

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

Wednesday, November 17, 2015

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, Chad Nichols, Sophie Rice, and Ben Southworth. Council Member Chris McConnehey was excused.

STAFF: Mark R. Palesh, City Manager; Darien Alcorn, Acting City Attorney; Melanie Briggs, City Clerk; Jamie Vincent, Deputy City Clerk; David Oka, Economic and Community Development Director; Brian Clegg, Parks Director; Ryan Bradshaw, Finance Manager; Wendell Rigby, Public Works Director; Marc McElreath, Fire Chief; Doug Diamond, Police Chief; Paul Dodd, Civil Litigator; Jim Riding, CIP/Facilities Manager; Paul Wellington, Purchasing Agent.

I. CALL TO ORDER

Mayor Rolfe called the meeting to order at 5:01 p.m.

II. CLOSED SESSION

DISCUSSION OF THE CHARACTER, PROFESSIONAL COMPETENCE, OR PHYSICAL OR MENTAL HEALTH OF AN INDIVIDUAL; STRATEGY SESSION TO DISCUSS PENDING OR REASONABLY IMMINENT LITIGATION, AND STRATEGY SESSION TO DISCUSS THE PURCHASE, EXCHANGE, OR LEASE OF REAL PROPERTY, INCLUDING ANY FORM OF A WATER RIGHT OR WATER SHARES

COUNCIL: Mayor Kim Rolfe and Council Members Jeff Haaga, Judy Hansen, Chad Nichols, Sophie Rice and Ben Southworth. Council Member Chris McConnehey was excused.

STAFF: Mark R. Palesh, City Manager; Darien Alcorn, Acting City Attorney, Paul Dodd, Civil Litigator, and Tracy Cowdell, Contracted Attorney.

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

A roll call vote was taken

Councilmember Haaga	Yes
Councilmember Hansen	Yes
Councilmember McConnehey	Absent
Councilmember Nichols	Absent
Councilmember Rice	Yes
Councilmember Southworth	Absent
Mayor Rolfe	Yes

The motion passed 4-0.

The Council convened into a Closed Session to discuss the character, professional competence or physical or mental health of an individual; Strategy Session to discuss pending or reasonably imminent litigation, and a Strategy Session to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares at 5:02 p.m.

Councilmember Nichols arrived at 5:03 p.m.

Councilmember Southworth arrived at 5:05 p.m.

The Council recessed the Closed Session at 6:05 p.m.

The meeting reconvened at 6:08 p.m.

III. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Zach Jacob.

IV. COMMUNICATIONS **CITY MANAGER COMMENTS/REPORTS**

Mark Palesh-

- Referred to a monthly report he had recently provided to the Council and explained that they would receive one monthly around the 15th for the previous month.

STAFF COMMENTS/REPORTS

Ryan Bradshaw-

- Indicated that he would be happy to answer any questions the Council had regarding the aforementioned monthly report.

Wendell Rigby-

- Explained that design work was complete on Phase 1 of the 7000 South storm drain line. The City would be receiving bids on December 8 and planned to bring the contract to the Council on December 16.

CITY COUNCIL COMMENTS/REPORTS

Councilmember Haaga –

- Stated that it had been a difficult week and that he had previously decided to file a claim against the City. However, he had since decided to withdraw the claim against the City and the Council members.

Councilmember Rice-

- Expressed appreciation to those who had participated in the election process—the candidates as well as the voters.

Mayor Rolfe-

- Explained that interviews needed to be conducted to fill two openings on the Planning Commission and the openings needed to be filled before the first of the year. After some discussion, it was determined that interviews would take place on Wednesday, December 9, 2015 at 6pm. At least three councilmembers would need to be present.

Councilmember Southworth arrived at 6:13 p.m.

V. CITIZEN COMMENTS

Alexandra Eframo, West Jordan resident, asked the group to pause to reflect upon common goals before beginning the business of the meeting. She then indicated that she continued to await an apology from a Councilmember and expressed a variety of reasons why she was unhappy with this particular Councilmember.

Steve Jones, West Jordan resident, explained that one of the reasons he never voted for tax increases in the City was that he could see a great deal of money being wasted in the City. He pointed out the irony that an employee could sue the City, yet residents could not do so, and in fact were at the mercy of the City Council. He said that he found it appalling.

There was no one else who wished to speak.

VI. CONSENT ITEMS

- a. Approve the minutes of October 28, 2015, and November 4, 2015 as presented**
- b. Approve Resolution 15-205, authorizing the Mayor to execute the Cable Television Franchise Agreement between the City of West Jordan and Comcast of California/Massachusetts/Michigan/Utah, Inc.**

- c. **Approve Resolution 15-206, authorizing staff to pay the reimbursement to Sunset Village LLC/Cerito Development LLC (Sun Ridge Assisted Living Center), in an amount of \$64,378.50**
- d. **Adopt Resolution 15-207, authorizing the Mayor to execute Amendment No. 1 to the Professional Services Agreement with Envision Engineering for additional consultant services for the construction management phase of the LED street light conversion project, in the amount of \$8,596.00**
- e. **Approve Resolution 15-208, authorizing the Mayor to execute an Interlocal Cooperation Agreement (D.A. No. 15-02424) with Salt Lake County for installation and maintenance of an Overhead Pedestrian Crosswalk Warning Flasher located at 1940 West 7000 South), in an amount not-to-exceed \$24,000.00**
- f. **Adopt Resolution 15-209, authorizing the Mayor to execute an agreement with Cody Ekker Construction, Inc. for the 2015 Cemetery Sexton Building Storm Drain Project in an amount not to exceed \$228,925.00**

Mayor Rolfe pulled Consent Item 6b for further discussion.

MOTION: Councilmember Hansen moved to approve the Consent calendar with the exception of item 6b. The motion was seconded by Councilmember Rice.

A roll call vote was taken

Councilmember Haaga	Yes
Councilmember Hansen	Yes
Councilmember McConnehey	Absent
Councilmember Nichols	Yes
Councilmember Rice	Yes
Councilmember Southworth	Yes
Mayor Rolfe	Yes

The motion passed 6-0.

VII. BUSINESS ITEMS

CONVENE AS THE BOARD OF CANVASSERS AND APPROVE RESOLUTION 15-210, ACCEPTING AND APPROVING THE OFFICIAL CANVASS RESULTS FOR THE 2015 MUNICIPAL GENERAL ELECTION AS SHOWN ON THE CANVASS REPORT

Melanie Briggs explained that on November 3, 2015, the Municipal General Election was held to determine the candidates who would serve for the offices of District 1, District 2, District 3, and District 4 positions. All positions were 4-year terms. The results listed

below were from the end of Election Day after tabulating any Vote By Mail Ballots received in the mail by Noon on Election Day, and from the two Vote Centers. As of Friday, November 13, Salt Lake County had 1,188 ballots for potential addition to the totals at the canvass. At the Official Canvass, November 17, the City Council would receive the updated totals which would include any valid ballots that were dropped off at City Hall or the two Vote Centers and any Provisional Ballots that were voted on Election Day.

Council District 1

Christopher M. McConnehey – 1,625
Kevin Mertin – 1,394

Council District 2

Dirk Burton – 1,578
Judith M. Hansen – 1,475

Council District 3

Zach Jacob – 1,136
Tim McConnehey – 523
Mike Kellermeyer – 184

Council District 4

Sophie Rice – 1,308
Alan R. Anderson – 1,228

**final totals will be updated after the Official Canvass*

The City contracted the election services that year with Salt Lake County. The City of West Jordan also used the Vote By Mail option as outlined in Utah Code 20A-3-302 ‘Conducting entire election by absentee ballot.’ Every registered voter in the City of West Jordan received an absentee ballot in the mail during the first week in October. The City had approximately 25.5% voter turnout.

The City Clerk’s Office coordinated the final canvass, including any provisional ballots and valid Vote By Mail ballots, with the County Clerk’s office. The City Council was the official Board of Canvassers of the Election and had scheduled the “Canvass of the Election” to be held during the City Council meeting Tuesday, November 17.

The “canvass” consisted of reviewing the number of votes received for each candidate in each voting precinct as provided by Salt Lake County. Certified Election Result Reports were prepared indicating the total number of votes received from each precinct for all four Council Districts.

Certified Election Result Reports were prepared indicating the total number of votes received for each Candidate. These reports must be adopted along with the resolution approving the

canvass of the 2015 City of West Jordan Municipal General Election. The reports would also need to be signed by each Council member.

Melanie Briggs, City Clerk, provided the official election totals as well as an update on the ballots that had been outstanding since election night.

Councilmember Haaga expressed his appreciation to Ms. Briggs and referenced increased voter turnout.

Councilmember Nichols reported that he had been contacted by a constituent who had inadvertently signed and mailed his wife's ballot. Salt Lake County noticed the discrepancy in the signature, returned the ballot, and both he and his wife were still able to vote. He hoped this would allay the concerns that some had expressed about the Vote By Mail system.

Councilmember Southworth pointed out that while it appeared that Vote By Mail had resulted in increased voter turnout in West Jordan, there were other cities that voted traditionally and experienced higher turnout than West Jordan had. He asserted that various political issues presented to the voters had a direct influence on turnout.

Melanie Briggs expressed the frustration she had experienced with the high number of mail-in ballots left outstanding following Election Day this year. However, she suspected the state legislature would make Vote By Mail mandatory in the future.

MOTION: Councilmember Nichols moved to approve Resolution 15-210 and the Certified Election Result Reports, approving the Canvass of the 2015 City of West Jordan Municipal General Election. The motion was seconded by Councilmember Hansen.

A roll call vote was taken

Councilmember Haaga	Yes
Councilmember Hansen	Yes
Councilmember McConnehey	Absent
Councilmember Nichols	Yes
Councilmember Rice	Yes
Councilmember Southworth	Yes
Mayor Rolfe	Yes

The motion passed 6-0.

RECONSIDERATION OF RESOLUTION 15-200, AUTHORIZING THE MAYOR TO EXECUTE AMENDMENT NO. 4 TO THE PROFESSIONAL SERVICE AGREEMENT WITH STANLEY CONSULTANTS, INC. FOR A SECONDARY WATER PIPELINE DESIGN ALONG 7000 SOUTH FROM

THE SOUTH VALLEY WATER RECLAMATION FACILITY TO BANGERTER HIGHWAY, NOT TO EXCEED \$141,568.00

Councilmember Haaga explained that he had been unable to express his vote properly when this item was discussed at the previous Council meeting. He stated that past councils had made mistakes regarding secondary water which had cost the City...

Councilmember Southworth raised a point of order, stating that it was his understanding that the Council would need to vote to reconsider the item before there was discussion on the topic.

Mayor Rolfe inquired if Councilmember Haaga wished to make a motion to reconsider.

Councilmember Haaga indicated that he still wished to explain why he wanted to bring the issue back.

Mayor Rolfe responded that he still needed to make the motion.

Councilmember Haaga asked the Acting City Attorney for clarification on the appropriate procedure.

Darien Alcorn confirmed that the item was returned to the Council so that there could be a motion to reconsider.

MOTION: Councilmember Haaga moved to reconsider Resolution 15-200, authorizing the Mayor to execute Amendment No. 4 to the Professional Service Agreement with Stanley Consultants, Inc. for a secondary water pipeline design along 7000 South from the South Valley Water Reclamation Facility to Bangerter Highway not to exceed \$141,568.00. The motion was seconded by Mayor Rolfe.

MOTION: Councilmember Nichols called to question. The motion was seconded by Councilmember Southworth.

Councilmember Haaga: So, what I...

Mayor Rolfe: The question has been called and we need a vote.

Councilmember Haaga: Point of order, Mayor. I have the right to speak and they are cutting me off.

Mayor Rolfe: The question has been called and we need to hold a vote.

Councilmember Haaga: I would like to make a substitute motion that we reconsider reconsideration of 15-200.

Councilmember Hansen: We have to vote on the point of...

Mayor Rolfe: Yes, we still have to vote on the point of order. Let's vote.

Councilmember Southworth: Can that be a voice vote?

Mayor Rolfe: No, we will have a roll call vote.

A roll call vote was taken

Councilmember Hansen **No**

Councilmember Southworth: To clarify, this is a vote on calling the question.

Councilmember Hansen: On calling the question?

Councilmember Hansen **Yes**

Councilmember Haaga: I need to understand the motion. Can you repeat that to me?

Mayor Rolfe: The question has been called.

Councilmember Haaga: Which is...?

Mayor Rolfe: Which is to vote on reconsideration.

Councilmember Haaga: So, I've got to clarify this so... because this has gone convoluted on us... so because I voted as a proponent of the item last time I was able to bring this back as a point of reconsideration. Now I am being forced not to be able to speak about that. What... is there any legal issue on that, Darien?

Darien Alcorn: I am reading as fast as I can...

Councilmember Haaga: Could you please read the Council rules to us concerning reconsideration? Can I get a point of order here? I have the right to ask a point of order.

Councilmember Southworth: Councilman Haaga, I can help you. It's parliamentary procedure. Calling a question means calling a question. It's pretty simple. And when a vote is taking place, the deliberation will cease...

Councilmember Haaga: I am asking for a point of order on reconsideration and...

Mayor Rolfe: He is asking for a legal opinion.

Councilmember Southworth: While she is looking, question to the Clerk, Mayor, if I may...?

Mayor Rolfe: Let me just try this. I believe that ... I am not the attorney but I believe that it is clear in the Parliamentary Procedure and the Council handbook that when a question is called and seconded, then that requires a vote of the Council to see if the question is called. I am not the attorney.

Councilmember Southworth: Mayor...

Councilmember Haaga: Mayor, out of respect, I'll continue. Go ahead, then.

Mayor Rolfe to Councilmember Haaga: Okay, you need to vote. If you are going to continue.

Councilmember Haaga: I will follow (inaudible) advice.

Councilmember Southworth to Haaga: It is your vote.

Mayor Rolfe to Councilmember Haaga: It is your vote.

Mayor Rolfe and Councilmember Hansen: (Simultaneously) Yes or no.

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

The motion failed 4-2

Councilmember Southworth clarified that vote was on the call to question. Now the Council needed to vote on Councilmember Haaga's motion to reconsider.

Melanie Briggs, City Clerk, confirmed that was indeed the case and that now the Council was voting on whether to reconsider Consent Item 7b.

A roll call vote was taken

Councilmember Haaga	No
Councilmember Hansen	No
Councilmember McConnehey	Absent
Councilmember Nichols	No

Councilmember Rice	No
Councilmember Southworth	No
Mayor Rolfe	Yes

The motion failed 5-1.

RECONSIDERATION OF ORDINANCE 15-32, AMENDING THE 2009 WEST JORDAN MUNICIPAL CODE 13-5B-7, TO ALLOW SWINE (PIGS) IN RURAL RESIDENTIAL ZONES SUBJECT TO THE LIMITATIONS OF THE ANIMAL POINT SYSTEM, CITY-WIDE APPLICABILITY; CITY OF WEST JORDAN, APPLICANT

Mayor Rolfe reminded Councilmember Haaga that he needed to make a motion for the Council to reconsider the issue.

Councilmember Haaga: Mayor, I am going to object to moving forward because I believe I am being retaliated against tonight for bringing back two issues that I was unable to vote on last time. So I will just move forward.

Mayor Rolfe: Are you pulling the item or tabling the item?

Councilmember Haaga: I am not doing anything.

MOTION: Councilmember Southworth moved to deny reconsideration of Ordinance 15-32, amending the 2009 West Jordan Municipal Code 13-5B-7, to allow swine (pigs) in rural residential zones subject to the limitations of the animal point system. The motion was seconded by Councilmember Nichols.

Councilmember Haaga: So I brought this back to Council because there are a lot of things that we need to understand...

Councilmember Southworth: Mayor, call to question.

Councilmember Nichols: Second.

Councilmember Haaga: ...there are a lot of things

Mayor Rolfe: He (Councilmember Haaga) has the floor. He has the floor.

Councilmember Haaga: I have (inaudible). I don't know why you are trying to cut me off. So this has created a lot of controversy in our city. One of them is that we are possibly going to allow swine in our backyards. I have done a lot of studying on this and a couple things, you know, have we considered how the swine are going to be kept? Do we know how many feet they require be kept? What are we going to do when it comes to the waste of the swine? An average 200-pound swine...

Councilmember Southworth: Are we...? Point of Order, Mayor. Are we debating it or are we...? Again, this is the same thing we had before. It is a reconsideration. We are not debating the item yet.

Mayor Rolfe to Councilmember Southworth: He (Councilmember Haaga) has the floor.

Councilmember Southworth: So I think that... as a point of order this is out of order. We are not debating the item. We are actually reconsidering... it is a consideration. This is really... this is highly out of order.

Councilmember Haaga: *You* are out of order, really.

Councilmember Southworth: ... just following the rules.

Mayor Rolfe to Councilmember Southworth: Just a second. You... point of order?

Councilmember Southworth. Yes, sir. Point of order.

Councilmember Haaga: Point of order.

Councilmember Southworth: And the point of order is that this is a question of reconsideration. The motion is to deny it. This isn't... this is not the time, based on this vote that will take place will tell us whether or not we can reconsider it. The Councilman is now trying to go into that reconsideration which is inappropriate at this moment in time. Now it *will* be appropriate if we pass reconsideration.

Councilmember Haaga: And *my* point of order, Mayor, if I can...

Mayor Rolfe: Wait a minute. We have a point of order and (to Councilmember Nichols) second, did you say?

Councilmember Nichols: I did.

Mayor Rolfe: We had a point of order motion by Councilmember Southworth and a second by Councilmember Nichols. Discussion? (Pause) Seeing none, let's vote.

Councilmember Rice: Point of clarification. We are voting on reconsideration?

(Inaudible response from various voices).

Councilmember Southworth: I have to ask. Does a point of order require a vote? I know a call to question requires a vote. I don't know that a point of order is a vote-able...

Councilmember Nichols: He called the question and I seconded it.

Mayor Rolfe: No, I think you called the point of order...

Councilmember Southworth: Well, I just said "a point of order" because the discussion that was taking place was out of order. Now, I could call the question but I do not think we need to. We can just have a vote on the motion which was on the table and then we could proceed with that. And the motion is again—I made the motion—was to deny the request for reconsideration of Ordinance 15-32. So that would probably be the most appropriate thing at this point—to go to a vote.

City Clerk: Are we okay with that?

Mayor Rolfe: Did we have a call to question and a second?

(Various inaudible responses)

Councilmember Southworth: You did not recognize... I have to be recognized by the Chair to even call the question and you did not recognize me. You correctly said that Councilmen Haaga had the floor at the point so that was...

Councilmember Haaga: So... legal opinion on this. So since I am the applicant and Council, what authority would I have to even talk about this item?

Mayor Rolfe: (inaudible)... the Council allows it...

Councilmember Haaga: I have no... any way to discuss something that I put on the agenda? They're cutting off debate.

Darien Alcorn: I believe that if a... if an item were going to be presented by staff-- that would be a presentation. A debate only occurs when, within the rules of procedure, it is allowed. Does that answer the question?

Councilmember Haaga: And what are those procedures? That is what I am asking.

Darien Alcorn: Typically, for a debate, you would require a motion and a second and then debate would occur.

Councilmember Haaga: So as an applicant, on an agenda item, I have no legal... um... anything I can say.

Mayor Rolfe: Please, City Manager?

Mark Palesh: Mayor, as I understand it, you are asking the Council to reconsider it and so there is a vote that comes before anything else, even any discussion. If they say "we are not going to consider it" then that is it. There is no more discussion.

Mayor Rolfe: Okay, now I have just got to be clear. Councilmember Southworth asked for non-reconsideration. Is that...

Councilmember Southworth: Yes, to deny the request.

Mayor Rolfe: And we had a second by Councilmember Nichols. Let's vote. Let's vote.

Councilmember Haaga: What a shame that we are cutting off dialogue that affects the City so much as having swine in our backyard. What a tragedy.

Mayor Rolfe: Let's vote.

A roll call vote was taken

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

The motion failed 5-1.

CONSENT 6B

APPROVE RESOLUTION 15-205, AUTHORIZING THE MAYOR TO EXECUTE THE CABLE TELEVISION FRANCHISE AGREEMENT BETWEEN THE CITY OF WEST JORDAN AND COMCAST OF CALIFORNIA/MASSACHUSETTS/MICHIGAN/UTAH, INC.

Comcast applied for a franchise to provide cable television services in West Jordan. Currently, there was existing infrastructure over and through which the services were provided, and Comcast needed a new franchise agreement to replace one that had expired. No additional infrastructure was planned immediately. In the future, when and if Comcast desired to perform construction activities within the City's right-of-way, an encroachment permit would be required for installation, repair or removal activities.

The term of the agreement was ten years. It allowed Comcast to provide the services using the City's present and future rights-of-way. As stated above, work within the right-of-way required an encroachment permit. The use of the right-of-way was also subject to the terms and conditions of the Franchise Agreement and West Jordan City Code and standards. The City would collect franchise fees, in compliance with federal and state law, in the amount of 5% of Comcast's gross revenue as defined in the proposed Franchise Agreement.

The proposed agreement had been reviewed by Comcast, and Comcast and City staff had agreed to and incorporated each other's comments. Staff recommended approval of the Franchise Agreement attached hereto.

Mayor Rolfe explained that he had pulled the item from the consent calendar. Although he supported signing the franchise agreement, he explained that in his professional life, Comcast had not been responsive to the City. He wished to make sure the City had a contact at Comcast.

Darien Alcorn stated Comcast's Steve Proper was present in the audience. The Council invited Mr. Proper to the podium.

Mr. Proper explained to the Council that Comcast's Kirk Nord would be the point of contact. He stated that there had always been a contact for the City but that he would be happy to address any concerns that the Council had.

Councilmember Haaga wished to confirm that the City would be offered a channel on which to air City information.

Mr. Proper confirmed that such a channel was a common feature with franchise agreements such as this one.

Councilmember Hansen had similar concerns to those of Mayor Rolfe. She discussed the specifics of a problem that had previously been brought to her attention.

Mr. Proper again stated that both he and Mr. Nord were available to assist with any future problems.

Mayor Rolfe clarified that it was not his intention to criticize Comcast. There had simply been some conflicts with Comcast lines and City pipelines and he felt Comcast had not been as responsive as other utilities. He has glad to have contact information for the future.

MOTION: Mayor Rolfe moved to approve Resolution No. 15-205, authorizing the Mayor to execute the Cable Television Franchise Agreement between the City of West Jordan and Comcast of California/Massachusetts/Michigan/Utah, Inc. The motion was seconded by Councilmember Southworth.

A roll call vote was taken

Councilmember Haaga	Yes
Councilmember Hansen	Yes
Councilmember McConnehey	Absent
Councilmember Nichols	Yes

Councilmember Rice	Yes
Councilmember Southworth	Yes
Mayor Rolfe	Yes

The motion passed 6-0.

VIII. REMARKS

There were no additional remarks.

IX. ADJOURN

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

The meeting adjourned at 6:55 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 2nd day of December 2015