

MINUTES OF COUNCIL REGULAR MEETING – MAY 5, 2009

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THE CITY COUNCIL MET IN REGULAR SESSION ON TUESDAY, MAY 5 2009, AT 6:35 P.M., IN THE COUNCIL CHAMBERS, WEST VALLEY CITY HALL, 3600 CONSTITUTION BOULEVARD, WEST VALLEY CITY, UTAH. THE MEETING WAS CALLED TO ORDER BY MAYOR NORDFELT.

THE FOLLOWING MEMBERS WERE PRESENT:

Dennis J. Nordfelt
Russ Brooks
Carolynn Burt
Joel Coleman
Corey Rushton
Steve Vincent
Mike Winder

Paul Isaac, Acting City Manager
Sheri McKendrick, City Recorder

STAFF PRESENT:

Richard Catten, City Attorney
Kevin Astill, Parks and Recreation Director
John Evans, Fire Chief
Russell Willardson, Public Works Director
Jim Welch, Finance Director
Layne Morris, Community Preservation Director
Steve Pastorik, Acting CED Director
Aaron Crim, Administration
Owen Jackson, Administration
Jake Arslanian, Public Works Department

14517

OPENING CEREMONY

The Opening Ceremony was conducted by Russ Brooks who stated he recently had come in contact with students who commented positively regarding City staff members with whom they had come in contact.

14518

APPROVAL OF MINUTES OF REGULAR MEETING HELD APRIL 21, 2009

The Council read and considered the Minutes of the Regular Meeting held April 21, 2009. There were no changes, corrections or deletions.

After discussion, Councilmember Coleman moved to approve the Minutes of the Regular Meeting held April 21, 2009, as written. Councilmember Brooks seconded the motion.

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A roll call vote was taken:

Mr. Vincent	Yes
Mr. Brooks	Yes
Mr. Coleman	Yes
Ms. Burt	Yes
Mr. Winder	Yes
Mr. Rushton	Yes
Mayor Nordfelt	Yes

Unanimous.

14519 **PROCLAMATION DECLARING MAY 4 – MAY 10, 2009, AS *PUBLIC SERVICE RECOGNITION WEEK IN WEST VALLEY CITY***
Councilmember Burt read a Proclamation declaring May 4 – May 10, 2009, as *Public Service Recognition Week* in West Valley City.

14520 **COMMENT PERIOD**
Upon inquiry by Mayor Nordfelt, the following individuals addressed the City Council during the Comment Period:

Alvin Ferrin, 4702 West Harman Drive, and president of the 4800 West Water Users Association, addressed the City Council. Mr. Ferrin stated he had worked with the City since incorporation and he discussed issues and concerns regarding irrigation. He also expressed a continued desire to work with City staff regarding various issues.

Eleanor Ferrin, 4702 West Harman Drive, addressed the City Council. Ms. Ferrin stated code enforcement officers had asked residents to do things on the street that would cause problems, including the cost of not having gravel in driveways. She expressed concern with the financial burden this would cause.

Sue Turely, 4714 West Harman Drive, addressed the City Council. Ms. Turely informed that code enforcement officers had been in her neighborhood writing citations. Ms. Turley indicated she was not rich and could not afford to install cement, but could maintain gravel and keep it weed free. She also stated officers had not been nice or kind to the residents. She discussed ordinances regarding chickens and stated there were no problems with them and would like that issue to be considered by the City Council as there would be less issues with chickens than with dogs and cats.

Bill Barton, 4084 West 3860 South, with the Lions Club, addressed the City Council. Mr. Barton stated he desired to make the first public announcement

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regarding a new project for West Valley City, a Memorial Day event and tribute to veterans. His wife, Karen, and a member of the Lions Club, Phil Conder, displayed a poster. Mr. Barton discussed details of the event to be held on Memorial Day at the Utah Cultural Celebration Center (UCCC) facility. He thanked the civic minded businesses participating in the event and distributed posters to the City Council as a reminder. He also invited members of the Council to attend the event.

Wayne Hovey, 4695 West Harman Drive, addressed the City Council. Mr. Hovey expressed concerns with the driveway issues, including a citation received from Officer Young. He discussed deadlines given by the officer and the wet weather conditions of the past couple of weeks which had prohibited him from coming into compliance. He advised he had contacted the officer who had not been willing to give him the time needed to finish the project. He advised he did not presently have the money to replace his driveway with concrete.

Michael Hovey, 4705 West 3650 South, addressed the City Council. Mr. Hovey stated he had spent time at his father's home trying to help him with repairs. He also stated some laws did not seem to be enforceable. He indicated he lived on a side of the street without curb and gutter and the blacktop driveway was long since gone. He stated he was now looking at putting in a double wide concrete driveway to meet the requirements. He also discussed concerns with the Council dictating what he did to his property. He inquired regarding property owner rights and if the ordinance requirements were only for aesthetic purposes. He indicated the City should not tell him to spend money on his property and he could not afford to make changes to his property.

Mike Markham, 3008 Alice Circle, addressed the City Council. Mr. Markham stated he supported the no gravel driveway ordinance and parking should not be allowed on two inches of gravel. He also stated photographs displayed in a recent Council Study Meeting reflected reasons why the City had moved in the direction of requiring solid surface driveways. He indicated if more people would keep weeds out of gravel there would not been this current problem. He encouraged the City to stay with the June 2010, deadline as in the current ordinance. He stated the City's image needed improvement in a positive way and the ordinance moved the City forward to make that positive progress.

Josh Ertmann, 3624 S. Joycelyn Circle, addressed the City Council. Mr. Ertmann stated he could not afford asphalt in his yard. He also stated he had lived in West Valley his whole life and now contemplated leaving because of the ridiculous rules. He indicated the City had problems such as crimes and gangs that needed to be addressed and should not focus on whether someone had a gravel driveway. He also indicated this City was affordable, but these laws would push people out. He discussed the bad economy and stated people did not have jobs so they could

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not afford the cost of concrete. He indicated a safe community was more important for families, not nice driveways. Mr. Ertmann stated he desired things to change for the better in order to be proud to be from West Valley City.

Steve Fisher, 3828 W. Kathleen Avenue, addressed the City Council. Mr. Fisher stated he had attended the Council Study Meeting held earlier and had also attended the previous Regular Council Meeting. He expressed pleasure with Councilmember Brook's comments regarding gravel and the ability to park on it if desired. He stated his home was well maintained and had won the City's Clean and Beautiful award three years in a row. He indicated his neighbors had paid off their home several years previous and they had been cited for parking on dirt. He stated he felt bad about that, but understood what the City was attempting to do. He also discussed a home with three families living in it and stated the yard looked like a parking lot because of so many cars. He indicated other neighbors could not put in concrete so two inches of gravel should be sufficient for parking. He stated a well maintained gravel park strip should be allowed.

Scott Warr, 3154 South 3600 West, addressed the City Council. Mr. Warr stated his driveway was paved, but there was no concrete when he moved into it many years ago. He indicated he had lived with dirt for many years until he could afford to make improvements. He further indicated he believed as the City Council stepped beyond the role of government they stepped into private lives of residents with the subject ordinance. He explained a person should not be told to install concrete. He stated aesthetically pleasing was in the eye of the beholder and the City had no right to tell a property owner what they could or could not do on their property. He indicated he understood the Council's attempt to make things better, but the Council should consider if they were crossing boundaries. He indicated he thought the Council had gone too far and did too much with the subject ordinance. He explained he had spent a lot of time in Council meetings and listened, and disagreed at one time or another, but the Council surprised and pleased him with their desire to do what was right. He stated hopefully input from citizens would assist with future consideration of the subject ordinance.

14521

PUBLIC HEARING, APPLICATION NO. S-4-2009, FILED BY RANDY TOUSLEY, REQUESTING AN AMENDMENT TO THE TOUSLEY SUBDIVISION LOCATED AT 3244 SOUTH 3600 WEST

Acting City Manager, Paul Isaac, stated a public hearing had been advertised in order for the City Council to hear and consider public comments regarding Application No. S-4-2009, filed by Randy Tousley, requesting an amendment to the Tousley Subdivision located at 3244 South 3600 West. He discussed proposed Ordinance No. 09-10 related to the Application to be considered by the City Council subsequent to the public hearing, as follows:

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Acting City Manager, Paul Isaac, presented proposed Ordinance No. 09-10 which would approve the Amendment of Lot 3 of the Tousley Subdivision located at 3244 South 3600 West.

Mr. Isaac stated the Tousley Subdivision had been recorded with the Salt Lake County Recorder's Office in November of 2008. He further stated Lots 1, 2 and 4 each contained a single building comprised of four units each. He indicated the Tousleys were currently constructing a new building on Lot 3 which was comprised of six units. He stated the new building had originally been planned to be rented. He further indicated Mr. Tousley desired to establish the building as a townhome in order to market units for home ownership. He stated in order to accomplish that; the subdivision would need to be amended to create individual units.

The Acting City Manager reported the proposed subdivision would amend the original plat by creating townhome units for the new building presently under construction. He stated townhome units would be created for the new building only, while the existing buildings would continue to be apartment units for rent.

Mr. Isaac further reported as part of the subdivision amendment, areas denoting common, limited common and private spaces would be introduced. He stated these areas were for the protection of home buyers as well as those who presently lived in this development. He indicated Mr. Tousley would also be required to prepare a declaration for this project along with CCR's. He also indicated this would be done prior to plat recordation.

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

As the Applicant was in attendance, Mayor Nordfelt allowed him to address the Council.

Randy Tousely, Applicant, addressed the Council, discussed reasons for the proposed amendment and requested approval of the application.

ACTION: ORDINANCE NO. 09-10, APPROVING THE AMENDMENT OF LOT 3 OF THE TOUSLEY SUBDIVISION

The Council previously held a public hearing regarding Application No. S-4-2009, filed by Randy Tousley, and proposed Ordinance No. 09-10 which would approve the amendment of Lot 3 of the Tousley Subdivision located at 3244 South 3600 West.

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After discussion, Councilmember Coleman moved to approve Ordinance No. 09-10, an Ordinance Approving the Amendment of Lot 3 of the Tousley Subdivision. Councilmember Vincent seconded the motion.

A roll call vote was taken:

Mr. Vincent	Yes
Mr. Brooks	Yes
Mr. Coleman	Yes
Ms. Burt	Yes
Mr. Winder	Yes
Mr. Rushton	Yes
Mayor Nordfelt	Yes

Unanimous.

14522

ORDINANCE NO. 09-11, AMEND SECTIONS 18-5-103 AND 18-5-303 OF TITLE 18 OF THE WEST VALLEY CITY MUNICIPAL CODE REGARDING STORM WATER MANAGEMENT

Acting City Manager, Paul Isaac, presented proposed Ordinance No. 09-11 which would amend Sections 18-5-103 and 18-5-303 of Title 18 of the West Valley City Municipal Code regarding Storm Water Management.

Mr. Isaac stated the proposed ordinance would allow new developments, approved by the Engineering Division, to implement low impact development (LID) storm water control measures in lieu of connecting to the storm drainage system.

The Acting City Manager indicated the current Storm Water Management Ordinance would require all new developments to connect to the storm drainage system, provided there was a system available in the area. He further indicated this requirement had been proposed to eliminate unsightly retention basins.

Acting City Manager, Paul Isaac, stated the State Department of Environmental Quality and Blueprint Jordan River were now encouraging the use of LID storm water management strategies to mitigate the impacts of increased runoff and storm water pollution. He indicated LID comprised design approaches and small scale storm water management practices that promoted use of natural systems for infiltration and evapotranspiration. He stated other site factors to be considered included soil permeability, water table levels and water source protection zones within the City.

Mr. Isaac advised this change would be the beginning of a major shift in policy, from disposing of storm water quickly using curbs and gutters, catch basins, and

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storm drains; to applying low impact development principles which emulated functions of natural systems to reintegrate rainfall into the water cycle. This initial, minor revision to the ordinance would allow exceptions to the current storm drain connection requirement. He stated a broader revision to the ordinance would follow reflecting the change in policy and would encourage use of low impact development for the control of excess storm water.

After discussion, Councilmember Coleman moved to approve Ordinance No. 09-11, an Ordinance Amending Sections 18-5-103 and 18-5-303 of Title 18 of the West Valley City Municipal Code Regarding the Storm Water Management. Councilmember Winder seconded the motion.

A roll call vote was taken:

Mr. Vincent	Yes
Mr. Brooks	Yes
Mr. Coleman	Yes
Ms. Burt	Yes
Mr. Winder	Yes
Mr. Rushton	Yes
Mayor Nordfelt	Yes

Unanimous.

14523

ORDINANCE NO. 09-12, ENACT CHAPTER 9 OF TITLE 21 OF THE WEST VALLEY CITY MUNICIPAL CODE TO ENACT AN ORDINANCE DEFINING GAMBLING AND MAKING GAMBLING UNLAWFUL IN WEST VALLEY CITY

Acting City Manager, Paul Isaac, presented proposed Ordinance No. 09-12 which would enact Chapter 9 of Title 21 of the West Valley City Municipal Code to enact an ordinance defining gambling and making gambling unlawful in West Valley City.

Mr. Isaac stated the Utah Constitution prohibited lotteries, games of chance, or gift enterprises, in essence gambling. He also stated the Utah Legislature had recently expanded the definition of gambling, however, the new law did not go into effect until April 1, 2010. He indicated West Valley City did not currently have a gambling ordinance and would like to adopt the expanded definition of gambling before the new state law went into effect.

The Acting City Manager reported West Valley City had historically used the Utah Code to enforce gambling within its boundaries and would like to include the new changes within the jurisdiction before April 1, 2010.

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After discussion, Councilmember Winder moved to approve Ordinance No. 09-12, An Ordinance Enacting Chapter 9 of Title 21 of the West Valley City Municipal Code to Enact an Ordinance Defining Gambling and Making Gambling Unlawful in West Valley City. Councilmember Burt seconded the motion.

A roll call vote was taken:

Mr. Vincent	Yes
Mr. Brooks	Yes
Mr. Coleman	Yes
Ms. Burt	Yes
Mr. Winder	Yes
Mr. Rushton	Yes
Mayor Nordfelt	Yes

Unanimous.

14524

RESOLUTION NO. 09-162, AUTHORIZE CITY TO ACQUIRE, BY NEGOTIATION OR CONDEMNATION, REAL PROPERTY FROM DECKER LAKE VENTURES, LLC, LOCATED AT 2801 SOUTH DECKER LAKE DRIVE IN WEST VALLEY CITY AND RATIFY RESOLUTION NO. 09-67 (CONTINUED FROM REGULAR MEETING HELD APRIL 14, 2009)

Acting City Manager, Paul Isaac, presented proposed Resolution No. 09-162 which would authorize the City to acquire, by negotiation or condemnation, real property from Decker Lake Ventures, LLC, located at 2801 South Decker Lake Drive in West Valley City and ratify Resolution No. 09-67.

Mr. Isaac stated although the required legal notice had been sent to the correct property address, the property owner was located at another address. He indicated in an effort to comply with all legal requirements and give the owner an additional opportunity to respond to the condemnation, notice was subsequently sent to the owner. Due to additional noticing concerns regarding timing between the letter and the initial date scheduled for a vote on the resolution, the processing of this resolution must be completed again.

The Acting City Manager explained Utah Transit Authority (UTA) was currently negotiating purchase of 10,510 square feet of real property and a 2,631 square foot easement from the Decker lake Ventures, LLC, with Clear Channel as a tenant. He stated, at present, it appeared condemnation would be necessary to complete the acquisition and the resolution had been requested in the likely event condemnation became necessary.

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Mr. Isaac reported the subject property was one of the properties to be purchased for the light rail station on Research Way near Redwood Road and was located on a corner where the tracks made a turn to the south. He indicated the turn necessitated additional right-of-way. He stated the current right-of-way width was large but under the road was a box culvert from Decker Lake that needed to be avoided when possible and the turn consumes more right-of-way.

Acting City Manager, Paul Isaac, stated the proposed Resolution had been tabled and the matter continued from the Regular Meeting held April 21, 2009, in order to receive further information regarding certain issues of concern and hear from UTA representatives and additional formal notification to property owner per legal counsel.

Mayor Nordfelt advised this matter had not been noticed as a public hearing, however, if the property owner desired to address the City Council he would be so recognized.

Robert Mansfield, attorney for the property owner Decker Lake Ventures, addressed the City Council. Mr. Mansfield stated the property owner, John Alexander, was also present at the meeting. He expressed appreciation to the City Council for the opportunity to address concerns during the previous Study Meeting. He stated the property owner thought this could be a win/win for the City, UTA, and the property owner. He stated what they were requesting did not violate construction standards and he gave examples of locations of left turns along the rail line in Salt Lake City. He indicated UTA needed to balance the interest of property owners. He further stated the request was that light rail be moved to the north, condemn right-of-way into the property, but the adjacent property owner would not allow that so the property owner did not have that benefit. He further expressed the need to shift the straight driveway. He indicated UTA had refused to work with them. He also pointed out the lights were closer on the rail line in Salt Lake City than what had been requested and the cost was not excessive. He indicated the property owner wanted safety measures, but also wanted access. Mr. Mansfield stated they had not been given an opportunity to work with UTA in good faith and UTA had gone onto the property without a legal right to do so and cut down trees. He asked for the City Council's help but stated he understood they could not make conditions and requested the proposed resolution be denied.

John Alexander, property owner, addressed the City Council and expressed appreciation for the Council listening to his concerns.

Upon discussion, Councilmembers commented and discussed the proposed resolution. Councilmember Coleman advised there was pressure to act on the proposal and move forward due to commitments to UTA, but the Council

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recognized the need to balance the interests of the greater good and the property owners. He stated he had not become convinced UTA had negotiated in good faith with the property owner and was also not convinced Decker Lake Ventures was unreasonable. He also stated he had not become convinced safety challenges were significant since this was an eminent domain issue with the property owner.

Upon further discussion, Councilmember Coleman moved to table proposed Resolution No. 09-162 and continue the matter for one week to provide an additional opportunity for the Utah Transit Authority (UTA) to accommodate a left turn. Councilmember Burt seconded the motion.

Upon discussion of the motion on the floor, Acting City Manager, Paul Isaac, clarified notification requirements and informed the Council could not hear the matter the following week as notification requirements by State statute would necessitate a time frame of several weeks before the matter could be brought back to the City Council for action.

Robert Mansfield, attorney for the property owner Decker Lake Ventures, addressed the City Council. Mr. Mansfield stated his client would waive noticing requirements in order for the Council to hear and consider the matter the following week.

Jeremy Cook, Attorney for a firm representing West Valley City in the condemnation matter, addressed the City Council. Mr. Cook discussed the history of this issue including noticing requirements. He explained the issue previously had gone before a judge and a decision had been rendered. He advised in order to meet the 10 day noticing requirement it would be three weeks before it could be brought before the City Council again for consideration.

Councilmember Vincent requested clarification from the City Attorney regarding if the issues could be worked out after condemnation had been approved. City Attorney, Richard Catten, addressed the City Council and stated the court would be concerned with the right to take property and compensation. He also stated the owner would have a chance to discuss this matter as part of settlement.

Councilmember Winder stated it seemed the proposal would be in the best interest regarding the health, safety and welfare of citizens, and commented special exceptions for left turns did not seem safe. He also indicated there would be u-turns allowed near the subject property.

Upon further discussion, Councilmember Winder made a substitute motion to approve Resolution No. 09-162, a Resolution Authorizing the City to Acquire, by Negotiation or Condemnation, Real Property from Decker Lake Ventures, LLC,

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Located at 2801 South Decker Lake Drive in West Valley City and Ratifying Resolution No. 09-67. Councilmember Brooks seconded the motion.

Mayor Nordfelt called for additional discussion regarding the substitute motion. He spoke in favor of the substitute motion and explained the impact on the property owner and stated people would still be able to access the facility and become familiar with that access. He stated if things were done right all businesses and uses would be planned and infrastructure would be built first. He also stated sometimes that was not the case because it took money to pay for infrastructure with the need for development first and then installation of roads, transit, sewer, water and utilities were installed. He indicated some business would be negatively impacted for the benefit of the entire community.

Councilmember Coleman spoke in opposition to views expressed above and stated he was doubtful that UTA acted completely in good faith with the property owner and had not met the burden of proof for him.

Councilmember Rushton stated even though he was not a traffic engineer, the issue seemed to come down to due process and he felt that had been accomplished and he was ready to proceed.

Mayor Nordfelt called for a vote on the substitute motion.

A roll call vote was taken:

Mr. Vincent	Yes
Mr. Brooks	Yes
Mr. Coleman	No
Ms. Burt	Yes
Mr. Winder	Yes
Mr. Rushton	Yes
Mayor Nordfelt	Yes

Majority.

Mayor Nordfelt suggested if there was anything within the power of UTA or the City to be able work with the property owner without compromising the light rail line, it should be done.

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14525

APPLICATION NO. S-35-2008, FILED BY JOSE MARTINEZ, REQUESTING FINAL PLAT APPROVAL FOR ROSA ESTATES SUBDIVISION LOCATED AT 3826 SOUTH 3200 WEST

Acting City Manager, Paul Isaac, presented Application No. S-35-2008, filed by Jose Martinez, requesting final plat approval for Rosa Estates Subdivision located at 3826 South 3200 West.

Mr. Isaac stated the proposed subdivision would consist of three lots on .93 acres with lots ranging in size from 8,435 to 13,200 square feet. He further stated an existing dwelling located on Lot 1 would remain as part of the development.

The Acting City Manager reported the subdivision had been proposed with a flag lot to serve Lot 2, and all lots met the area and frontage requirements of the 'R-1-8' zone, including the flag lot provisions. Although Lots 1 and 3 had direct access to 3200 West, City staff had recommended all lots utilize a common driveway to eliminate traffic conflicts on 3200 West.

Acting City Manager, Paul Isaac, stated access to the subdivision would be gained from 3200 West, and curb, gutter and sidewalk presently existed along the street. He indicated the developer would need to coordinate the new drive approach and utility connections with the Public Works Department and other agencies. He also stated if existing improvements were damaged, or were in need of repair, the developer and/or builder would need to coordinate this during the building permit process.

Mr. Isaac reported that as with all new subdivision development there was a concern with the potential of ground water impacts. He stated the applicant would coordinate this issue with the City's Building Official. He also stated this was periodically done for small developments and involved a field inspection by the Building Division.

Upon recognition by Mayor Nordfelt, Mr. Miguel Martinez, brother of the applicant, addressed the City Council. Mr. Martinez clarified the address as actually being 3826 South 3200 West and expressed appreciation to the Council for supporting improvement of their property. Mayor Nordfelt noted the address was correct in some places on the paperwork in the Council's agenda packet and incorrect in other places.

After discussion, Councilmember Winder moved to approve Application No. S-35-2008, filed by Jose Martinez, and give final plat approval for Rosa Estates Subdivision located at 3826 South 3200 West. Councilmember Rushton seconded the motion.

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A roll call vote was taken:

Mr. Vincent	Yes
Mr. Brooks	Yes
Mr. Coleman	Yes
Ms. Burt	Yes
Mr. Winder	Yes
Mr. Rushton	Yes
Mayor Nordfelt	Yes

Unanimous.

14526

APPLICATION NO. S-1-2009, FILED BY IVORY HOMES, REQUESTING FINAL PLAT APPROVAL FOR Highbury Towns East – Phase 1 LOCATED AT 3100 SOUTH DAYBURY DRIVE

Acting City Manager, Paul Isaac, presented Application No. S-1-2009, filed by Ivory Homes, requesting final plat approval for Highbury Towns East – Phase 1 located at 3100 South Daybury Drive.

Mr. Isaac stated the Highbury Towns East project was a residential community consisting of 90 units on 9.6 acres. He also stated the original development agreement had been amended by the City Council in December, 2008, to allow townhomes at this location. He indicated that according to the development agreement, this project was to be substantially like the original townhomes constructed by Ivory Homes located to the west of Daybury Drive.

The Acting City Manager indicated the first phase of the Highbury Towns East Subdivision would consist of 31 units on 3.08 acres. He stated the first phase would have three buildings fronting Daybury Drive. He further stated this would help accentuate the street scene that had already been established by the townhomes at Highbury across the street.

Acting City Manager, Paul Isaac, reported buildings would consist of 100% masonry materials and the architecture reflective of the craftsman style, which was an American domestic style made popular in the early 1900's. He indicated although brick was limited with this style of architecture there were elements that would appear on the front elevation as well as the alleys. He stated stucco and hardi plank would comprise the other materials used in the development. He further reported Ivory proposed three color schemes to be used to provide greater diversity between buildings. A rambler plan would be added, an option which could open up opportunities to include a larger demographic.

Mr. Isaac stated City staff had evaluated the project regarding the multiple family design standards. He also stated this project met the standards outlined in the

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ordinance governing architecture, color and variation. He indicated the developer would be provided a copy of those standards to make sure all areas had been addressed. He advised, in addition, the proposed development had been reviewed and approved by Zion's Securities.

Acting City Manager, Paul Isaac, further reported as follows:

There were a number of unit types with varying square footages. Unit sizes ranged from 1,104 to 1,861 square feet. In addition, Ivory Homes intended to install basements for all homes. A soils report had been prepared when the area had been planned for single-family development. The report indicated ground water had been encountered at a depth ranging from 5-10 feet below existing grades. The finish grade elevations in this phase would be raised approximately 2-3 feet which would allow full basements to be constructed. It was the understanding of City staff that Ivory would install a sub-drain system to provide an extra measure of protection for new home owners.

The overall open space in the development had been calculated at 5%. Of that number, approximately 17.1% had been designated as functional open space. During the preliminary review, the Planning Commission approved the open space concept based on Ivory's commitment to include certain amenities throughout the project. Ivory had submitted plans showing a combination of small and large play structures, a picnic shelter, swing set, walking paths, and benches. Staff believed these amenities, along with what Zions had proposed by way of the trail system, waterways and urban fishery, would provide ample recreational and outdoor opportunities for residents living in this community.

Access to this phase would be gained from Daybury Drive. The main road leading into this development would be a dedicated right-of-way. All other roads in the development would be private. The minimum asphalt width had been approved at 20 feet. Curb and gutter on each side of the street would add another four feet of width. However, where fire hydrants were required, this width would need to increase to 26 feet. In order to provide secondary access, a temporary access easement would be positioned between the southern buildings and 3100 South Street. These easements would eventually be abandoned when additional access points were platted.

Improvements had been installed along 3100 South Street. The cross section consisted of a five foot park strip and five foot sidewalk. The park strip would be planted with lawn and trees. This would provide a more pleasing streetscape along the south boundary of the development. A trex fence would be installed along the back of sidewalk in accordance with the development agreement; the fence would match the existing fence to the west.

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Acting City Manager, Paul Isaac, advised representatives of Ivory Homes were in attendance to answer questions regarding the application and/or proposal.

Councilmember Winder noted the Council had previously discussed the possibility of a clubhouse being included in the project. He recommended dollars be invested in a play structure rather than a clubhouse as the City's Family Fitness Center was located across the street from the project.

Councilmember Burt stated she received information the meeting rooms at the Fitness Center were not always available and she remained in favor of having a clubhouse for the 90 units in the subject development.

Councilmember Rushton requested clarification if a clubhouse was part of the proposal. Acting City Manager, Paul Isaac, advised Phase 1, presently under consideration, did not include a clubhouse, but another phase could as per the development agreement.

After discussion, Councilmember Coleman moved to approve Application No. S-1-2009, filed by Ivory Homes, and give final plat approval for Highbury Towns East – Phase 1 located at 3100 South Daybury Drive. Councilmember Winder seconded the motion.

Mayor Nordfelt entertained discussion on the motion.

Councilmember Brooks stated that prior to the vote he desired to hear from the applicant and/or staff for further clarification.

Councilmember Vincent advised he had checked other facilities in the City of similar size, specifically the Valley Vu Villas which had 60 units with a clubhouse, and Hunter Village which had 100 units with a clubhouse. He stated the subject development of 90 units would support a clubhouse.

Steve Pastorik, Acting CED Director, clarified the overall townhome development would be 90 units total, with the first phase being 31 units, not including park space.

Acting City Manager, Paul Isaac, stated Ivory Homes had requested to know if the Council desired a clubhouse in future phases, per language in the development agreement.

Mayor Nordfelt advised he had also checked with the Family Fitness Center regarding meeting room availability and they were busy all the time and had more requests for use than could be filled. He stated he expected future phases of the

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subject development to have some type of facility for use in family gatherings or other functions.

Upon request of a member of the Council, Chris Gamvroulas, Ivory Homes, addressed the City Council. Mr. Gamvroulas stated he had prepared a brief slide show to provide information to the Council as it was important to know if a clubhouse would be required in a future phase. He stated they would give up open space and/or park amenities, but it would need to be one or the other. He referenced the Planning Commission minutes of the meeting where this issue had been discussed. He displayed the site plan of the entire project, including the park and open areas, play areas, and play structures; and further indicated the cost would be about the same to build a play structure area as it would for a small meeting room/clubhouse facility. He advised a clubhouse would increase the amount of HOA (Homeowner's Association) expense to the residents and the facility would not be large enough to hold a HOA meeting. He indicated a picnic pavilion structure had also been designed for use as a gathering place. Mr. Gamvroulas showed a slide with a clubhouse alternative. He stated a survey of residents indicated they preferred a play area over a clubhouse and he suggested a park would be a better choice for residents of the development. He reiterated the choice would be one or the other, a park or clubhouse.

The City Council discussed and expressed opinions regarding pros and cons of a clubhouse and park for the development. Mr. Gamvroulas answered additional questions from members of the City Council. He stated there was one line in the development agreement that stated a clubhouse would be determined during the final plat approval phase. He again stated buyers coming into the development had expressed preferences to have a play area and picnic pavilion which could also be used as a gathering place.

Mayor Nordfelt capitulated there were two issues to be determined regarding the application before the City Council: the final plat and direction for future phases.

Councilmember Rushton, commenting his amendment to the previous motion was "friendly," moved to approve Application No. S-1-2009 with a clubhouse in the future phase.

Councilmember Coleman accepted the amendment to his motion; Councilmember Winder accepted the amendment regarding his second to the original motion and seconded the amended motion.

A roll call vote was taken:

Mr. Vincent	Yes
Mr. Brooks	No

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Mr. Coleman	No
Ms. Burt	Yes
Mr. Winder	Pass
Mr. Rushton	Yes
Mr. Nordfelt	Yes
Mr. Winder (second call)	Yes

Majority.

14527

APPLICATION NO. S-3-2009, FILED BY SATTERFIELD HELM VALLEY FAIR, REQUESTING FINAL PLAT APPROVAL FOR IN-N-OUT SUBDIVISION LOCATED AT 3715 SOUTH 2700 WEST

Acting City Manager, Paul Isaac, presented Application No. S-3-2009, filed by Satterfield Helm Valley Fair, requesting final plat approval for In-N-Out Subdivision located at 3715 South 2700 West.

Mr. Isaac stated the proposed subdivision would create an additional lot within the Valley Fair Mall site. He further stated the new lot would be located at the southwest corner of the Mall property and a new building would replace the existing Big-O Tire store. He indicated the tenant for the property, In-N-Out Burger, required ownership for their business which had resulted in the need to divide the property.

The Acting City Manager reported the new lot would be approximately .7 acres in size and access would be gained from 2700 West and from internal access within the Mall property. A conditional use application had been reviewed by the Planning Commission in March, 2009.

Mr. Isaac indicated one of the concerns regarding development of a new lot was Granger-Hunter Improvement District's ability to provide water and sewer service. He stated at the present time, water and sewer services were available by easement through the Mall property. However, because a new lot would be platted the water district had expressed concerns to independently service the lot. He also indicated due to the lack of water and sewer services in 2700 West, the new lot would need to continue using the existing services. He stated although this was not an ideal situation from Granger-Hunter's point of view, they would allow the existing services to be used. He indicated a special agreement would need to be approved between the Mall owners and Granger-Hunter Improvement District. He reported it was his understanding that a final draft of the agreement had been prepared and was being reviewed by both parties and would need to be executed prior to the subdivision plat being recorded.

After discussion, Councilmember Coleman moved to approve Application No. S-3-2009, filed by Satterfield Helm Valley Fair, and give final plat approval for In-

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N-Out Subdivision located at 3715 South 2700 West. Councilmember Burt seconded the motion.

A roll call vote was taken:

Mr. Vincent	Yes
Mr. Brooks	Yes
Mr. Coleman	Yes
Ms. Burt	Yes
Mr. Winder	Yes
Ms. Rushton	Yes
Mayor Nordfelt	Yes

Unanimous.

14528 **ACTING CITY MANAGER SUBMIT FY2009-2010 PROPOSED BUDGET**
Acting City Manager, Paul Isaac, submitted the FY 2009-2010 Proposed Budget and directed the Finance Director, Jim Welch, to distribute copies to members of the City Council for study and review. Mr. Isaac advised questions should be directed to City Manager Wayne Pyle, or the Finance Director.

14529 **CONSENT AGENDA:**
A. **RESOLUTION NO. 09-194, ACCEPT A GRANT OF TEMPORARY CONSTRUCTION EASEMENT FROM JOYCE H. WOODARD FOR PROPERTY LOCATED AT 3915 SOUTH SUNNYVALE DRIVE FOR THE SUNNYVALE ACORD SIDEWALK PROJECT**
Acting City Manager, Paul Isaac, presented proposed Resolution No. 09-194 which would accept a Grant of Temporary Construction Easement from Joyce H. Woodard for property located at 3915 South Sunnyvale Drive for the Sunnyvale Acord Sidewalk Project.

Mr. Isaac stated Joyce H. Woodward had signed the Grant of Temporary Construction Easement.

The Acting City Manager reported the subject parcel was one of the properties affected by construction of the Sunnyvale Acord Sidewalk Project and the easement would allow the contractor to make the necessary tie-ins to that property. He stated compensation for the easement would be in the amount of \$200.00, which easement would automatically expire on December 31, 2010.

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B. RESOLUTION NO. 09-195, APPROVE AN EASEMENT AND AGREEMENT WITH DANIEL P. GILL AND JOYCE I. GILL FOR PROPERTY LOCATED AT 3033 WEST 3500 SOUTH FOR THE 3500 SOUTH WIDENING PROJECT

Acting City Manager, Paul Isaac, presented proposed Resolution No. 09-195 which would approve an Easement and Agreement with Daniel P. Gill and Joyce I. Gill for property located at 3033 West 3500 South for the 3500 South Widening Project.

Mr. Isaac stated Daniel P. Gill and Joyce I. Gill had signed the Easement and Agreement.

The Acting City Manager reported the subject parcel was one of the properties requiring a public utility easement for burial of the overhead power lines on 3500 South. He stated the easement would allow UDOT, and Rocky Mountain Power and its contractors to proceed with the project.

C. RESOLUTION NO. 09-196, ACCEPT A PUBLIC SIDEWALK AND LIGHTING EASEMENT FROM WEST VALLEY PAVILION, LLC, ACROSS PROPERTIES LOCATED AT 2592, 2662 AND 2678 SOUTH 5600 WEST

Acting City Manager, Paul Isaac, presented proposed Resolution No. 09-196 which would accept a Public Sidewalk and Lighting Easement from West Valley Pavilion, LLC, across properties located at 2592, 2662 and 2678 South 5600 West.

Mr. Isaac stated the subject easement covered the 5600 West frontage of Lots 2, 6 and 7 of the West Valley Pavilion.

The Acting City Manager reported the subject development was located within the 5600 West Overlay Zone which required wider parkstrips, sidewalks and sidewalk lighting along the 5600 West street frontage. He further stated as the proposed sidewalk and lighting fell outside of the public right-of-way, a public sidewalk and lighting easement would be required as a condition of approval. He indicated these lots were part of the West Valley Pavilion Commercial Center project.

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D. RESOLUTION NO. 09-197, ACCEPT A PUBLIC SIDEWALK AND LIGHTING EASEMENT FROM WINCO FOODS, LLC, ACROSS PROPERTY LOCATED AT 2572 SOUTH 5600 WEST

Acting City Manager, Paul Isaac, presented proposed Resolution No. 09-197 which would accept a Public Sidewalk and Lighting Easement from Winco Foods, LLC, across property located at 2572 South 5600 West.

Mr. Isaac stated the easement covered the 5600 West frontage of Lot 1 of the West Valley Pavilion Subdivision.

The Acting City Manager reported the subject development was located within the 5600 West Overlay Zone which required wider parkstrips, sidewalks and sidewalk lighting along the 5600 West street frontage. He stated as the proposed sidewalk and lighting fell outside of the public right-of-way a public sidewalk and lighting easement would be required as a condition of approval. He indicated this lot was part of the West Valley Pavilion Commercial Center project and would be the site for the WinCo Foods store.

After discussion, Councilmember Coleman moved to approve Resolution Nos. 09-194, 09-195, 09-196 and 09-197 as presented on the Consent Agenda. Councilmember Brooks seconded the motion.

A roll call vote was taken:

Mr. Vincent	Yes
Mr. Brooks	Yes
Mr. Coleman	Yes
Ms. Burt	Yes
Mr. Winder	Yes
Mr. Rushton	Yes
Mayor Nordfelt	Yes

Unanimous.

THERE BEING NO FURTHER BUSINESS OF THE WEST VALLEY CITY COUNCIL, THE REGULAR MEETING OF TUESDAY, MAY 5, 2009, WAS ADJOURNED AT 8:20 P.M., BY MAYOR NORDFELT.

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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, May 5, 2009.

Sheri McKendrick, MMC
City Recorder