

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

Saturday, January 31, 2015

10:00 a.m.

Council Chambers

8000 South Redwood Road

West Jordan, Utah 84088

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

STAFF: Bryce Haderlie, Interim City Manager; Melanie Briggs, City Clerk, and Jeffery Robinson, City Attorney

I. CALL TO ORDER

Mayor Rolfe called the meeting to order at 10:03 a.m.

Mayor Rolfe indicated that Councilmember Southworth would be participating in the meeting electronically.

II. BUSINESS ITEMS

**DISCUSSION AND DIRECTION FOR STAFF REGARDING SETTLEMENT
OF LITIGATION, GLASSER V. WEST JORDAN**

Jeff Robinson stated the open meeting was based on direction from the Closed Session held Wednesday, January 28, 2015.

Councilmember Stoker was aware that this item was in the news. However, as the City moved forward it was his opinion that the West Jordan's case in defending this was very strong. He did not support a settlement in the terms that the City was liable in anything. While the accident was regrettable, and the loss of life, and should be treated sacred. He felt West Jordan did not hold any fault in the case. Any discussion for him regarding the settlement was only to avoid future costs in pursuing appeals, and further litigation in arguing this case. If it did go beyond a settlement, he would not support any money in terms of City liability. He did not feel the City was at fault. The accident took place outside West Jordan's municipal boundaries. The only link that West Jordan has to this was a sign that was illegally installed by another municipality within our corporate boundaries.

Mayor Rolfe stated he agreed whole-heartedly with Councilmember Stokers' comments.

Councilmember McConnehey stated he echoed some of the sentiments of Councilmember Stoker. There was a question as to if the sign was located within the City boundaries. He did not feel the City had any liability. The only question was the nonstandard sign that was placed in the City by another entity. He would prefer to let the appeals process run its course. He understood the argument it may be best to pursue a settlement to avoid undue expenditures. However, if there were expenditures, he would prefer it to be used toward those who were working to defend the

City, rather than towards a misguided lawsuit against the City. He did feel it was a tragic event that brought us to this point. His heart goes out to the family involved.

Mayor Rolfe stated he supported both statements that were made.

MOTION: Mayor Rolfe moved that the City Council, to save not only expenditures in money form, but also time that could be better spent on other more valuable things with the Legal team, that we should offer a settlement in the case, in amount not to exceed \$60,000, Glasser v. West Jordan; and any offer up to the \$60,000 be in exchange for a dismissal with prejudice, a satisfaction of judgment, and a complete release of all claims from all of the plaintiffs. The motion was seconded by Councilmember Haaga.

Councilmember Southworth indicated that he would be voting against the settlement.

Jeff Robinson said any offer up to the \$60,000 be in exchange for a dismissal with prejudice, a satisfaction of judgment, and a complete release of all claims from all of the plaintiffs.

The Mayor stated this statement would be added to the motion.

A roll call vote was taken

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

The motion passed 4-3 in favor

**DISCUSSION AND POSSIBLE ACTION REGARDING RESOLUTION 15-24,
APPROVING A SETTLEMENT AGREEMENT FOR PENDING LITIGATION**

Mayor Rolfe stated the Council had an opportunity to review the settlement agreement that was prepared from discussion in a Closed Session.

Councilmember McConnehey said his frustration was not with the settlement only with how it was presented. His understanding was that the item would be presented at the February 11 Council meeting. The item was added to the Special Council meeting agenda on Friday, January 30. The language on the agenda references a Resolution, but not which case. He did not feel this was transparent for the residents. Because of the lack of transparency he would not support action at this time. He preferred tabling the

item until February 11. However, if there was a motion to pass the settlement agreement, he would vote against it.

Mayor Rolfe stated because of other circumstances that had come up in the last week, that was the reason why the item was placed on the agenda for the special meeting. He apologized that there was not enough time, the item just came up yesterday with some other outside conditions.

Councilmember Stoker echoed Councilmember McConnehey's statement. By meeting on a Saturday morning, he felt there should be a heightened awareness of transparency. With the way the item was listed on the agenda, and the lack of a staff report, the public need to be made aware of what the Council was talking about. He would support tabling the item until February 11, assuming that there was nothing critically pending that would cause harm to the City by waiting.

Councilmember Haaga said this case was highly publicized. He stated the litigant signed the agreement on January 12, and therefore the Council could have heard the item January 28. He felt this was timely, and would put to rest an item that would help the City move forward.

Councilmember Hansen asked what the difference was 'with prejudice' and 'without prejudice?'

Jeff Robinson said 'with prejudice' the lawsuit could not be refiled; 'without prejudice' means they could amend it and maybe bring it back another day.

Councilmember Hansen clarified that if the Council approves the settlement, she could not come back with this lawsuit, only with future items.

Jeff Robinson stated that was correct.

Councilmember Hanse said she also had a problem with the lack of transparency. However, she did not agree that the issue was very public, because all of the Council discussions had been done in closed meetings. This had not been discussed in open meeting at all, and was not widely publicized.

Councilmember Nichols asked if the Councilmembers concern was that the agenda did not state the case name, lawsuit name, stating Shelley Thomas vs. the City of West Jordan.

Councilmember McConnehey stated yes, for him that was the concern. For business item 2a, it states that is was settlement of litigation Glasser vs. West Jordan; for 2b it only states Resolution 15-24, with no indication as to what lawsuit it was. As Councilmember Haaga mentioned, this was one that had been in the news, and if gives the appearance that

we were meeting in secret on a Saturday morning early, with a last minute addition to take action. When really there was nothing shady or questionable that the Council was doing, and the agenda item should have at least included the name, this would have dispelled all lot of potential concerns.

Mayor Rolfe said during the negotiations on this issue, trying to prevent a continued court battle, there has been confidentiality on everything we do can be requested through GRAMA and the records can be pulled; however, there were portions that were confidential to protect individuals.

Bryce Haderlie clarified that as a resolution was adopted, it would not require a GRAMA request, because it would be placed on the City's website.

Melanie Briggs stated that was not the case.

Bryce Haderlie stated he thought the item would be attached similar to other Council action items.

Melanie Briggs indicated that she was directed to not attach the resolution and settlement agreement to the website.

Bryce Haderlie asked so we would require a GRAMA request for the resolution and/or agreement.

Melanie Briggs stated yes, that was correct.

Bryce Haderlie said that staff was open to the direction given by the Council, maybe a case number of something. However, in his history as he had dealt with these types of things, this was common to what he was used to, but he was open to whatever you as a Council give direction.

Mayor Rolfe stated the negotiations that brought about the settlement were not to be public information. Not that they were hiding anything, because anyone could request the item.

Councilmember Haaga suggested amending the agenda item to state, 'Shelley Thomas vs. West Jordan.'

Councilmember Stoker called a point of order. The agenda must be amended at least 24 hours in advance.

Jeff Robinson stated that was correct.

Mayor Rolfe indicated the Council was well versed on the circumstances surrounding this particular resolution, and he felt it was expedient to move forward on action at this time.

MOTION: Councilmember Nichols moved to approve Resolution 15-24. The motion was seconded by Councilmember Haaga.

Councilmember Stoker said in his previous comment that if there was not any harm to the City, he was in favor of waiting until the February 11. He asked if there was anything that would prohibit the Council from continuing the item to February 11, in order to be more transparent.

Jeff Robinson said the Council could go into a closed session to talk about this litigation, which would allow for a more open discussion as to why the agreement needed to be approved today.

Councilmember Stoker stated that was a good enough answer.

A roll call vote was taken

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

The motion passed 6-1 in favor

Councilmember McConnehey expressed appreciation to everyone for their patience with him needing to bring his little boy. He apologized for any distractions, but appreciated the family friendly City and allowing the accommodations.

Mayor Rolfe updated the Council on the Legislative Round Up that was earlier in the morning at Jordan Valley Medical Center. He was impressed with the information provided, and the attendance early on a Saturday morning.

III. ADJOURN

MOTION: Councilmember moved to adjourn. The motion was seconded by Councilmember Hansen and passed 7-0 in favor.

he meeting adjourned at 10:22 a.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 S. BRIGGS, MMC
City Clerk

Approved this 11th day of February 2015