department
Ryan Bullock, Parks and Recreation Department
Templ Corbit, Parks and Recreation Department
Ashley Nash, Parks and Recreation Department
Candace Mayweather, Parks and Recreation Department
Valerie Custer, Parks and Recreation Department

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Don Groo, Finance Department
Greg Burgoyne, Finance Department
David Sagers, Finance Department
Nick Hales, Finance Department
Bill Berger, Finance Department
Jeannette Carpenter, Finance Department
Scott Freckleton, Finance Department
Russ Condie, Finance Department
Nora Clements, Finance Department
Kathy Madden, Finance Department
Candice Smart, Finance Department
Nuria Whytock, Finance Department
Cindy Hobbs, Finance Department

15653

OPENING CEREMONY

The Opening Ceremony was conducted by Mayor Winder who invited Representative Neil Hendrickson to lead the Pledge of Allegiance to the Flag.

15654

APPROVAL OF MINUTES OF STRATEGIC PLANNING MEETING HELD JANUARY 27 AND 28, 2012

The Council read and considered Minutes of the Strategic Planning Meeting held January 27 and 28, 2012. There were no changes, corrections or deletions.

After discussion, Councilmember Huynh moved to approve the Minutes of the Strategic Planning Meeting held January 27 and 28, 2012, as written. Councilmember Christensen 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.

15655

APPROVAL OF MINUTES OF REGULAR MEETING HELD FEBRUARY 7, 2012

The Council read and considered Minutes of the Regular Meeting held February 7, 2012. There were no changes, corrections or deletions.

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After discussion, Councilmember Huynh moved to approve the Minutes of the Regular Meeting held February 7, 2012, as written. Councilmember Christensen 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.

15656

DAVID MUIR, UTAH GOVERNMENT FINANCE OFFICERS ASSOCIATION – PRESENTATION OF CERTIFICATE OF ACHIEVEMENT FOR EXCELLENCE IN FINANCIAL REPORTING (CAFR) AWARD TO WEST VALLEY CITY

City Manager, Wayne Pyle, stated David Muir, Utah Government Finance Officers Association (GFOA), had been scheduled to make a presentation of the Certificate of Achievement for Excellence in Financial Reporting (CAFR) award to West Valley City.

Mayor Winder recognized the Finance Director, Jim Welch, who introduced David Muir.

David Muir, Utah Government Finance Officers Association, addressed the City Council and expressed appreciation for his association with the City's Finance Director, Jim Welch. He discussed the award to be presented which was for fiscal year 2010 and gave background information regarding the CAFR that recognized municipalities who went beyond minimum requirements and especially in the area of transparency. He stated the award was also accompanied by individual awards to Don Groo, Chief Accountant, and the Accounting Division staff. He advised this was the 19th year West Valley City had earned and received the CAFR award.

Finance Director, Jim Welch, addressed the City Council and introduced Finance Department staff members in attendance at the meeting. He praised the staffs' efforts and teamwork to meet the national standards to receive this award.

The City Council applauded and congratulated the Finance Department on receiving the award.

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15657 **EAC QUARTERLY DIVISION AWARD – KIDZ CAMP PROGRAM, PARKS AND RECREATION DEPARTMENT**

Councilmember Huynh read the nomination of Kidz Camp Program, Parks and Recreation Department, to receive the EAC Quarterly Division award.

The City Council expressed appreciation and congratulated the Quarterly Division Award recipients.

15658 **COMMENT PERIOD**

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

April Hopkins addressed the City Council and expressed appreciation for consideration of passage of the ordinance to regulate massage establishments.

Ron Findlay addressed the City Council and stated he represented massage therapists and read about the proposed ordinance in the Tribune earlier this date. He advised of an e-mail he sent earlier in the day and submitted written information to the City Council. He stated verbiage of the City's ordinance was not in alignment with State codes nor a bill currently under consideration at the State legislature. He requested the City Council not vote on the proposed ordinance this night but rather wait to allow him time to give additional input in order that it would align with the proposed State bill. He discussed some of the terms and definitions in the City's proposed ordinance, which were not used anymore. He urged the Council not to vote on the proposed ordinance and suggested the Council or staff meet with members of the American Massage Association board.

Roger Olbrot addressed the City Council and stated he was a licensed massage therapist and president of the Utah Chapter of American Massage Association. He indicated the goal of the Association was to advance the art and science of massage. He made a request on behalf of the Association to give input regarding the proposed ordinance. He also stated they had worked with the State and Salt Lake County regarding similar proposals. He requested consideration to wait to vote until his group had input and could cooperatively work together with the City regarding this issue.

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

15659 **PUBLIC HEARING, ACCEPT PUBLIC INPUT REGARDING APPLICATION NO. S-11-2011, FILED BY WEST VALLEY CITY, REQUESTING TO VACATE LOTS 1-5 IN THE LEHMAN SUBDIVISION, LOT 6A OF THE AMENDED PLAT OF LEHMAN SUBDIVISION AND**

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LOTS 1-8 OF THE HOLMBERG SUBDIVISION AND THE VACATION OF A NUMBER OF EXISTING UTILITY EASEMENTS TO ACCOMMODATE THE FAIRBOURNE STATION PHASE 1 SUBDIVISION PLAT

Mr. Pyle indicated he distributed to the City Council a new draft of the proposed Ordinance and written information which had removed Lot 8-A from the original proposal during the study meeting earlier this date.

City Manager, Wayne Pyle, stated a public hearing had been advertised in order for the City Council to hear and consider public comments regarding Application No. S-11-2011, filed by West Valley City, requesting to vacate Lots 1-5 in the Lehman Subdivision, Lot 6A of the Amended Plat of Lehman Subdivision and Lots 1-8 of the Holmberg Subdivision and the vacation of a number of existing utility easements to accommodate the Fairbourne Station Phase 1 Subdivision Plat. He discussed proposed Ordinance No. 12-07 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. 12-07 which would approve the vacation of Lots 1-5 in the Lehman Subdivision, and Lot 6-A of the Amended Plat of Lehman Subdivision and Lots 1-8 of the Holmberg Subdivision along with all public utility easements recorded as part of those lots; and give Final Plat approval for the Fairbourne Station Phase 1 Subdivision.

Mr. Pyle stated the proposed subdivision had been requested in order to consolidate existing lots in the Lehman and Holmberg Subdivisions. He indicated these lots would be combined with various adjoining parcels to form the Fairbourne Station Subdivision. He explained that prior to the application, the City Council approved the vacation of 2870 West and 3550 South Streets. He stated the subject plat would vacate lots and public utility easement platted as part of the Lehman and Holmberg Subdivisions.

The City Manager reported the plat contained three lots and three parcels. He stated the platted lots would allow development of the Embassy Suites Hotel, UTA's park and ride lot, and ICO'S new housing project. He also stated the subdivision plat would provide additional right-of-way dedication along 3500 South, Market Street, and Lehman Avenue.

Mr. Pyle further explained there would be three remaining parcels. He advised Parcel A was located on the east side of Market Street and was actually part of the original right-of-way for that street. He indicated this piece would remain in City ownership but have an access easement for use by the commercial businesses fronting 2700 West. He explained Parcels B and C would be part of future development within the Fairbourne Station project.

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City Manager, Wayne Pyle, advised the subject subdivision was located in the City Center Zone. He stated to date, the City had approved the Embassy Suites Hotel and ICO's residential development.

Mayor Winder opened the public hearing. There being no one to speak either in favor or in opposition, Mayor Winder closed the public hearing.

ACTION: CONSIDER ORDINANCE NO. 12-07, APPROVING THE VACATION OF LOTS 1-5 IN THE LEHMAN SUBDIVISION, AND LOT 6-A OF THE AMENDED PLAT OF LEHMAN SUBDIVISION AND LOTS 1-8 OF THE HOLMBERG SUBDIVISION ALONG WITH ALL PUBLIC UTILITY EASEMENTS RECORDED AS PART OF THOSE LOTS; AND GIVE FINAL PLAT APPROVAL FOR THE FAIRBOURNE STATION PHASE 1 SUBDIVISION

The City Council previously held a public hearing regarding Application No. S-11-2011, filed by West Valley City, and proposed Ordinance No. 12-07 which would approve the vacation of Lots 1-5 in the Lehman Subdivision, and Lot 6-A of the Amended Plat of Lehman Subdivision and Lots 1-8 of the Holmberg Subdivision along with all public utility easements recorded as part of those lots; and give Final Plat approval for the Fairbourne Station Phase 1 Subdivision.

After discussion, Councilmember Vincent moved to approve Ordinance No. 12-07, an Ordinance Approving the Vacation of Lots 1-5 in the Lehman Subdivision, and Lot 6-A of the Amended Plat of Lehman Subdivision and Lots 1-8 of the Holmberg Subdivision Along With All Public Utility Easements Recorded as Part of Those Lots; and Give Final Plat Approval for the Fairbourne Station Phase 1 Subdivision. Councilmember Huynh 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.

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15660

ORDINANCE NO. 12-08, AMEND SECTIONS 17-7-101, 17-7-103 AND 17-7-104 AND ENACT SECTIONS 17-7-106, 17-7-107 AND 17-7-108 OF THE WEST VALLEY CITY MUNICIPAL CODE REGULATING MASSAGE ESTABLISHMENTS

City Manager, Wayne Pyle, presented proposed Ordinance No. 12-08 which would amend Sections 17-7-101, 17-7-103 and 17-7-104 and enact Sections 17-7-106, 17-7-107 and 17-7-108 of the West Valley City Municipal Code regulating massage establishments.

Mr. Pyle stated after examining issues related to massage establishments and considering how the uses impacted the health, safety and welfare of the City and the City's businesses and property owners, it had been recommended to update the existing ordinances to include additional regulations regarding definitions, prohibitions, operating hours, dress codes, and health and sanitation.

The City Manager reported Title 17, Chapter 7 of the West Valley City Code regarding massage establishments had been enacted March 19, 1992, with no updates since that time. He stated recently other cities in Salt Lake County had encountered massage establishments that might not meet the old definitions of massage establishments, specifically, reiki massage establishments. He explained the Utah State Legislature was currently considering a bill that would change the State Code definition of massage to include reiki and shiatsu.

City Manager, Wayne Pyle, expressed appreciation for those who had addressed the City Council and e-mails received expressing concerns regarding this issue. He stated the City's legal staff had previously been directed to further review the proposed ordinance for inconsistencies and concerns regarding current State law, however, that had been prior to the input and comments made from those in attendance at the meeting this night.

Upon direction, the City Attorney, Eric Bunderson, commented on the language submitted by Mr. Findlay earlier and stated there were no legal reasons the Council could not approve the proposed ordinance which would be, and was allowed to be, more restrictive than the State Code.

City Manager, Wayne Pyle, stated there was no urgency regarding the proposal and he had no concern if the Council desired to continue the matter for further discussion and/or review. He and the City Attorney answered additional questions from members of the City Council.

Upon discussion, Councilmember Buhler expressed the need for clarification of some of the language, terms and definitions in the proposal ordinance in order to

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be assured the ordinance was in line with new legislation. He suggested one section mandating dress code should be deleted from the proposed ordinance.

Upon inquiry by Councilmember Lang regarding massages in a dwelling or sleeping areas and how that would be regulated; the City Manager clarified the proposed ordinance would specifically regulate massage establishments, however, some language could be amended for further clarification.

Upon further discussion, Councilmember Vincent moved to continue proposed Ordinance No. 12-08 to the Regular Meeting of March 6, 2012, to allow time for staff to meet with representatives of the American Massage Association. Councilmember Rushton 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. Proposed Ordinance No. 12-08 continued.

15661

ORDINANCE NO. 12-09, ENACT CHAPTER 24-24 OF THE WEST VALLEY CITY MUNICIPAL CODE TO PROHIBIT SMOKING IN HOTELS WITH MORE THAN 160 GUEST ROOMS

City Manager, Wayne Pyle, presented proposed Ordinance No. 12-09 which would enact Chapter 24-24 of the West Valley City Municipal Code to prohibit smoking in hotels with more than 160 guest rooms.

Mr. Pyle stated regulation of smoking was vital for protection of public health. He also stated tobacco smoke in hotel guest rooms accelerated the deterioration of paint, carpet and linens and the odor traveled well beyond the guest room into non-smoking areas of the hotel. He advised that four to five star hotels prohibited smoking in guest rooms due to quality of the wall coverings, carpet and linens and for quality of the experience for all guests. He cited the example of smoking being prohibited in the guest rooms at the Grand America Hotel in Salt Lake City. He further advised implementation of the proposed ordinance would protect the public health as well as the quality and ambiance of the new Embassy Suites Hotel.

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After discussion, Councilmember Christensen moved to approve Ordinance No. 12-09, an Ordinance Enacting Chapter 24-24 of the West Valley City Municipal Code to Prohibit Smoking in Hotels With More Than 160 Guest Rooms. Councilmember Huynh 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.

15662

RESOLUTION NO. 12-20, ADOPT THE 2011 BIENNIAL REPORT OF PROGRESS MADE ON THE MODERATE INCOME HOUSING PLAN

City Manager, Wayne Pyle, presented proposed Resolution No. 12-20 which would adopt the 2011 Biennial Report of progress made on the Moderate Income Housing Plan.

Mr. Pyle stated the 2011 Biennial Report of progress made on the Moderate Income Housing Plan was required by State law. He advised the Utah Code Section 10-9a-408 required the legislative body of each city to biennially prepare a report outlining their review of the Moderate Income Housing Plan which must include a description as follows:

1. Efforts made by the City to reduce, mitigate, or eliminate local regulatory barriers to moderate income housing;
2. Actions taken by the City to encourage preservation of existing moderate income housing and development of new moderate income housing;
3. Progress made within the City to provide moderate income housing, as measured by permits issued for new units of moderate income housing; and
4. Efforts made by the City to coordinate moderate income housing plans and actions with neighboring municipalities.

After discussion, Councilmember Buhler moved to approve Resolution No. 12-20, a Resolution Adopting the 2011 Biennial Report of Progress Made on the Moderate Income Housing Plan. Councilmember Christensen seconded the motion.

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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.

15663

RESOLUTION NO. 12-21, AUTHORIZE AN INCREASE IN THE CONTRACT AMOUNT OF THE CONTRACT WITH WADMAN CORPORATION FOR CONSTRUCTION OF THE FAIRBOURNE STATION PROMENADE / PLAZA PROJECT AND APPROVAL OF CHANGE ORDERS RELATED THERETO

City Manager, Wayne Pyle, presented proposed Resolution No. 12-21 which would authorize an increase in the contract amount of the contract with Wadman Corporation for construction of the Fairbourne Station Promenade / Plaza Project and approval of change orders related thereto.

Mr. Pyle stated the proposal would authorize Change Order Nos. 5, 6, 7, 8, 9, 10 and 11 to the contract with Wadman Corporation for construction of the Promenade / Plaza Site Improvements Project at 2940 West Lehman Avenue. He advised change orders for a project of this size was not uncommon due to costs associated with work around unknown existing utilities, and/or costs to remove or work around unknown abandoned utility infrastructure, unknown property conditions, and impacts of surrounding construction. He indicated the proposal would approve the change orders as well as increase the original contract price to accommodate potential change orders in the future.

The City Manager discussed detailed information and amounts relating to the proposed change orders, summarized as follows:

Change Orders 1-4:	(de minimis amount pursuant to the West Valley City Purchasing Code)
Change Order 5:	\$11,680 - cost of generator pump to de-water main vault excavation
Change Order 6:	\$29,190 - installation of phone conduit
Change Order 7:	\$7,000 - water line rerouted around storm drain
Change Order 8:	\$23,709 - adjustment of stage design to accommodate wheelchair ramp, architectural

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services to lower equipment vault 18-inches below stage and de-water deeper excavation

Change Order 9: \$19,841 - routing of power service to UTA parking lot from Promenade (not included in original plans)

Change Order 10: \$6,111 - boring under light rail track to supply power to Promenade

Change Order 11: \$4,837 - installation of power conduit from UTA Bus Hub to Plaza transformer location

After discussion, Councilmember Huynh moved to approve Resolution No. 12-21, a Resolution Authorizing an Increase in the Contract Amount of the Contract With Wadman Corporation for the Construction of the Fairbourne Station Promenade / Plaza Project and Approve Change Orders Related Thereto. Councilmember Christensen 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.

15664

RESOLUTION NO. 12-22, APPROVE AN EASEMENT ENCROACHMENT AGREEMENT WITH KERN RIVER GAS TRANSMISSION COMPANY FOR PROPERTY AT WEST RIDGE GOLF COURSE

City Manager, Wayne Pyle, presented proposed Resolution No. 12-22 which would approve an Easement Encroachment Agreement with Kern River Gas Transmission Company for property at West Ridge Golf Course.

Mr. Pyle stated the City had granted an easement in 2002 to Kern River for a natural gas pipeline across West Ridge Golf Course. He further stated the proposed agreement would allow the City to encroach on Kern River's easement in order to maintain improvements installed during reconstruction of West Ridge Golf Course.

The City Manager advised an easement was a proprietary interest that ran over property owned by someone other than the owner of the easement. He explained

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West Valley City owned the property and Kern River owned an easement across it.

Mr. Pyle reported West Valley City's contractor for construction of improvements on the West Ridge Golf Course had a separate agreement with Kern River to build on the pipeline easement. He stated the agreement between West Valley City and Kern River allowed the City to maintain those improvements within the Kern River easement once construction was completed.

After discussion, Councilmember Rushton moved to approve Resolution No. 12-22, a Resolution Approving an Easement Encroachment Agreement with Kern River Gas Transmission Company for Property at West Ridge Golf Course. 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.

15665

RESOLUTION NO. 12-23, APPROVE AN AGREEMENT BETWEEN WEST VALLEY CITY AND JEROLD MCPHEE TO PROVIDE ADMINISTRATIVE LAW JUDGE SERVICES TO WEST VALLEY CITY

City Manager, Wayne Pyle, presented proposed Resolution No. 12-23 which would approve an Agreement between West Valley City and Jerold McPhee to provide administrative law judge services to West Valley City.

Mr. Pyle stated the proposed contract would award a non-exclusive one year term to Jerold McPhee to be an Administrative Law Judge (ALJ) for West Valley City. He advised the contract set forth the duties to include all Administrative Code Enforcement (ACE) hearings, parking tickets and other matters as assigned by the West Valley City Administration. He further stated the contract would allow for the City to dismiss Mr. McPhee for cause and either side to rescind the contract with 30 days' written notice. He reported the rate of pay would be \$40.40 per hour and the contract did not guarantee a minimum number of hours or any exclusivity.

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The City Manager discussed Mr. McPhee's experience as an Administrative Law Judge for South Salt Lake City and also advised he had many years' experience as a licensed attorney in the State of Utah. He indicated Mr. McPhee also had served several years in the United States Army as a Reserve JAG Officer.

After discussion, Councilmember Lang moved to approve Resolution No. 12-23, a Resolution Authorizing the Execution of an Agreement between West Valley City and Jerold McPhee to Provide Administrative Law Judge Services to West Valley 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.

THERE BEING NO FURTHER BUSINESS OF THE WEST VALLEY CITY COUNCIL, THE REGULAR MEETING OF TUESDAY, FEBRUARY 21, 2012, WAS ADJOURNED AT 7:06 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, February 21, 2012.

Sheri McKendrick, MMC
City Recorder