

**MINUTES OF THE CITY OF WEST JORDAN
CITY COUNCIL MEETING**

Wednesday, December 3, 2014

6:00 p.m.

Council Chambers

8000 South Redwood Road

West Jordan, Utah 84088

COUNCIL: Mayor Kim V. Rolfe and Council Members Jeff Haaga, Judy Hansen, Chris M. McConnehey, Chad Nichols, Ben Southworth, and Justin D. Stoker.

STAFF: Bryce Haderlie, Interim City Manager; Jeff Robinson, City Attorney; Melanie Briggs, City Clerk; David Oka, Economic Development Director; Tom Burdett, Development Director; Ryan Bradshaw, Finance Manager/Controller; Wendell Rigby, Public Works Director; Marc McElreath, Fire Chief; Doug Diamond, Police Chief; Greg Mikolash, City Planner; Nannette Larsen, Associate Planner; David Clemence, Real Property Agent, and Ben Roche, Fleet Manager.

I. CALL TO ORDER

Mayor Rolfe called the meeting to order at 5:02 p.m.

MOTION: Councilmember McConnehey moved to re-order the agenda with the following changes: Presentation immediately following the Consent items, and move Business item 9e after that. The motion was seconded by Councilmember Southworth.

A roll call vote was taken

Councilmember Haaga	Yes
Councilmember Hansen	Yes
Councilmember McConnehey	Yes
Councilmember Nichols	Yes
Councilmember Southworth	Yes
Councilmember Stoker	Yes
Mayor Rolfe	Yes

The motion passed 7-0.

**II. CLOSED SESSION
STRATEGY SESSIONS TO DISCUSS THE PURCHASE, EXCHANGE, OR
LEASE OF REAL PROPERTY, INCLUDING ANY FORM OF A WATER
RIGHT OR WATER SHARE**

**DISCUSSION OF THE CHARACTER PROFESSIONAL COMPETENCE,
OR PHYSICAL OR MENTAL HEALTH OF AN INDIVIDUAL**

COUNCIL: Mayor Rolfe and Council Members Jeff Haaga, Judy Hansen, Chris M. McConnehey, Chad Nichols, Ben Southworth, and Justin D. Stoker.

STAFF: Bryce Haderlie, Interim City Manager, and Jeff Robinson, City Attorney.

MOTION: Councilmember Hansen moved to go into a Closed Session for a Strategy Session to discuss the purchase, exchange, or lease of real property, including any form of a water right or water share; and discussion of the character professional competence, or physical or mental health of an individual. The motion was seconded by Councilmember Nichols.

A roll call vote was taken

Councilmember Haaga	Yes
Councilmember Hansen	Yes
Councilmember McConnehey	Yes
Councilmember Nichols	Yes
Councilmember Southworth	Yes
Councilmember Stoker	Yes
Mayor Rolfe	Yes

The motion passed 7-0.

The Council convened into a Closed Session at 5:05 p.m.

The Council recessed the Closed Session at 6:12 p.m. and reconvened the meeting at 6:15 p.m.

III. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Brian Im, Troop 1310.

V. COMMUNICATIONS

INTERIM CITY MANAGER COMMENTS/REPORTS

Bryce Haderlie –

- Recognized the youth in the City for being prepared to offer the pledge of allegiance when called upon.
- Possible Council questions - regarding City efforts regarding possible prison relocation

STAFF COMMENTS/REPORTS

Marc McElreath –

- Updated the Council on the progress of the new Fire Station/Police Substation

Doug Diamond –

- Police Badge Pinning Ceremony, Justice Center, January 7, 2015 at 4:30 p.m.

CITY COUNCIL COMMENTS/REPORTS

Councilmember Hansen –

- Congratulated the West Jordan Police for their assistance with a domestic situation.

Councilmember Haaga –

- Reported that Governor Herbert said Utah was the second best economy in the United States next to North Dakota

Councilmember Stoker –

- Attended the new Smith's Marketplace ribbon cutting ceremony with Councilmember Haaga. They were impressed with the new store and roadwork.

Mayor Rolfe –

- Site selection of new prison

VI. CITIZEN COMMENTS

Kris Kinkade, representing Bach Development, requested a bond exception for the private component of Creekside Development Agreement.

Alexandra Eframo, West Jordan resident, asked for a moment to reflect upon the goals of the business of the City Council meeting.

She also voiced her opposition to re-electing Councilmembers McConnehey, Hansen, Nichols, Southworth, and Stoker. She touched on the following:

- Private meetings with Colosimo
- Low voter turnout

A point of order was called.

Lynn Rasband, West Jordan resident, commented on Consent item 7.h regarding the development agreement. She complained about developers getting perks from the City for their subdivisions and then taxpayers (West Jordan citizens) were stuck with the bill to maintain the amenities, ponds, trails, etc.

There was no one else who wished to speak.

***IV. PRESENTATION
INTRODUCTION OF THE NEW WEST JORDAN CHAMBER OF
COMMERCE PRESIDENT***

Suzanne Oliver, Chair of West Jordan Chamber Board acknowledged the Board Members in attendance. She thanked the City for their support during this year's Strategic Planning. She introduced Jevine Lane, New Chamber President.

Jevine Lane, New Chamber President, gave a brief history of different jobs she held in various Chambers of Commerce. She highlighted future goals of the West Jordan Chamber of Commerce.

BUSINESS ITEM 9.E

DISCUSSION AND POSSIBLE ACTION REGARDING RESOLUTION 14-226, EXPRESSING THE CITY COUNCIL SUPPORT FOR THE WEST JORDAN CHAMBER OF COMMERCE

Councilmember Southworth asked the Council to support the proposed Resolution expressing the City Council's support for the West Jordan Chamber of Commerce. He said the proposed Resolution outlined the relationship with the Chamber.

Councilmember Haaga supported the Chamber, but declared a conflict of interest, and stepped down from the dais.

MOTION: Councilmember Nichols moved to approve Resolution 14-226, expressing the City Council's support for the West Jordan Chamber of Commerce. The motion was seconded by Councilmember Hansen.

Councilmember Southworth expressed gratitude for the relationship and future with the Chamber of Commerce.

Councilmember McConnehey said he appreciated the proposed Resolution. He also wanted to express a 'Thank you' to Craig Dearing, previous Chamber President. He said he was grateful for the work, time, years, and dedication that had been spent by Craig Dearing growing and making the Chamber the success that it was. He supported the Chamber and looked forward to them building on the foundation provided by Craig Dearing.

Jeff Robinson reported that Councilmembers were allowed to recuse themselves from any matter they want.

Mayor Rolfe opposed the motion. He did not feel it was in order.

Mayor Rolfe said his company had been a paying member of the Chamber for over 11 years. He opposed the direction the Chamber had decided to take, which was contrary to his advice. He felt there were many current members leaving the Chamber due to the changes. Over the past 11 years, he had attended hundreds of hours of meetings, with the Chamber, Government Actions, EDCC, Board meetings, Western Growth Coalition, and Legislative Round-up, and had not seen the Executive Board at many of the meetings. He said Councilmembers Nichols and Haaga had attended a few times. He said the proposed Resolution stated that we support the “forward focused strategic direction” and he did not, therefore, he opposed the Resolution.

A roll call vote was taken

Councilmember Haaga	Absent
Councilmember Hansen	Yes
Councilmember McConnehey	Yes
Councilmember Nichols	Yes
Councilmember Southworth	Yes
Councilmember Stoker	Yes
Mayor Rolfe	No

The motion passed 5-1.

VII. CONSENT ITEMS

- 7.a Approve the minutes of November 5, 2014, and November 13, 2014 as presented**
- 7.b Approve Resolution 14-218, setting the 2015 Annual Meeting Schedule for the City Council, Planning and Zoning Commission and other City Boards and Committees**
- 7.c Approve Resolution 14-219, declaring items from various City Departments that are no longer of any value or use as surplus property, and authorize the disposition**
- 7.d Approve Resolution 14-220, authorizing the Mayor to execute a Development Agreement between the City of West Jordan and Gardner Village LC, governing the development of property on the NE corner at 7800 South 1300 West**

- 7.e Approve Resolution 14-221, authorizing the Mayor to execute a Lease Purchase Agreement with Zions First National Bank, to finance Fleet Fund purchase of one bobtail truck, one 10-wheeler dump truck, and one water pipe TV van, in an amount not to exceed \$619,000.00**
- 7.f Approve Resolution 14-222, approving an Amendment to the Fleet Management Board description**
- 7.g Approve Resolution 14-223, authorizing the Mayor to execute a contract with Bowen Collins and Associates, Inc. to design the Veteran’s Park Irrigation Pond, Well and Road in an amount not to exceed \$178,522**
- 7.h Approve Resolution 14-224, authorizing the Mayor to execute a Development Agreement between the City and Peterson Development, LLC, for the Creekside at the Highlands Subdivision located at 6400 West 7800 South**

The City Council pulled Consent item 7.h. to a future date.

MOTION: Councilmember Nichols moved to approve Consent Items 7.a through 7.g. The motion was seconded by Councilmember Southworth.

A roll call vote was taken

Councilmember Haaga	Yes
Councilmember Hansen	Yes
Councilmember McConnehey	Yes
Councilmember Nichols	Yes
Councilmember Southworth	Yes
Councilmember Stoker	Yes
Mayor Rolfe	Yes

The motion passed 7-0.

VIII. PUBLIC HEARING

RECEIVE PUBLIC INPUT AND CONSIDER FOR APPROVAL ORDINANCE 14-36, REGARDING A GENERAL PLAN LAND USE MAP AMENDMENT FOR APPROXIMATELY 2.20 ACRES FROM NEIGHBORHOOD COMMERCIAL TO VERY HIGH DENSITY RESIDENTIAL AND REZONE FROM SC-2 (COMMUNITY SHOPPING CENTER) ZONE TO R-3-12 (SHO) (MULTI-FAMILY RESIDENTIAL 12 UNITS PER ACRE MAXIMUM DENSITY – SENIOR HOUSING OVERLAY) FOR SUN RIDGE ASSISTED LIVING LOCATED AT

APPROXIMATELY 7037 SOUTH 4800 WEST; SUNSET VILLAGE LLC/CERRITO DEVELOPMENT LLC/ANDREW MCKAY, MERVYN ARNOLD, APPLICANT

Tom Burdett said the subject property was located at 7037 South 4800 West. It contained 2.22-acres within a SC-2 (Community Shopping Center) zoning district. The Future Land Use designation was currently Neighborhood Commercial and had been since 1994. The subject property had been zoned SC-2, where previously the subject property and all surrounding properties in the immediate area were zoned A-20 (Agricultural – minimum 20-acre lots). The parcel was also within the Conical Zone (Ac-zone) of the Airport Overlay Zone. Residential uses were permitted in this overlay.

The subject land/parcel was currently underutilized, vacant, and was not a part of a platted subdivision. If approved, the property would be a part of the Senior Housing Overlay District (SHO); an Ordinance enacted into City Code in 2011.

Tom Burdett turned the time over to Nannette Larsen.

Nannette Larsen provided the following information:

GENERAL INFORMATION & ANALYSIS:

She said the applicant was proposing to amend both the Future Land Use Map and the Zoning Map to later petition for Site Plan approval to allow for the construction of a new Assisted Living Facility. The Future Land Use Map (from Neighborhood Commercial to Very High Density Residential) and Zoning Map (from SC-2 to R-3-12) amendments, and establishment of a Senior Housing Overlay District (SHO), would accommodate a proposed 66-unit residential living facility on the 2.22-acre site.

Sun Ridge Assisted Living would provide 24-hour assistance to residents of the facility. Housekeeping, laundry service, and three meals a day would be provided by the facility. The proposed structure on the concept plan included a square footage of 35,000 square foot building which would provide 66 livable units. Business and visitor hours for the proposed use would be between the hours of 9 a.m. to 5 p.m. During this time 13 staff members would remain on site; these hours would have the greatest number of staff, after 8 p.m. that number would drop to eight staff members to ensure assistance was being provided for. Assisted Living Centers within the R-3-12 (Multi-Family Residential) were allowed only as a Conditional Use. Subsequent to possible approval of the land use map and rezone, the Planning Commission would review and hear applications for a Preliminary Site Plan, Development Plan, and Conditional Use Permit.

The concept plan, which was included with this request, was not under review (or submitted for approval) by the City Council at this time, but its inclusion in the report allowed for further inspection of the potential land use for the subject site. The Planning Commission will review the submitted Preliminary Site Plan and Development Plan before any approval(s) may be reached on building, parking, and landscaping locations. Upon approval of a land use map amendment and rezone, staff would coordinate with the

applicant to determine adequate and required parking, landscaping, and all other bulk/area for the proposed land use, all to be shown on subsequent Site Plan and Development Plan submissions.

The property's surrounding zoning and land uses were as follows:

	Future Land Use	Zoning	Existing Land Use
North	Neighborhood Commercial/ Very High Density Residential	SC-2/R-3-12	Commercial/Residential
South	Very High Density Residential	R-3-12	Residential
East	High Density Residential	R-3-10	Residential
West	Low Density Residential	A-20	Church

FUTURE LAND USE MAP AMENDMENT FINDINGS OF FACT

According to City Code, Section 13-7C-6, the following shall be met in approving any amendments to the General Plan Land Use Map:

Criteria 1: *The proposed amendment conforms to and is consistent with the adopted goals, objectives and policies set forth in the city general plan.*

Discussion: The proposed General Plan Land Use amendment was being petitioned to be changed from Neighborhood Commercial to Very High Density Residential. The designation of Very High Density Residential includes the R-3-12, R-3-16, R-3-20, R-3-22, PC, and PRD zoning districts. The residential density range of the proposed zoning district designation was to be no greater than 12-dwelling units per acre, where the minimum required lot size for the district was one-acre.

The Comprehensive General Plan stated Very High Density Residential areas were best suited for areas where public transit and major transportation routes are available. Additionally, it stated higher density classifications should be located around commercial nodes such as major intersections. The subject property is located at the intersection of what was planned to be an arterial street (Cougar Lane – north of 7000 South) and collector streets (7000 South and 4800 West).

Goal 4 (pg. 30) of the Residential Land Use subsection of the Comprehensive General Plan encouraged a diversity of dwelling unit types for residential areas. This was further expanded on by Policy 4 (pg. 32) which specified that certain locations within the City should provide for age-restricted housing. The proposed amendment would provide for both of these policies by designating a new location within the City allowing for a diversity of housing types. Furthermore, Goal 2 of the General Plan encouraged the, “creation of attractive, well-designed, and maintained

neighborhoods.” This was created by promoting, “compatible, aesthetically pleasing architecture and urban design in residential areas in conformance with the urban form and design guidelines included in this Plan and within West Jordan Planning Division’s *Design Guideline Manual*” (pg. 28). The concept plan of the subject site would be reviewed in detail during the Preliminary and Final Site Plan and Preliminary and Final Development Plan reviews and are subject to change. Nevertheless, in staff’s opinion the conceptual architectural plans were compatible to the surrounding existing single-family and multiple-family developments in the immediate vicinity.

Finding: The proposed amendment conformed to and was consistent with the adopted goals, objectives, and policies set forth in the City general plan.

Criteria 2: *The development pattern contained on the land use plan inadequately provides the appropriate optional sites for the use and/or change proposed in the amendment.*

Discussion: The subject property was currently designated as Neighborhood Commercial on the City’s Future Land Use Map. The Neighborhood Commercial Land Use designation provides for areas within the City which serve daily convenience needs of the surrounding community. These services were intended to attend a population up to 10,000 people.

Due to the location of the subject site, where access and uses to the immediate east are limited because of the South Valley Airport, staff does not anticipate the intended commercial use expected for this site to be feasible and/or marketable. The subject site was within a community which is now located within 2 miles of a new Smith’s Marketplace and several other areas with small commercial/service convenience (example; the northeast corner of 7800 South and 4800 West).

Finding: The development pattern contained on the land use plan inadequately provides the appropriate optional sites for the use and/or change proposed in the amendment.

Criteria 3: *The proposed amendment will be compatible with other land uses, existing or planned, in the vicinity.*

Discussion: The properties to the east and south of the subject property were both multi-family developments. To the north was a commercial building, and to the west a church. Because the uses surrounding the subject property are all more intense types of land use it was not anticipated the surrounding property owners or tenants would be adversely impacted to the proposed amendment.

Finding: The proposed amendment would be compatible with other land uses, existing or planned, in the vicinity.

Criteria 4: *The proposed amendment constitutes an overall improvement to the adopted general land use map and is not solely for the good or benefit of a particular person or entity.*

Discussion: The proposed amendment would improve the Future Land Use Map, as the changes would make the map more accurate by incorporating changes to the City's development environment. The proposed changes would not benefit any specific person but were a reaction to recent changes in the community.

Finding: The proposed amendment constitutes an overall improvement to the adopted general land use map and was not solely for the good or benefit of a particular person or entity.

Criteria 5: *The proposed amendment will not adversely impact the neighborhood and community as a whole by significantly altering acceptable land use patterns and requiring larger and more expensive public infrastructure improvements, including, but not limited to, roads, water, wastewater and public safety facilities, than would otherwise be needed without the proposed change.*

Discussion: The Engineering Department had reviewed the proposed Future Land Use Map amendment along with the submitted concept plan and had determined there were adequate public facilities in the area to facilitate an assisted living center at this location.

The Fire Department would also review the Site Plan, Development Plan, and Conditional Use at the time of submittal to ensure all public safety standards and conditions were met.

Finding: The proposed amendment would not adversely impact the neighborhood and community as a whole by significantly altering acceptable land use patterns and requiring larger and more expensive public infrastructure improvements, including, but not limited to, roads, water, wastewater and public safety facilities, than would otherwise be needed without the proposed change.

Criteria 6: **The proposed amendment is consistent with other adopted plans, codes, and ordinances.**

Discussion: The subject property was not located within any other adopted plan other than what was described within this report.

Finding: The proposed amendment was consistent with other adopted plans, codes, and ordinances.

ZONING MAP AMENDMENT FINDINGS OF FACT

According to City Code, Section 13-7D-6(A), the following shall be met in approving any amendments to the Zoning Map:

Criteria 1: *The proposed amendment is consistent with the purposes, goals, objectives, and policies of the adopted general plan.*

Discussion: The applicant was petitioning to rezone the subject property from SC-2 (Community Shopping Center) to R-3-12 (Very High Density Residential) with Senior Housing Overlay District (SHO). As previously discussed, the rezone would also include a Future Land Use Map amendment from Neighborhood Commercial to Very High Density Residential. Upon approval of this land use designation (with the explanations listed in the section and criteria described above) the proposed rezone would meet the intent of the General Plan.

Finding: The proposed amendment was consistent with the purposes, goals, objectives, and policies of the adopted general plan.

Criteria 2: *The proposed amendment will result in compatible land use relationships and does not adversely affect adjacent properties.*

Discussion: The proposed rezone would not negatively affect adjoining properties or residents. The properties immediately adjacent to the subject property were also designated as High and Very High Density Residential. The submitted concept plan also displays a proposed development which should not adversely affect surrounding properties.

Finding: The proposed amendment would result in compatible land use relationships and does not adversely affect adjacent properties.

Criteria 3: *The proposed amendment furthers the public health, safety, and general welfare of the citizens of the city.*

Discussion: The proposed rezone was a reaction to recent commercial developments within the vicinity of the subject site and it was anticipated it would positively affect the area and increase the diversity of housing within the City. Assisted living facilities typically do not generate daily vehicular traffic counts when compared to traditional single-family/multi-family

projects, where also, such facilities are a necessity given the increased housing needs for citizens who wish to live in this City and are over 55 years of age.

Finding: The proposed amendment furthered the public health, safety, and general welfare of the citizens of the city.

Criteria 4: *The proposed amendment will not unduly impact the adequacy of public services and facilities intended to serve the subject zoning area and property than would otherwise be needed without the proposed change, such as, but not limited to, police and fire protection, water, sewer and roadways.*

Discussion: The Engineering Department had reviewed the proposal to rezone the subject property and determined existing public facilities in the area are adequate to serve the proposed rezone and expected use. It had also determined that there were no serviceability issues associated with these applications and further reviews would be part of the Site Plan review.

Further detailed staff reviews would occur with submittals of the Site Plan, Development Plan, and Conditional Use permit.

Finding: The proposed amendment would not unduly impact the adequacy of public services and facilities intended to serve the subject zoning area and property than would otherwise be needed without the proposed change, such as, but not limited to, police and fire protection, water, sewer and roadways.

Criteria 5: *The proposed amendment is consistent with the provisions of any applicable overlay zoning districts which may impose additional standards.*

Discussion: In addition to the proposed rezone the applicant was also requesting a map amendment to include a Senior Housing Overlay District (SHO). The purpose of this overlay was as follows:

- Establish locations for the development of appropriate living arrangements, both assisted and independent, for residents fifty five (55) years and older.
- Provide standards for development which recognizes and accommodates the varied housing and lifestyle needs and desires of seniors, including decreasing mobility, changing health, and the alternative needs of the senior person.

- Promote independence and a high quality of life to meet the physical and social needs of seniors by encouraging specialized design features, and convenient access to community and civic centers, support services, mass transit stations and stops, recreational facilities, and shopping centers.

Criteria for inclusion of this overlay zone would be reviewed during the Site Plan process.

Finding: The proposed amendment was consistent with the provisions of any applicable overlay zoning districts which may impose additional standards.

Nannette Larsen concluded by saying that the proposed amendments as being requested would be compatible with adjoining land uses and neighborhood, where no negative or adverse impacts were expected.

Staff recommended that the City Council approve the proposed ordinance to amend the Future Land Use Map from Neighborhood Commercial to Very High Density Residential High Density Residential and Rezone from SC-2 to R-3-12 (SHO) located at 7037 South 4800 West.

The Council and staff discussed clarifying questions.

Andrew McKay, applicant, agreed with staff and Planning Commission's recommendations regarding the rezone. They felt this project would help provide a need for West Jordan residents.

Scott Monson, Owner of Assistance Living Center, was passionate about Senior Care and being able to provide care for West Jordan residents. He indicated that this site would be used for a state of the art Senior Care facility.

Mayor Rolfe opened the public hearing.

Alexandra Eframo, West Jordan resident, was excited for a Senior Care Center in West Jordan. She was confused regarding the units per acre.

June Christensen, West Jordan resident, commented on the density. She questioned whether multi-family residential could be placed in this area, if a Senior Facility/Center was not placed on this property.

There was no one else who wished to speak. Mayor Rolfe closed the public hearing.

Councilmember Haaga asked if there was an assurance that this property would be used as a Senior Care/Housing Center.

Tom Burdett said the reason the Very High-density designation was recommended was because the R-3-12 zoning allowed for Assisted Living Facilities in the City's code. He said Council could direct a development agreement to be prepared in the event that the assisted living center was not implemented in the future.

Councilmember Stoker reported that there was a conceptual plan required by the Municipal Code for zone changes, and in the concept plan was a single building of 35,000 square feet. This single building would house seniors. Assurances would come from adding the Senior Housing Overlay with the rezone, so it could never be an apartment complex.

Councilmember Southworth commented on the access of the plan.

Tom Burdett indicated that it was too early in the phases to discuss access.

Councilmember Southworth was concerned with adding additional high-density to the area, he felt the General Plan did not allow high-density in this area. He wanted to see a development agreement showing this would be a Senior Care Center/housing or a similar facility in the future.

Councilmember McConnehey shared some of the same concerns as Councilmember Southworth, but felt there was a need for additional Senior Care Center/housing development within the City.

MOTION: Councilmember Nichols moved to approve the proposed Ordinance 14-36, revising the Future Land Use Map from Neighborhood Commercial to Very High Density Residential and the Rezone from SC-2 to R-1-13 (Senior Housing Overlay) for property located at 7037 South 4800 West; and direct staff to concentrate efforts on getting the railroad finished across 7000 South. The motion was seconded by Councilmember McConnehey.

A roll call vote was taken

Councilmember Haaga	Yes
Councilmember Hansen	Yes
Councilmember McConnehey	Yes
Councilmember Nichols	Yes
Councilmember Southworth	Yes
Councilmember Stoker	Yes
Mayor Rolfe	Yes

The motion passed 7-0.

IX. BUSINESS ITEMS

DISCUSSION AND POSSIBLE ACTION REGARDING RESOLUTION 14-225, AUTHORIZING EMINENT DOMAIN ACTION AGAINST WILLIAMSBURG HOLDING DEVELOPMENT COMPANY, LLC, A UTAH LIMITED LIABILITY COMPANY, TO ACQUIRE ALL OF ITS REAL PROPERTY LOCATED AT 6632 SOUTH AND 6732 SOUTH 5600 WEST, WEST JORDAN, UTAH, NECESSARY FOR THE CITY'S 5600 WEST, 6200 SOUTH TO 7000 SOUTH ROAD AND UTILITY IMPROVEMENT PROJECT

Wendell Rigby said the City of West Jordan had a City Council approved and budgeted road project on 5600 West Street, between 6200 South and 7000 South. Among other things, the project consisted of improving the City's utility system and widening the road from two lanes to five lanes. This project was a joint project between West Jordan and West Valley City, together with the Utah Department of Transportation (UDOT) oversight since much of the project had been funded through federal aid.

In order to accomplish the best and safest design for the residents who use the neighborhood, and for the general public at large, during the design phase it was discovered that the City would need to acquire all of the property owned by Williamsburg Holding Development Company, LLC (Williamsburg) within the project boundary.

On October 8, 2013, City staff commissioned an MAI certified appraisal on the Williamsburg property, which valued the property at \$520,000.00. Staff then submitted a purchase offer to Williamsburg in January 2014, offering to purchase the property for the full appraised value. Williamsburg rejected the City's offer and was willing to sign the necessary deed based on the appraised value. However, in an effort to keep the project on schedule, on April 29, 2014, Williamsburg and the City entered into a Right of Occupancy Agreement whereby Williamsburg allowed the City to permanently occupy the property in exchange for the appraised value of \$520,000.00, which was paid on May 1, 2014.

The Right of Occupancy Agreement also stated, in part,

"If a satisfactory settlement cannot be agreed upon, West Jordan will, upon notice for the Property Owner that the amount of compensation offered and/or other proposed settlement terms are not acceptable, or at its own election, proceed at once to commence and diligently prosecute a condemnation proceeding in the appropriate court for a judicial determination of such compensation."

After attempting to negotiate with the property owner for the past several months, it had become apparent that the parties were at an impasse. Therefore, City staff recommended that the City Council authorize eminent domain proceeding consistent with the intent of the parties, which was to submit this issue before the appropriate court for a judicial determination since a negotiated settlement could not be reached.

MOTION: Councilmember Southworth moved to adopt Resolution 14-225, authorizing and directing the Interim City Manager and the City Attorney, on behalf of the City:

- 1) To acquire, in the name of the City, title to the Property as set forth herein, by purchase if a reasonable final purchase price can be negotiated, or by eminent domain proceeding in accordance with Utah law.**
- 2) To prepare and prosecute such proceedings in the proper court having jurisdiction thereof as is necessary for such acquisition.**
- 3) To use the services of outside counsel as necessary to accomplish these directives.**

The motion was seconded by Councilmember Nichols.

A roll call vote was taken

Councilmember Haaga	Yes
Councilmember Hansen	Yes
Councilmember McConnehey	Yes
Councilmember Nichols	Yes
Councilmember Southworth	Yes
Councilmember Stoker	Yes
Mayor Rolfe	Yes

The motion passed 7-0.

DISCUSSION AND POSSIBLE DIRECTION REGARDING A REQUEST FROM PETERSON DEVELOPMENT TO SUBMIT AN APPLICATION FOR THE GLADSTONE MULTI-FAMILY DEVELOPMENT

Mayor Rolfe said this item was for possible direction regarding a request from Peterson Development to submit an application for the Gladstone multi-family development.

Barrett Peterson, Peterson Development, was seeking clarity following the rezone approved in September. He provided the Council with a portion of an agreement showing that the ‘Highlands’ was not to be governed by the ‘cap and grade.’ He said they had vested rights for all of their multi-family in the ‘Highlands.’ This agreement was put into effect in 2012.

Letter provided by Peterson Development:

“We are discouraged to hear that City Staff has not accepted our application for Gladstone. Here are the reasons why we believe the Gladstone application should be accepted:

1) VESTED RIGHTS

The most important reason is that we have a Development Agreement with West Jordan City for The Highlands that states that we are vested in the West Side Planning Area (WSPA), even if the Council determines to not use the WSPA in other areas of the City. The City has, indeed, adopted a different zoning program and because of our Development Agreement, we are vested. This makes us different from other developers who do not have a Development Agreement but are trying to be grandfathered in before the new Cap and Grade takes effect.

2) "GREEN LIGHT" FROM THE CITY COUNCIL

We received our rezone approvals for Gladstone, and specifically the piece that we have under contract from the City Council on September 10, 2014. We believed this gave us the green light to move forward—to purchase the land from UDOT, to begin working towards application of a development plan, etc. The political will for this project appeared to be nearly unanimous, evidenced by the 6-1 vote in favor of the project. The momentum on this project will be stopped if we have to wait a number of years before being able to qualify for the Cap and Grade.

3) OUR PROPOSAL SOLVES A NUMBER OF PROBLEMS

As we discussed on the night of September 10, our proposal solves a number of problems and makes the current situation with the wash better. Currently, there is a UDOT trail next to a deep wash with a very steep bank. This is a BIG liability to the City. Our proposal would bury the wash, and create a trail that runs through a vibrant townhome community—which would make it safer for residents to use the trail—both because it would no longer be next to a dangerous wash, and because it would have townhomes surrounding the trail to help keep the area safe. We would also bury a large pipe in the ground that would handle the flows in a 100 year event to mitigate any potential flooding. We have already worked with the City Staff extensively on this plan. We also agreed to install L.E.D. lighting on the trail. In summary, our proposal helps the City in many different ways. If we are unable to move forward at this time, all of those benefits would go away.

4) ECONOMIC DEVELOPMENT

Smith's is planning on opening their grocery store on December 4. They have always planned on the rooftops from our Highlands development to help them hit their revenue projections. Now, we would basically be telling them that a good portion of these rooftops would not get built, and thus there would be fewer shoppers at their store. They need growth to continue to happen in this part of the City for their store to be viable. As the developers of the retail around Smith's, we can tell you that we are struggling a bit with our leasing activity and it is because potential tenants want to see more growth in the form of more rooftops.

Finally, if Gladstone cannot proceed forward at this point, the entire section of road in front of the project will not get built, and there will be no connection from 78th South to 82nd South on the S-shaped road that is shown on your maps. This

again stifles economic development and has a trickle-down effect, in a negative way, to commercial development.

In summary, our proposal is a common sense approach to development. There aren't many other good options as far as housing along a freeway. Our proposal is the best solution of what to do with a difficult piece of land next to a deep and dangerous wash. We have partnered with a reputable home-builder in Garbett Homes and they bring curb appeal and high quality design to your community. We would urge you to vote to allow Gladstone to move forward and be developed at this time.

Sincerely,
Barrett Peterson, Manger”

Dana Mollerup, Garbett Management, provided the Council with their qualifications regarding finding residents:

- Income three-times the monthly rent
- Credit history
- Previous rental history
- Household occupancy (max two-persons per bedroom)
- No second chances (crime on or off property results in eviction)

Paxton Guymon, Attorney for Peterson Development, restated their legal position:

- Project was exempt for the Cap and Grade Ordinance
- Rights under the WSPA were vested

Scott Howell, Government Relations for Peterson Development, read the following letter from Steven M. Sorensen, Vice President Corporate Development, and Smith's Food & Drug:

“Honorable City Council Members,

I am excited today as we open our new Smith's Marketplace store in West Jordan. Please accept my sincere appreciation to you and your staff for the cooperative effort established in getting store and development off the ground. Today represents the culmination of years of planning for a store at this location. We appreciate the help of the City with the roads and roundabouts that make this site viable for commercial development and improving traffic flow for this community, as well as allowing for continued growth in the area.

As you know, we have partnered with Peterson Development in developing the Highland Shopping Center. As I have talked with them in recent weeks they have expressed some concern to me about the discussion taking place within the Council to reduce the density of the new residential development in the Highland area. You should be aware; we based

our decision to open a store at this location not only on current households and population in the area, but also a critical component of that decision was projected development and potential population growth. While I am not necessarily a proponent of high-density housing and am certainly not suggesting all new development should be any specific density, I am concerned if there is, in fact, a move to decrease the density from the Master Plan we have been shown, and based our projections on. Developments like our new store and the commercial/retail area around it, needs customers to be successful.

I realize a successful community has many types of housing as well as commercial, office, industrial, etc. development. I would appeal that nothing be done to diminish the projections that were presented to Smith's as we were evaluating this area for development.

I appreciate your consideration and again, express thanks for your help in making our project happen.

Sincerely,
Steven M. Sorensen
Vice President Corporate Development"

Scott Howell asked for clarity and the Council's sustaining vote for the right density, amount of people, for sustaining the area.

Barrett Peterson clarified for the Council that they would pipe the wash to prevent flooding.

Mayor Rolfe said this agenda item provided Peterson Development with the opportunity to provide facts. Staff would then look into the issue(s) and at a later date, staff would be provided direction and they would contact Peterson Development.

Tom Burdett indicated that staff would be reviewing documents, prior to comments being made by staff.

Councilmember Nichols said as staff reviewed this issue, he wanted clarification/interpretation regarding Sections 1.5.1 and 1.5.2 of the original Development Agreement.

DISCUSSION AND POSSIBLE ACTION REGARDING 3620 WEST

Jeff Robinson spoke on this issue. He said the staff report in the Council's agenda packet provided the following information; In years 2011 and 2012, the Utah Department of Transportation (UDOT) undertook an Innovative Intersection Construction project (the project) affecting the intersections of 6200 South, 7000 South and 7800 South. The project included a new grade separated interchange at 7800 South. As part of the new ramp configuration, UDOT purchased the home at 7813 South 3620 West and planned to close 3620 West at the point it meets 7800 South. The home at 7813 South 3620 West

was removed as part of the ramp and roadway construction.

On October 26, 2011, the City Council was presented with a request to approve the vacation of 3620 West as part of the project. Staff recommended, and the City Council approved, Ordinance 11-33, conditionally vacating a portion of 3620 West Street located in the Western Hills Phase 1 Subdivision. Ordinance 11-33 stated that the 870 square feet is vacated subject to the following conditions:

- 1) Install landscaping in accordance with Zoning Ordinance Section 13-13-11B-1.
- 2) Modify the access intersections into Western Hills and Nobel Heights Subdivisions, as well as the 3620 West 7825 South intersection, in a manner approved by the West Jordan Engineering Department in order to improve traffic circulation on the two remaining intersections and notify drivers that a portion of 3620 West Street has been closed.
- 3) Bond for the improvements to the property.
- 4) Complete recordation of the plat to vacate 3620 West Street in Western Hills Phase 1 Subdivision prior to the closure of the street.

A vacation plat was provided to the City, but it was not recorded because UDOT failed to meet conditions 1 and 3, and consequently, the vacation could not occur under the terms of Ordinance 11-33. Without waiting for the vacation to be completed, UDOT installed a 6-foot tall privacy wall along 7800 South and running the width of 3620, effectively closing the road to vehicular traffic, so the requirement of condition 4 to record the plat prior to closure was also not met.

In addition, UDOT sold the property located at 7813 South 3620 West, the property for which landscaping and bond were required, to the adjoining property owner to the south. City staff has communicated with the new owner in an attempt to meet the conditions of Ordinance 11-33 in order to complete the vacation. While understanding and cooperative, the owner has a longer time frame to construct his proposed garden improvements, and as of the date of this Request for Council Action, conditions 1, 3 and 4 remain unmet.

Prior to UDOT's sale of the property at 7813 South 3620 West, UDOT insisted that the City could not require UDOT to meet the conditions of vacation set forth in Ordinance 11-33. The City disagreed. In an attempt to resolve the impasse (UDOT had already constructed the wall and was preparing to sell the 7813 South 3620 West property), UDOT, and City staff engaged in discussions of possible solutions. Possible solutions may have included: (1) UDOT completing the conditions to landscape and bond for improvement of 7813 South 3620 West; (2) City Council passing a new vacation ordinance eliminating conditions 1 and 3 and modifying condition 4; or (3) City Council passing a new vacation ordinance revising conditions 1, 3, and 4. City staff determined to approach City Council and seek guidance but decided to pursue a signed UDOT commitment prior to doing so. To that end, UDOT and City staff discussed entering a

Memo of Understanding (MOU). A detail of the pursuit of a MOU is included in the Chronology below:

Chronology

1. On October 26, 2011, City Council approved Ordinance 11-33 which conditionally vacated a portion of 3620 West at 7800 South contingent on certain conditions.
2. In 2012, UDOT closed the road but not all conditions had been met.
3. City staff engaged in multiple meetings and communications regarding UDOT's failure to meet the conditions.
4. Ultimately, UDOT and City staff decided to pursue a memorandum of understanding ("MOU") between the City and UDOT.
5. City staff engaged in multiple communications and some meetings with UDOT regarding a MOU.
6. City staff discussed and agreed to obtain UDOT's signature on a MOU (to memorialize UDOT's commitment) and then approach City Council for approval of the MOU and a new ordinance changing the original vacation conditions of Ordinance 11-33.
7. UDOT drafted a MOU that did not accurately reflect City staff's envisioned changes to the conditions of Ordinance 11-33.
8. UDOT mailed the original of its MOU, signed by UDOT, to the City with a signature block for the City Manager's signature. This occurred while City staff was reviewing and amending an electronic version of UDOT's draft. The UDOT-signed MOU was never approved by the City or internally by City staff.
9. Rick inadvertently signed the UDOT MOU, and it was returned to UDOT.
10. Staff quickly realized the mistake.
11. City staff then engaged in communication with UDOT, explaining the mistake.
12. UDOT acknowledged the mistake, agreed to treat the MOU as null and void and informed City staff that UDOT would shred the signature page according to its own policy.
13. The City and UDOT were never able to agree on the terms of the MOU, and a subsequent MOU was never signed.
14. The plat vacating 3620 West has never been signed or recorded.

Because there was no agreement, City staff is not able to propose revised conditions of vacation (to supersede conditions 1 and 3, and modify condition 4) that would be acceptable to UDOT, and City staff is also not able to provide a MOU to support any elimination of or change to the unmet conditions.

City staff recommended that the City Council declare the inadvertently signed MOU invalid and either ratify the existing conditions of vacation found in Ordinance 11-33 or adopt a new vacation ordinance (to supersede Ordinance 11-33) with new or different conditions of vacation. The effect of ratification would be that the portion of 3620 West would be deemed not vacated (despite the existing wall), and the plat would not be recorded. In addition, it was unlikely that UDOT could meet the ratified conditions now that the property at 7813 South 3620 West was under new ownership. The effect of

modifying the conditions could be similar, since UDOT no longer had ownership or control of the property. The effect of eliminating the conditions would be to remove the landscaping and bonding requirement from UDOT for 7813 South 3620 West and allow the vacation plat to be recorded. The current property owner was subject to the City Code and may be subject to code enforcement if the property was not in compliance.

Staff recommended that the City Council declare the inadvertently signed the Memorandum of Understanding to be invalid and also do one of the following: (1) direct staff to prepare, and present to City Council at a future City Council meeting, a new ordinance to eliminate conditions 1 and 3 and modify condition 4 of Ordinance 11-33; or (2) direct staff to prepare, and present to City Council at a future City Council meeting, a new ordinance to modify conditions 1,3, and 4 of the Ordinance 11-33; or (3) ratify the conditions of vacation found in Ordinance 11-33.

Jeff Robinson clarified for the Council the two potential actions regarding this matter:

- 1) There was a Memorandum of Understanding that was inadvertently executed, and staff was seeking to make the Memorandum of Understanding invalid.

He said staff believed it was invalid because it was inadvertent and we have an understanding with UDOT that it was inadvertently executed, but staff would appreciate Council's express declaration that the document is invalid.

- 2) What to do with the plat today?
 - Should staff record it based on the original conditions of the original ordinance, which was Ordinance 11-33.
 - Should staff eliminate some of the conditions?
 - Should staff modify some of the conditions?

He said the three conditions which were a potential problem were also listed above:

- 1) Install landscaping in accordance with Zoning Ordinance Section 13-13-11B-1.
- 2) Bond for the improvements to the property.
- 3) Complete recordation of the plat to vacate 3620 West Street in Western Hills Phase 1 Subdivision prior to the closure of the street.

None of the conditions had been met. UDOT even closed the street prior to allowing anything to be done by the City. Therefore, the plat cannot be changed without some change in the conditions either revision or elimination.

- Ratification means never recording the plat (conditions not complied with)
- Elimination of conditions means recording the plat vacating the road or revise the condition (which would be next to impossible)

Mayor Rolfe supported the invalidity of the Memorandum of Understanding, and also ratifying of Ordinance 11-33.

He said there was a section of roadway still owned by the City, and the Council could decide to remove the wall and open the roadway back up. He reminded the Council that UDOT took possession of the road without authority.

Councilmember Haaga agreed with Mayor Rolfe and wanted to see the Memorandum of Understanding declared invalid; and the City Ordinance passed in 2011, enforced.

Jeff Robinson said to enforce the Ordinance passed in 2011 it would take a lawsuit.

Councilmember Southworth asked what the Council was looking for.

Mayor Rolfe felt UDOT should:

- Landscape on one-side and at least finish up to the wall
- On the other side possibly curb, gutter, walkway, etc.
- Proper barricading

If these things were not performed, then the City should open the roadway back up for citizen's use.

Councilmember Haaga felt there was enough evidence that there could be a lawsuit against UDOT.

Councilmember Nichols did not want to burn bridges with UDOT over the landscaping of the corner of an intersection. He felt the City needed the support of UDOT in the future. He wanted to see the City improve the landscaping, and move forward nullifying the Memorandum of Understanding.

Motion: Councilmember Southworth moved to declare the inadvertently executed Memorandum of Understanding invalid. The motion was seconded by Councilmember Nichols.

A roll call vote was taken

Councilmember Haaga	Yes
Councilmember Hansen	Yes
Councilmember McConnehey	Yes
Councilmember Nichols	Yes
Councilmember Southworth	Yes
Councilmember Stoker	Yes
Mayor Rolfe	Yes

The motion passed 7-0.

Motion: Councilmember Stoker moved to direct staff to prepare a new Ordinance to supersede Ordinance 11-33 and remove conditions 1 and 3 and modify condition 4. The motion was seconded by Councilmember McConnehey.

A roll call vote was taken

Councilmember Haaga	Yes
Councilmember Hansen	Yes
Councilmember McConnehey	Yes
Councilmember Nichols	Yes
Councilmember Southworth	Yes
Councilmember Stoker	Yes
Mayor Rolfe	Yes

The motion passed 7-0.

Jeff Robinson clarified that the modification to Condition 4 would be to record the plat after the modified Ordinance came back to the Council.

DISCUSSION AND POSSIBLE ACTION REGARDING APPROVAL OF A FUNDING SOURCE FOR A SIDEWALK CONNECTION ON GARDNER LANE ACROSS SOUTH JORDAN CANAL IN THE OKUBO SUBDIVISION

Wendell Rigby said on July 10, 2014, Okubo Farm Phase 1 was granted final approval for a new subdivision located at 1930 West Gardner Lane. As part of the development approval the project was required to construct a sidewalk along Gardner Lane. Upon approval, members of City Council expressed concern about a gap of missing sidewalk across the canal separating Okubo Farm and the existing subdivision to the east called Cajean Estates. Staff was asked to prepare a design and calculate a cost for the City to construct the sidewalk across the canal corridor.

He said provided in the Council's agenda packet was a concept plan for the new section of sidewalk along with a cost estimate of approximately \$8,500. Staff was prepared to construct the new section of sidewalk using either a hired contractor or City resources providing a source of funding can be determined. The project was currently not listed in any of the CIP Capital Improvement Projects or in the safe sidewalk program. Staff recommends that Council either approved expenditure from the Council Contingency fund or direct staff to add this project as a budget item in the 2015-2016 budget.

Staff recommended that the City Council determine a source of funding for this project.

Wendell Rigby asked the Council to consider adding the following topics to the Strategic Planning Session in January:

- Existing missing sidewalks

- Hazardous sidewalk
- ADA ramps

Councilmember Haaga gave a brief history of area, and reminded the Council of the safety of the children.

The Council agreed to discuss the issue of sidewalk priority throughout the City during the Strategic Planning Session in January.

X. REMARKS

There were no additional remarks.

XI. ADJOURN

MOTION: Councilmember Nichols moved to adjourn the City Council meeting and convene the Redevelopment meeting. The motion was seconded by Councilmember McConnehey passed 7-0 in favor.

The meeting adjourned at 7:59 p.m.

The content of the minutes is not intended, nor are they submitted, as a verbatim transcription of the meeting. These minutes are a brief overview of what occurred at the meeting.

KIM V ROLFE
Mayor

ATTEST:

MELANIE BRIGGS, MMC
City Clerk

Approved this 17th day of December 2014