

MINUTES OF COUNCIL REGULAR MEETING – AUGUST 25, 2009

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THE CITY COUNCIL MET IN REGULAR SESSION ON TUESDAY, AUGUST 25, 2009, 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 BY MAYOR PRO TEM BROOKS.

THE FOLLOWING MEMBERS WERE PRESENT:

Russ Brooks
Carolynn Burt
Joel Coleman
Corey Rushton
Mike Winder

Wayne Pyle, City Manager
Sheri McKendrick, City Recorder

ABSENT: Dennis Nordfelt
Steve Vincent

STAFF PRESENT:

Paul Isaac, Assistant City Manager
Richard Catten, City Attorney
Jim Welch, Finance Director
Layne Morris, Community Preservation Director
Kevin Astill, Parks and Recreation Director
Mike Wells, Acting Police Chief
Daniel Johnson, Acting Public Works Director
Steve Pastorik, Acting CED Director
Aaron Crim, Administration
Jake Arslanian, Public Works Department
Candice Smart, Justice Court
Bonnie Harward, Justice Court
Mitzi Silva, Justice Court
Kim Jordan, Justice Court
Rachel Sharpe, Justice Court
Walter Zinck, Justice Court
Chasity Ramos, Justice Court
Jeannette Arnold, Justice Court
Ula Leota, Justice Court

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14666 **OPENING CEREMONY**

The Opening Ceremony was conducted by Russ Brooks who read some “compelling statements” from Abraham Lincoln, which statements had been given to him by a resident of West Valley City.

14667 **APPROVAL OF MINUTES OF REGULAR MEETING HELD AUGUST 11, 2009**

The Council read and considered the Minutes of the Regular Meeting held August 11, 2009. There were no changes, corrections or deletions.

After discussion, Councilmember Coleman moved to approve the Minutes of the Regular Meeting held August 11, 2009, as written. Councilmember Burt seconded the motion.

A roll call vote was taken:

Mr. Coleman	Yes
Ms. Burt	Yes
Mr. Winder	Yes
Mr. Rushton	Yes
Mayor Pro Tem Brooks	Yes

Unanimous.

14668 **EMPLOYEE OF THE MONTH, AUGUST, 2009 – BONNIE HARWARD, JUSTICE COURT**

Councilmember Burt read the nomination of Bonnie Harward, Justice Court, to receive the Employee of the Month Award for August 2009.

The City Council congratulated Ms. Harward and expressed appreciation for her efforts on behalf of West Valley City.

Ms. Harward addressed the City Council and introduced her husband and Justice Court staff in attendance at the meeting.

14669 **COMMENT PERIOD**

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

Fynbo (no first name given), 4160 West 3830 South, addressed the City Council. He expressed appreciation to the City Council for adopting the gravel ordinance. He also expressed appreciation to Public Works Director, Russell Willardson, for coordinating street repair in his area. He stated he hoped sidewalk and gutter

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improvements were scheduled in front of a widow's property that needed to be addressed as soon as possible.

Linda Hansen, 5149 Village Way Drive, addressed the City Council. Ms. Hansen discussed sidewalks that had been needed on 5200 West for many years. She thanked the City Council for improvements currently under construction on that street and stated children would have a safer route to Sandburg Elementary when completed.

14670

RESOLUTION NO. 09-284, INTERLOCAL COOPERATION AGREEMENT WITH SALT LAKE COUNTY FOR REBUILD OF TRAFFIC SIGNAL AT 3650 SOUTH 2700 WEST

City Manager, Wayne Pyle, presented proposed Resolution No. 09-284 which would approve an Interlocal Cooperation Agreement with Salt Lake County, in the amount of \$150,000.00, for rebuild of the traffic signal at 3650 South 2700 West.

Mr. Pyle stated Salt Lake County currently constructed new signals and signal upgrades on the City's traffic signals. He advised the City's experience with the County had been good in the past. He further advised the existing traffic signal needed to be reconstructed because of changes to the roadway due to LRT (light rail transit) construction as well as changing traffic patterns. He stated this project would allow for left turn phasing to be installed on all approaches as well as provide more responsive vehicle detection.

After discussion, Councilmember Coleman moved to approve Resolution No. 09-284, a Resolution Approving an Interlocal Cooperation Agreement between West Valley City and Salt Lake County for the Rebuild of a Traffic Signal at 3650 South 2700 West. Councilmember Rushton seconded the motion.

A roll call vote was taken:

Mr. Coleman	Yes
Ms. Burt	Yes
Mr. Winder	Yes
Mr. Rushton	Yes
Mayor Pro Tem Brooks	Yes

Unanimous.

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RESOLUTION NO. 09-285, DESIGNATE AND APPOINT POLL WORKERS TO SERVE IN THE MUNICIPAL PRIMARY ELECTION, SEPTEMBER 15, 2009, AND THE MUNICIPAL GENERAL ELECTION, NOVEMBER 3, 2009; SET COMPENSATION FOR THEIR SERVICES AND PROVIDE FOR OTHER RELATED MATTERS

City Manager, Wayne Pyle, presented proposed Resolution No. 09-285 which would designate and appoint poll workers to serve in the Municipal Primary Election, September 15, 2009, and the Municipal General Election, November 3, 2009; and set compensation for their services and provide for other related matters.

Mr. Pyle stated Section 20A-5-602 of the Utah State Code sets forth the procedure for appointing poll workers, designating their compensation, and setting forth their duties. He referenced a list distributed to the Council containing the name, address and telephone number of persons to be named as poll workers for the 2009 Municipal Primary Election to be held September 15, 2009, and the Municipal General Election to be held November 3, 2009.

The City Manager advised the receiving clerk and poll book clerk would receive \$110.00 and the poll managers and technicians would receive \$220.00 for attending required training and actually serving on election days. He advised the cost of poll worker services had been built into the City's contract with Salt Lake County Elections. He also advised a certificate of appointment would be issued and an oath administered to each appointed poll worker and alternate.

After discussion, Councilmember Coleman moved to approve Resolution No. 09-285, a Resolution Designating and Appointing Poll Workers to Serve in the Municipal Primary Election, September 15, 2009, and the Municipal General Election, November 3, 2009; Setting the Compensation for Their Services and Providing for Other Related Matters. Councilmember Rushton seconded the motion.

A roll call vote was taken:

Mr. Coleman	Yes
Ms. Burt	Yes
Mr. Winder	Yes
Mr. Rushton	Yes
Mayor Pro Tem Brooks	Yes

Unanimous.

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RESOLUTION NO. 09-283, AWARD CONTRACT TO INTERMOUNTAIN AQUATECH POOL & SPA FOR THE REPLACEMENT OF DRAINS AND SUMPS IN THE POOLS AT THE WEST VALLEY CITY FAMILY FITNESS CENTER

City Manager, Wayne Pyle, presented proposed Resolution No. 09-283 which would award a contract to Intermountain Aquatech Pool & Spa in the amount of \$46,560.00 for the replacement of drains and sumps in the pools at the West Valley City Family Fitness Center.

Mr. Pyle stated reconstruction of pool drains had become necessary in order to become compliant with the new Virginia Graeme Baker Pool and Spa Safety Act passed by the United States Congress and effective December, 2008. He further stated without the modifications the Salt Lake County Health Department would be required to close the Family Fitness Center swimming pools immediately.

The City Manager reported a request for proposals had been prepared and advertised and three bids had been received as follows:

Intermountain Aquatech	\$45,560.00
USA Pool Construction	44,800.00
CEM	65,000.00

The City Manager indicated all pool drains would need to be altered with new sump depths and covers in order to be compliant with the new Act. He advised that the Salt Lake County Health Department had given the Fitness Center until the end of September, 2009, to become compliant and make the mandatory changes.

Mr. Pyle reported Intermountain Aquatech was being recommended as the vendor even though they had not submitted the lowest bid. He stated their price could actually be as low as \$32,801.00 unless they ran into an issue with sump depths being too shallow. He further advised Aquatech was also a local vendor whereas with the next lowest bidder was from Georgia.

City Manager, Wayne Pyle, advised this matter had been continued from the Regular Council Meeting held August 18, 2009.

After discussion, Councilmember Burt moved to approve Resolution No. 09-283, a Resolution Awarding a Contract to Intermountain Aquatech Pool & Spa for the Replacement of Drains and Sumps in the Pools at the West Valley City Family Fitness Center and Authorize Execution of a Contract. Councilmember Rushton seconded the motion.

A roll call vote was taken:

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Mr. Coleman	Yes
Ms. Burt	Yes
Mr. Winder	Yes
Mr. Rushton	Yes
Mayor Pro Tem Brooks	Yes

Unanimous.

14673

APPEAL, APPLICATION NO. GPZ-1-2009, FILED BY DAN NORTHRUP AND KELLY JENSEN, REQUESTING TO AMEND THE WEST VALLEY CITY GENERAL PLAN FROM RESIDENTIAL OFFICE TO NEIGHBORHOOD COMMERCIAL AND TO AMEND THE ZONING MAP FROM ‘RB’ (RESIDENTIAL BUSINESS) ZONE TO ‘C-1’ (NEIGHBORHOOD COMMERCIAL) ZONE, FOR PROPERTY LOCATED AT APPROXIMATELY 5221 WEST 3500 SOUTH (*PUBLIC HEARING HELD AND CLOSED; AND ACTION POSTPONED AT REGULAR MEETING OF JUNE 23, 2009, PENDING DEVELOPMENT AGREEMENT*)

City Manager, Wayne Pyle, stated an appeal had been received and a public hearing held and closed and action postponed at the Regular Council Meeting held June 23, 2009, regarding the Planning Commission’s denial of Application No. GPZ-1-2009 filed by Dan Northrup and Kelly Jensen, requesting to amend the West Valley City General Plan from Residential Office to Neighborhood Commercial and to amend the Zoning Map from RB (Residential Business) zone to C-1 (Neighborhood Commercial) zone, for property located at approximately 5221 West 3500 South. He further presented and discussed the appeal, Application, two proposed Ordinances and a proposed Resolution, as follows:

City Manager, Wayne Pyle, presented proposed Ordinance No. 09-20 which would amend the General Plan to show a change of land use from Residential Office to Neighborhood Commercial land uses; and proposed Ordinance No. 09-21 which would the Zoning Map to show a change of zone from ‘RB’ (Residential Business) to ‘C-1’ (Neighborhood Commercial) zone for property located at approximately 5221 West 3500 South.

Mr. Pyle stated surrounding zones included ‘R-1-8’ (Single-Family Residential, Minimum Lot Size 8,000 sq. ft.) to the west and south, ‘RB’ to the east, and ‘C-1,’ ‘R-1-8,’ and ‘RB’ to the north. He also stated surrounding land uses included single-family homes to the west and south, a single-family home being converted to an insurance office to the east, and a veterinarian hospital and single-family homes to the north.

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The City Manager indicated the subject property had been re-zoned from 'R-1-8' to 'RB' in 2002 and the concept plan at that time included two office buildings totaling 4,200 square feet. He further indicated two Board of Adjustment cases had been approved for the property in 2006: the first a variance to allow the proposed new building to be built right on the south property line; the second, a modification of a non-conforming use. He stated the approved request had been to demolish the existing safety inspections and emissions building (which was non-conforming) and rebuild it as part of a new building that would also include office uses.

City Manager, Wayne Pyle, advised a letter from the applicants had been distributed to the Council stating why they believed the application should be approved. He stated re-zoning the property would grant the applicants more tenant options for possible leases.

Mr. Pyle stated, generally speaking, the 'RB' zone was geared toward residential and non-retail commercial with banking type hours. He indicated the 'C-1' zone prohibited residential use and allowed retail commercial where hours could extend beyond banking hours.

The City Manager reported the Planning Commission considered and denied the subject application on May 13, 2009, and the applicants were now appealing that decision.

City Manager, Wayne Pyle, presented proposed Resolution No. 09-286 which would authorize the City to enter into a Development Agreement with Dan Northrup and John K. Jensen for approximately 0.66 acres of real property located at 5221 West 3500 South.

Mr. Pyle stated the proposed agreement would establish restrictions on use of an existing building at the above location. He also stated that on June 23, 2009, the Council had held a public hearing and continued the appeal of the Planning Commission's denial of Application No. GPZ-1-2008. He reminded the decision to continue the matter to allow time for City staff to work with the applicants and the concerned resident that attended the Council hearing on restrictions that could be imposed on the property through a development agreement. He indicated the purpose of the restrictions would be to prevent conflicts between future tenants in the building and neighboring residents.

The City Manager also advised the proposed agreement limited the allowable uses for the property to those listed in Exhibit B of the Development Agreement and restricted the business hours.

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Upon discussion, Councilmember Rushton noted the applicant and some residents were in attendance at the meeting and inquired if the Mayor Pro Tem would consider recognizing those individuals if they desired to speak regarding the negotiation process of the development agreement. City Council members expressed a consensus to Mayor Pro Tem Brooks for those individuals to be recognized.

Upon recognition by Mayor Pro Tem Brooks, the following individuals addressed the City Council:

Heidi Familiar, neighborhood spokesperson, addressed the City Council. Ms. Familiar discussed the development agreement negotiations and concern regarding hours of operation and the impact on children in the neighborhood as the building was located close to adjacent homes. She indicated residents wanted closing at 7:00 P.M., but residents and the applicant agreed to 9:00 P.M., with the applicant stilling wanting 10:00 P.M. She expressed further concern regarding loitering or robberies for a retail/specialty store. She advised there were no other issues of concern from other neighbors and she answered questions from members of the City Council.

Dan Northrup, applicant, addressed the City Council. Mr. Northrup stated he appreciated the process used in negotiating the development agreement. He advised of his plan for businesses to close at 9:00 P.M., but 10:00 P.M. had been brought up to allow time for employees to clean up and leave. He stated most uses required a conditional use and would go through the City's process. He expressed his desire to be a good neighbor.

Lynette Wood, resident, addressed the City Council. Ms. Wood questioned if a customer went into the business at 8:50 P.M. and the business closed at 9:00 P.M., then no further customers could enter. She stated if closing was at 10:00 P.M. it would be much later before workers left the premises.

Upon discussion, Councilmember Burt discussed her experience as a business owner being adjacent to a residential area. She stated she tried to be a good neighbor and discussed opinions and suggestions regarding certain language in the agreement.

Upon inquiry by Councilmember Rushton regarding conditional use and which uses would have to go through that process. Steve Pastorik, Acting CED Director, responded and answered those questions.

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ACTION: ORDINANCE NO. 09-20, AMEND GENERAL PLAN TO SHOW CHANGE OF LAND USE FROM RESIDENTIAL OFFICE LAND USES TO NEIGHBORHOOD COMMERCIAL LAND USES FOR PROPERTY LOCATED AT APPROXIMATELY 5221 WEST 3500 SOUTH

After discussion, Councilmember Coleman moved to approve Ordinance No. 09-20, an Ordinance Amending the General Plan to Show a Change of Land Use from Residential Office Land Uses to Neighborhood Commercial Land Uses for Property Located at Approximately 5221 West 3500 South. Mr. Winder seconded the motion.

A roll call vote was taken:

Mr. Coleman	Yes
Ms. Burt	Yes
Mr. Winder	Yes
Mr. Rushton	Yes
Mayor Pro Tem Brooks	Yes

Unanimous.

ACTION: ORDINANCE NO. 09-21, AMEND ZONING MAP TO SHOW CHANGE OF ZONE FOR PROPERTY LOCATED AT APPROXIMATELY 5221 WEST 3500 SOUTH FROM ZONE 'RB' (RESIDENTIAL BUSINESS) TO 'C-1' (NEIGHBORHOOD COMMERCIAL) ZONE

After discussion, Councilmember Winder moved to approve Ordinance No. 09-21, an Ordinance Amending the Zoning Map to Show a Change of Zone for Property Located at Approximately 5221 West 3500 South from Zone 'RB' (Residential Business) to 'C-1' (Neighborhood Commercial) Zone. Councilmember Rushton seconded the motion.

A roll call vote was taken:

Mr. Coleman	Yes
Ms. Burt	Yes
Mr. Winder	Yes
Mr. Rushton	Yes
Mayor Pro Tem Brooks	Yes

Unanimous.

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ACTION: RESOLUTION NO. 09-286, AUTHORIZE THE CITY TO ENTER INTO A DEVELOPMENT AGREEMENT WITH DAN NORTHRUP AND JOHN K. JENSEN FOR APPROXIMATELY 0.66 ACRES OF REAL PROPERTY LOCATED AT 5221 WEST 3500 SOUTH

After discussion, Councilmember Coleman moved to approve Resolution No. 09-286, a Resolution Authorizing the City to Enter Into a Development Agreement with Dan Northrup and John K. Jensen for Approximately 0.66 Acres of Real Property Located at 5221 West 3500 South; with an amendment to item No. 2 in Exhibit B of the Development Agreement to restrict hours to 9:00 P.M. closing. Councilmember Burt seconded the motion.

A roll call vote was taken:

Mr. Coleman	Yes
Ms. Burt	Yes
Mr. Winder	Yes
Mr. Rushton	Yes
Mayor Pro Tem Brooks	Yes

Unanimous.

THERE BEING NO FURTHER BUSINESS OF THE WEST VALLEY CITY COUNCIL, THE REGULAR MEETING OF TUESDAY, AUGUST 25, 2009, WAS ADJOURNED AT 6:56 P.M., BY MAYOR PRO TEM BROOKS.

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 25, 2009.

Sheri McKendrick, MMC
City Recorder