

MINUTES OF REGULAR MEETING – AUGUST 28, 2012

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THE WEST VALLEY CITY COUNCIL MET IN REGULAR SESSION ON TUESDAY, AUGUST 28, 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 PRO TEM RUSHTON.

THE FOLLOWING MEMBERS WERE PRESENT:

Corey Rushton
Steve Buhler
Don Christensen
Tom Huynh
Steve Vincent

Wayne Pyle, City Manager
Sheri McKendrick, City Recorder

ABSENT: Karen Lang
Mike Winder

STAFF PRESENT:

Eric Bunderson, City Attorney
Jim Welch, Finance Director
Layne Morris, CPD Director
Kevin Astill, Parks and Recreation Director
John Evans, Fire Chief
Mike Wells, Acting Police Chief
Steve Pastorik, Acting CED Director
Aaron Crim, Administration
Jake Arslanian, Public Works Department

15865 **OPEN CEREMONY**
The Opening Ceremony was conducted by Corey Rushton who read a short story and then led the Pledge of Allegiance to the Flag.

15866 **APPROVAL OF MINUTES OF REGULAR MEETING HELD AUGUST 14, 2012**
The City Council read and considered Minutes of the Regular Meeting held August 14, 2012. There were no changes, corrections or deletions.

After discussion, Councilmember Christensen moved to approve the Minutes of the Regular Meeting held August 14, 2012, as written. Councilmember Buhler seconded the motion.

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A roll call vote was taken:

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|-----------------------|-----|
| Mr. Vincent | Yes |
| Mr. Buhler | Yes |
| Mr. Huynh | Yes |
| Mr. Christensen | Yes |
| Mayor Pro Tem Rushton | Yes |

Unanimous.

15867

COMMENT PERIOD

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

Sale Tapiosa addressed the City Council. Mr. Tapiosa stated he had come to solicit help and to inform the Council there was flooding from the canal on 4800 West from 3100 South to 3500 South. He also stated his house had been flooded on August 12th and he had met with city engineers and canal representatives. He indicated he did not know who was responsible for the damages to his home.

15868

PUBLIC HEARING, ACCEPT PUBLIC INPUT REGARDING APPLICATION NO. ZT-1-2012, FILED BY WEST VALLEY CITY, REQUESTING A ZONE TEXT CHANGE TO REPEAL CHAPTER 7-26 OF THE WEST VALLEY CITY MUNICIPAL CODE, TRANSFER OF DEVELOPMENT RIGHTS OVERLAY ZONE

City Manager, Wayne Pyle, stated a public hearing had been in order for the City Council to accept public input regarding Application No. ZT-1-2012, filed by West Valley City, requesting a zone text change to repeal Chapter 7-26 of the West Valley City Municipal Code, Transfer of Development Rights Overlay Zone. He discussed proposed Ordinance No. 12-35 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. 12-35 which would repeal Chapter 7-26 of the West Valley City Municipal Code, Land Use Development and Management Act, regarding transfer of development rights in the TDR Overlay Zone.

Mr. Pyle stated the TDR ordinance allowed development rights to be transferred from a sending area, an area being preserved, to a receiving area or an area where development was appropriate. He indicated the ordinance had first been adopted in 2000 and amended in 2001 and 2007. He discussed five reasons the ordinance should be repealed, summarized as follows:

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1. The purposes of the ordinance had been accomplished to a certain degree;
2. Remaining property owners within the sending area planned on developing their land instead of preserving their land as open space through transferring development rights;
3. Changing conditions within the sending area made open space preservation less likely and less desirable;
4. Given the current recession the economics of the system were, in staffs' opinion, no longer viable;
5. When balancing the practicality and fairness of the development requirements imposed on development, it was believed all of the other requirements imposed on development TDR, under current market conditions, could make development very difficult if not impractical.

Mayor Pro Tem Rushton opened the public hearing.

Dana Scott Day, 6692 W. Hunter Crest Circle, addressed the City Council. Mr. Day stated that after receiving a letter, he discussed this issue with City staff; but did not attend the Planning Commission meeting. He indicated in his opinion if the area was industrialized it would lower property values in his neighborhood. He advised he objected to the entire idea and wanted it to stay as wetlands.

At request of the City Council and upon direction by the City Manager, the Acting CED Director, Steve Pastorik, reviewed the proposal and displayed a map showing the specific area in which 46 acres owned by the City would remain as wetlands. He also advised the proposal would not change zoning, only the amount of land designated as open space.

Brent Rushton, 5194 West 4100 South, addressed the City Council. Mr. Rushton stated he represented the owner of the largest parcel of the subject property, who was in support of all actions scheduled for consideration by the Council.

Mike Markham, 3008 Alice Circle, addressed the City Council and requested clarification of why parcel lines were not "squared up."

City Manager, Wayne Pyle, stated the property owned by West Valley City had been acquired parcel-by-parcel, and had it had not been possible to acquire all parcels in the area.

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

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ACTION: CONSIDER ORDINANCE NO. 12-35, REPEALING CHAPTER 7-26 OF THE WEST VALLEY CITY MUNICIPAL CODE, LAND USE DEVELOPMENT AND MANAGEMENT ACT, REGARDING TRANSFER OF DEVELOPMENT RIGHTS IN THE TDR OVERLAY ZONE

The City Council previously held a public hearing regarding Application No. ZT-1-2012, filed by West Valley City, and proposed Ordinance No. 12-35 which would repeal Chapter 7-26 of the West Valley City Municipal Code, Land Use Development and Management Act, regarding transfer of development rights in the TDR Overlay Zone.

After discussion, Councilmember Vincent moved to approve Ordinance No. 12-35, an Ordinance Repealing Chapter 26 of the West Valley Municipal Code, Land Use Development and Management Act, Regarding Transfer of Development Rights in the TDR Overlay Zone. Councilmember Huynh seconded the motion.

A roll call vote was taken:

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| Mr. Vincent | Yes |
| Mr. Buhler | Yes |
| Mr. Huynh | Yes |
| Mr. Christensen | Yes |
| Mayor Pro Tem Rushton | Yes |

Unanimous.

15869

PUBLIC HEARING, ACCEPT PUBLIC INPUT REGARDING APPLICATION NO. GPZ-1-2012, FILED BY WEST VALLEY CITY, REQUESTING TO REDUCE THE OPEN SPACE PRESERVATION AREA ALONG THE RITER CANAL BETWEEN 6800 WEST AND 6000 WEST AND BETWEEN 2400 SOUTH AND PARKWAY BOULEVARD, FROM APPROXIMATELY 160 ACRES TO APPROXIMATELY 46 ACRES AND TO REMOVE THE TDR-S OVERLAY ZONE FROM THE ZONING MAP

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. GPZ-1-2012, filed by West Valley City, requesting to reduce the open space preservation area along the Riter Canal between 6800 West and 6000 West and between 2400 South and Parkway Boulevard, from approximately 160 acres to approximately 46 acres and to remove the TDR-S Overlay Zone from the Zoning Map. He discussed proposed Ordinance No. 12-36 and proposed Ordinance No. 12-37 related to the Application to be considered by the City Council subsequent to the public hearing, as follows:

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City Manager, Wayne Pyle, presented proposed Ordinance No. 12-36 which would amend the General Plan to reduce the open space preservation area along the Riter Canal; and proposed Ordinance No. 12-37 which would amend the Zoning Map to remove the TDR-S Overlay Zone, for property located between 6800 West and 6000 West and between 2400 South and Parkway Boulevard from approximately 160 acres to approximately 46 acres.

Mr. Pyle stated the subject property was currently zoned a combination of 'A' (Agriculture, Minimum Lot Size of ½ Acre) and 'A-1' (Agriculture, Minimum Lot Size of One Acre) and included the TDR-S Overlay Zone. He also stated the General Plan designation for this area was Rural Residential (one to two units per acre) and Light Manufacturing. He further informed the General Plan also included an open space preservation overlay for the area. He reiterated the proposed General Plan change would reduce the open space preservation overlay from approximately 160 acres to 46 acres and remove the TDR-S Overlay Zone.

The City Manager reported reasons for the reduction of the open space preservation area in the General Plan, summarized as follows:

- The 46 acres that would remain within the open space preservation area had been acquired by the City.
- The City Council recently authorized a study to evaluate the potential of forming a large Economic Development Area (EDA) in the northwest portion of the City. He indicated EDA's allowed the City to utilize tax increment to provide incentives to attract new employment. He advised that if the EDA was approved it would encompass most of the TDR sending site.
- The City's Economic Development staff had been working on two large, light industrial developments to the southwest and northeast of Rocky Mountain Raceway. To provide better access to those anticipated developments the City would be making improvements to the south frontage road and extending 6400 West to the north to connect with the frontage road. The anticipated light industrial development, together with the planned road improvements, would make development within the sending area much more likely.
- Owners of about 107 acres of the area designated as open space preservation intended to develop their property and did not desire to participate in the TDR ordinance.
- Part of the purpose behind the open space preservation area was to preserve land for storm water detention needs. The 46 acres of property acquired by the City would be sufficient to meet storm water detention needs of the area.

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- Another purpose of an open space preservation area would be to preserve what was considered wetlands at the time. During the mid to late 1990's the City had commissioned a general wetlands study to identify wetlands within the northwest portion of the City. Since that study had been completed, there were several site specific studies conducted showing that either the wetlands delineated in the study were no longer deemed wetlands, or that the area of the wetlands was less than what had been shown in the City study. Also, as discussed by the City Council at a meeting held July 3, 2012, recent case law had limited the scope of what were considered as "wetlands."
- City staff had received a letter from Brent Rushton (provided in the Council informational packets) that outlined his reasons for removing both the TDR-S Overlay Zone and the open space designation in the General Plan from his family's property.

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

ACTION: CONSIDER ORDINANCE NO. 12-36, AMENDING THE GENERAL PLAN TO REDUCE THE OPEN SPACE PRESERVATION AREA ALONG THE RITER CANAL BETWEEN 6800 WEST AND 6000 WEST AND BETWEEN 2400 SOUTH AND PARKWAY BOULEVARD FROM APPROXIMATELY 160 ACRES TO APPROXIMATELY 46 ACRES

The City Council previously held a public hearing regarding Application No. GPZ-1-2012, filed by West Valley City, and proposed Ordinance No. 12-36 which would amend the General Plan to reduce the open space preservation area along the Riter Canal between 6800 West and 6000 West and between 2400 South and Parkway Boulevard, from approximately 160 acres to approximately 46 acres.

After discussion, Councilmember Huynh moved to approve Ordinance No. 12-36, an Ordinance Amending the General Plan to Reduce the Open Space Preservation Area Along the Riter Canal Between 6800 West and 6000 West and Between 2400 South and Parkway Boulevard from Approximately 160 Acres to Approximately 46 Acres. Councilmember Buhler seconded the motion.

A roll call vote was taken:

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| Mr. Vincent | Yes |
| Mr. Buhler | Yes |
| Mr. Huynh | Yes |

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| Mr. Christensen | Yes |
| Mayor Pro Tem Rushton | Yes |

Unanimous.

ACTION: CONSIDER ORDINANCE NO. 12-37, AMENDING THE ZONING MAP TO REMOVE THE TDR-S OVERLAY ZONE

The City Council previously held a public hearing regarding Application No. GPZ-1-2012, filed by West Valley City, and subsequently approved Ordinance No. 12-36 which amended the General Plan to reduce the open space preservation area along the Riter Canal between 6800 West and 6000 West and between 2400 South and Parkway Boulevard, from approximately 160 acres to approximately 46 acres. The City Council considered proposed Ordinance No. 12-37 which would amend the Zoning Map to remove the TDR-S Overlay Zone.

After discussion, Councilmember Christensen moved to approve Ordinance No. 12-37, an Ordinance Amending the Zoning Map to Remove the TDR-S Overlay Zone. Councilmember Huynh seconded the motion.

A roll call vote was taken:

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| Mr. Vincent | Yes |
| Mr. Buhler | Yes |
| Mr. Huynh | Yes |
| Mr. Christensen | Yes |
| Mayor Pro Tem Rushton | Yes |

Unanimous.

15870

RESOLUTION NO. 12-127, APPROVE AN AGREEMENT WITH KEDDINGTON & CHRISTENSEN, CERTIFIED PUBLIC ACCOUNTANTS, LLC, TO PROVIDE AUDITING SERVICES TO WEST VALLEY CITY

City Manager, Wayne Pyle, presented proposed Resolution No. 12-127 which would approve an Agreement with Keddington & Christensen, Certified Public Accounts, LLC, in the amount of \$76,384.00, to provide auditing services to West Valley City.

Mr. Pyle stated West Valley City was required by law to engage an independent audit firm to audit the City's financial operations. He also stated Keddington & Christensen auditors had demonstrated experience and proficiency in municipal audits and knowledge of City operations. He indicated the audit would be conducted in accordance with auditing standards generally accepted in the United States of America, the standards for financial audits contained in the Government

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Auditing Standards issued by the Comptroller General of the United States. He explained Keddington & Christensen had provided audit services for the City in the past and had the technical expertise to evaluate and review all aspects of the City's complex operations.

After discussion, Councilmember Buhler moved to approve Resolution No. 12-127, a Resolution Authorizing the Execution of an Agreement between West Valley City and Keddington & Christensen, Certified Public Accountants, LLC, to Provide Auditing Services to West Valley City. Councilmember Vincent seconded the motion.

A roll call vote was taken:

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| Mr. Vincent | Yes |
| Mr. Buhler | Yes |
| Mr. Huynh | Yes |
| Mr. Christensen | Yes |
| Mayor Pro Tem Rushton | Yes |

Unanimous.

15871

RESOLUTION NO. 12-128, APPROVE AN AGREEMENT WITH MELINDA CHECKETTS HIBBERT TO PROVIDE ADMINISTRATIVE LAW JUDGE SERVICES TO WEST VALLEY CITY

City Manager, Wayne Pyle, presented proposed Resolution No. 12-128 which would approve an Agreement with Melinda Checketts Hibbert, at a rate of \$45.00 per hour, to provide Administrative Law Judge (ALJ) services to West Valley City.

Mr. Pyle stated the subject contract would award a non-exclusive one year term to Melinda Checketts Hibbert to be an ALJ for West Valley City. He reported the contract set forth the duties to include all Administrative Code Enforcement (ACE) hearings, and parking tickets and other matters as assigned by the West Valley City Administration. He explained the contract allowed for the City to dismiss Ms. Hibbert for cause and either party to rescind the contract with 30 days written notice. He also advised the rate of pay and contract did not guarantee a minimum number of hours or any exclusivity. He stated Ms. Hibbert had several years of experience as a licensed attorney in the State of Utah.

After discussion, Councilmember Vincent moved to approve Resolution No. 12-128, a Resolution Authorizing the Execution of an Agreement between West Valley City and Melinda Checketts Hibbert to Provide Administrative Law Judge Services to West Valley City. Councilmember Christensen seconded the motion.

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A roll call vote was taken:

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|-----------------------|-----|
| Mr. Vincent | Yes |
| Mr. Buhler | Yes |
| Mr. Huynh | Yes |
| Mr. Christensen | Yes |
| Mayor Pro Tem Rushton | Yes |

Unanimous.

15872

RESOLUTION NO. 12-129, ACCEPT A DEDICATION FROM THE UTAH TRANSIT AUTHORITY (UTA) FOR PORTIONS OF MARKET STREET AND LEHMAN AVENUE

City Manager, Wayne Pyle, presented proposed Resolution No. 12-129 which would accept a dedication from the Utah Transit Authority (UTA) for portions of Market Street and Lehman Avenue.

Mr. Pyle stated as part of the continued progress of Fairbourne Station the City recently reconstructed Lehman Avenue. He indicated reconstruction of Lehman Avenue included a park-strip and sidewalk on the north side of the street. He explained that prior to reconstruction of Lehman Avenue there was no park-strip on the south side of UTA's park and ride lot. The right-of-way dedication along Lehman Avenue provided the space needed to accommodate a park-strip and sidewalk as illustrated in a drawing provided to the City Council.

The City Manager reported the City would shortly construct the north half of Market Street which would include a 6-foot park-strip and 10-foot sidewalk along the west side of that street. Along the east side of UTA's park and ride lot there was currently a 6-foot sidewalk with no park-strip. He indicated the right-of-way dedication on Market Street provided the space needed to transition the 10-foot sidewalk that was set back 6-feet from the curb to a 6-foot sidewalk at the back of the curb, as illustrated in a drawing previously provided to the City Council.

After discussion, Councilmember Christensen moved to approve Resolution No. 12-129, a Resolution Authorizing the City to Accept a Dedication from the Utah Transit Authority for Portions of Market Street and Lehman Avenue. Councilmember Buhler seconded the motion.

A roll call vote was taken:

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|-----------------|-----|
| Mr. Vincent | Yes |
| Mr. Buhler | Yes |
| Mr. Huynh | Yes |
| Mr. Christensen | Yes |

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Mayor Pro Tem Rushton Yes

Unanimous.

THERE BEING NO FURTHER BUSINESS OF THE WEST VALLEY COUNCIL, THE REGULAR MEETING OF TUESDAY, AUGUST 28, 2012, WAS ADJOURNED AT 7:02 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, August 28, 2012.

Sheri McKendrick, MMC
City Recorder