

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

**Wednesday, July 22, 2015**

**6:00 p.m.**

**Council Chambers**

**8000 South Redwood Road**

**West Jordan, Utah 84088**

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**COUNCIL:** Mayor Kim V. Rolfe, and Council Members Jeff Haaga, Judy Hansen, Chris M. McConnehey, and Chad Nichols. Sophie Rice arrived at 5:04 p.m.; Ben Southworth arrived at 5:13 p.m.

**STAFF:** Bryce Haderlie, Interim City Manager; Darian Alcorn, Acting City Attorney; Melanie Briggs, City Clerk; David Oka, Community and Economic Development Director; Ryan Bradshaw, Finance Manager; Clint Petersen, Deputy Fire Chief; Doug Diamond, Police Chief; Julie Brown, Events Coordinator; and Robert Thorup, Deputy City Attorney.

**I. CALL TO ORDER**

Mayor Rolfe called the meeting to order at 5:00 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; 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 V. Rolfe, and Council Members Jeff Haaga, Judy Hansen, Chris McConnehey, Chad Nichols, Sophie Rice, and Ben Southworth.

**STAFF:** Bryce Haderlie, Interim City Manager; Tracy Cowdell, Contracted Attorney; Chad Wooley, Contracted Attorney, and Eric Johnson, Contracted Attorney.

**MOTION:** Councilmember Nichols moved to go into a Closed Session to discuss the character, professional competence, or physical or mental health of an individual, a 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 Hansen.

A roll call vote was taken

<b>Councilmember Haaga</b>	<b>Yes</b>
<b>Councilmember Hansen</b>	<b>Yes</b>
<b>Councilmember McConnehey</b>	<b>Yes</b>
<b>Councilmember Nichols</b>	<b>Yes</b>
<b>Councilmember Rice</b>	<b>Absent</b>
<b>Councilmember Southworth</b>	<b>Absent</b>
<b>Mayor Rolfe</b>	<b>Yes</b>

**The motion passed 5-0.**

The Council convened into a Closed Session at 5:01 p.m.

Councilmember Rice arrived at 5:04 p.m.

Councilmember Southworth arrived at 5:13 p.m.

The Council recessed the Closed Session at 6:01 p.m.

The meeting reconvened at 6:01 p.m.

Mayor Rolfe left the meeting at 6:01 p.m.

**III. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Jay Thomas.

**IV. COMMUNICATIONS**

**INTERIM CITY MANAGER COMMENTS/REPORTS**

Bryce Haderlie –

- Explained that the Merrill Osmond Pioneer Pageant would be taking place the following weekend. Tickets were available for any Councilmember interested in attending.
- The Code Enforcement division received a complaint on June 8 regarding a mural at the Taqueria at 3200 West 7800 South. They spoke with the property owner and explained the current ordinance which required that no more than 15% of a façade be covered with murals. It was not considered graffiti since the owners had given permission. Code Enforcement staff had been working with the owners to bring the façade into compliance with City code. The owners were also invited to work with City staff and the Planning Commission to consider an amendment to the Code. This situation had become an issue in the media, and although the citizenry had a right to express their feelings about the issue, it was hoped they would recognize there was a government process that needed to be followed if an ordinance was amended.

### **STAFF COMMENTS/REPORTS**

Ryan Bradshaw –

- Informed the Council that the auditors would begin their preliminary work with the City the following week and would be working with Staff the majority of October.

Wendell Rigby –

- 5600 West between 6200 South-7000 South would be re-opening to traffic later in the week.
- Met with UDOT recently and learned that work on the Bangerter Highway overpasses would be done as a design-build package involving 5400 South, 7000 South, 9000 South, and 11400 South, with design beginning in 2017 and building beginning in 2018.

### **CITY COUNCIL COMMENTS/REPORTS**

Councilmember Rice –

- Thanked those who participated in the Jordan River Commission's event on July 18.
- Stated that she needed time to consider and research prior to voting in Council meetings. Therefore, she reserved the right to vote 'no' on any agenda item without a staff report or without sufficient time to review a staff report. She indicated that she found it disrespectful to the Council and to the public to provide insufficient information or time for review.

Mayor Rolfe returned to the meeting at 6:07 p.m.

Councilmember Southworth –

- Stated that if a majority of the Council was not in disagreement, he would ask that staff bring back an ordinance passed in late 2013, which moved the position of Mayor to full time. Return the position to what it was before with a salary that equaled that of the rest of the Councilmembers.

Councilmember Haaga inquired of Councilmember Southworth whether or not he was asking for action by the staff.

Councilmember Southworth stated that he was asking if there was not a majority of disagreement among the Council to take that action. So I am asking that if the Council *disagrees* with that action, to speak up. But if you are in agreement—there's no motion here—that if there is a sufficient majority of the Council that would support the staff putting time into that research and bringing that for consideration at the next Council meeting. So there is no action being taken. There is no motion being made. I'm just asking that a resolution as previously described be brought back to the Council at our next Council meeting.

Councilmember Nichols –

- Stated that he had been working with staff on discrepancies between State Code, Municipal Code and Council rules pertaining to the duties and responsibilities of the City Manager, the Mayor, and the City Council. He wished to formally see if the Council was okay if staff brought the issue back in the next Council meeting. He said he basically wanted to make sure that the City was in line with State Code.

Mayor Rolfe pointed out that State Code took precedence anyway.

Councilmember Nichols repeated that he had found discrepancies and wished the matter to be researched.

Councilmember Haaga stated, “So again, are we being asked for an action?”

Councilmember Nichols responded, “No.”

Councilmember Haaga-

- Stated that there were some old restrooms near the rodeo arena filled with filthy clothing that were more than likely infested with rodents. He proposed that staff look into surplus the restrooms. He felt they were hazardous in a variety of ways. On a related note, he felt it was time to begin moving the sets and other things of value over to the Old Library.

Bryce Haderlie explained that Facilities personnel were preparing to install storage cages and then a letter would be submitted to the various arts groups asking that they prepare to legally surplus the property that was no longer of use and move those materials that they wished to retain.

- Councilmember Haaga continued that he had been contacted by some elderly constituents living in the area of 1100 West 7600 South and he asked that the Police Department conduct some extra patrol in the area.

Councilmember Hansen –

- She expressed her appreciation to Wendell Rigby and Justin Stoker regarding the prompt investigation of a flooding problem on her street. She also appreciated the fact that the workers were not informed she was a Councilmember, as she had not wished for that to be known. They responded within a day of her complaint and that was very much appreciated.
- Regarding agenda item 6e, her son was employed by Kilgore. However, she stated that he was not part of the asphalt overlay department so she did not feel there was a conflict.

Councilmember McConnehey –

- Pointed out that the Council had previously set aside \$125,000 to use towards the design of an arts facility. The City had also applied for an additional \$125,000 grant through Salt Lake County. The grant committee would have their final meeting on August 7. They expected to have a recommendation ready for the County Mayor by mid-August. He hoped that by October he would have an idea whether or not the grant application was approved. If it was, the funds would be available in January 2016.

Mayor Rolfe –

- Café Rio had held their grand opening earlier that day in Jordan Landing.
- He stated that it had come to his attention that some residents believed that the City Council held secret votes in closed sessions. He said, “I am here to make a statement that we never hold votes in closed session.”

#### ***V. CITIZEN COMMENTS***

Michael Clara stated that he served on the Salt Lake City School Board. He appreciated what Bryce Haderlie had said earlier regarding the fact that there was still an opportunity to make a policy change regarding the Cesar Chavez mural at the restaurant on 7800 South. He was in favor of allowing the mural to stay. He cautioned the City against enforcing an ordinance that singled out any particular group of people.

Alexandra Eframo, West Jordan resident, asked the group to pause to reflect upon common goals before beginning the business of the meeting. She stated that she continued to wait for an apology from a particular Councilmember. She wondered why someone who was notified of a code violation did not have three weeks to come into compliance. She mentioned a recent traffic violation she witnessed and expressed her disappointment in several police officers.

JayLynn Thomas, West Jordan resident, stated she wished to submit a copy of various Facebook postings regarding a closed session on June 30. She stated that if any of the allegations alleged on Facebook were true, the City needed to ensure that an independent investigation was conducted. She indicated that to fail to address harassment claims suggested that the City condoned the behavior.

Councilmember Southworth explained that the allegations in question were investigated immediately, independently, and that every member of the Council and every staff member that was involved was contacted. It was found that there was no basis for the allegation.

Councilmember Haaga stated his objection to Councilmember Southworth’s comments, saying he (Haaga) was privy to more than what had been addressed in the investigation—things involving closed sessions which could only be discussed through subpoena. He stated that the investigation was done *internally* and he felt the City should seek an independent investigation by state authorities.

Miguel Dominguez stated he was one of the owners of Azteca de Oro and stated that Mr. Haderlie's invitation to work with the City was very nice. However, their previous contact with City staff had been much less so. He stated he was told to remove the mural and there was no further discussion. He stated he would love to work with the City and begin the process of attempting to make a change to City code. He also stated his inability to pay a daily fine for failure to immediately bring his signage into compliance. He stated that he was present that evening in order to obtain an extension and work with the City so that they could still represent what they wished to, but also be compliant with City code.

Bryce Haderlie asked that Mr. Dominguez continue to work with Brock Hudson and Darien Alcorn in order to work through the necessary process.

There was no one else who wished to speak.

**VI. CONSENT ITEMS**

- a. Approve the minutes of June 24, 2015 and July 8, 2015 as presented**
- b. Approve Resolution 15-141, authorizing the Mayor to execute a Development Agreement between the City of West Jordan and Peterson Development/Maverik, for the Highlands Development**
- c. Approve Resolution 15-142, authorizing the Mayor to execute a Mutual Aide Agreement with the City of West Jordan and other Police Agencies throughout the Salt Lake Valley**
- d. Approve Resolution 15-143, authorizing the Mayor to execute a contract with Acme Construction, Inc. for sidewalk construction and related for the 8200 South Detention Pond Sidewalk Project, in an amount not to exceed \$56,050.00**
- e. Approve Resolution 15-144, authorizing the Mayor to execute a contract with Kilgore Contracting for the Old Bingham Highway Overlay Project, in an amount not to exceed \$336,235.00**
- f. Approve Resolution 15-145, authorizing the Mayor to execute Amendment #1 to the Purchase and Sale Agreement with West Jordan LLC, regarding the Mountain States property**
- g. Approve ratification of a purchase order for electrical supplies from QED, Inc., with expedited shipping for Well #46, in an amount not to exceed \$26,461.63**

Councilmember Haaga pulled Consent Item 6a for further discussion.

**MOTION: Councilmember Southworth moved to approve all the Consent Items except 6a. The motion was seconded by Councilmember Nichols.**

A roll call vote was taken

<b>Councilmember Haaga</b>	<b>Yes</b>
<b>Councilmember Hansen</b>	<b>Yes</b>
<b>Councilmember McConnehey</b>	<b>Yes</b>
<b>Councilmember Nichols</b>	<b>Yes</b>
<b>Councilmember Rice</b>	<b>Yes</b>
<b>Councilmember Southworth</b>	<b>Yes</b>
<b>Mayor Rolfe</b>	<b>Yes</b>

**The motion passed 7-0.**

#### ***VII. PUBLIC HEARINGS***

##### **RECEIVE PUBLIC INPUT AND CONSIDER FOR APPROVAL THE WEST JORDAN POLICE DEPARTMENT'S APPLICATION FOR AN "EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT" FOR 2015 IN AN AMOUNT OF \$29,487.00**

Chief Doug Diamond explained that the West Jordan Police Department was applying for the Edward Byrne Memorial Justice Assistance Grant (JAG) from the U.S. Department of Justice in the amount of \$29,487.00.

Requirements of this grant included making a copy of the grant application available to the governing body or organization designated by that body, not less than thirty days before the Bureau of Justice Assistance accepts the application, and holding a public hearing allowing the general public to comment on the recommendations.

A posted copy of the application was made available to the governing body and for public review on June 15, 2015, in the City Clerk's Office, and also on the City's website. In addition, on June 14, 2015, a notice of public hearing to be held July 22, 2015, was advertised in local newspapers.

One of the most critical abilities police officers needed to perform their duties was to communicate with each other, with dispatchers and with other law enforcement agencies. Essential to this ability was the hand-held radio. The hand-held radios currently being used by the West Jordan police department were over 10 years old. The manufacturer no longer produced these radios and no longer made parts to service them. The heavy duty use and years of service were weighing heavily on these radios, resulting in increasingly common failures. Additionally, there were other capabilities that would be necessary in the coming years for which the current radios could not be configured (i.e. the current radios were of analog configuration and would not operate on the digital backbone being implemented for radio communications).

The West Jordan Police Department was very mindful of its responsibility to be fiscally responsible to the citizens. In that mind, they had used their radios to their limit of serviceability and had begun to replace them. The replacement model they were purchasing was the Motorola APX 6000, for which their cost was \$2,768.25 for each radio package. The radio package included: a radio, shoulder microphone and the essential programming and hardware for operation on their network.

The department used 150 hand-held radios to outfit all of the officers, volunteers and civilian staff members as they served the city of West Jordan. Replacing each of the radios was a tremendous expense that they were extending over a number of years. This grant would provide timely and dearly needed funds to help purchase 11 radios.

The West Jordan Police Department had contacted Utah Communications Authority, which was acting as the Statewide Interoperability Coordinator (SWIC) for the FCC and the U.S. Department of Homeland Security Office of Emergency Communications, who had instructed that the Motorola APX 6000 was the hand-held radio that they should obtain in order to:

- Be in compliance with the FY 2015 SAFECOM Guidance on Emergency Communications Grants.
- Adhere to the technical standards set forth by the FCC to operate in the 700 MHz public safety band.
- Support the Statewide Communication Interoperability Plan (SCIP) for coordination and collaboration within the emergency response community.

**Motorola APX 6000 hand-held radio      11 @ \$2,768.25**  
\$30,450.75

**Total costs to the 2015 Edward Byrne Memorial JAG grant:**  
**\$29,487.00**

As outlined above, West Jordan would use the funds allocated by the 2015 JAG grant to purchase 11 Motorola APX 6000 hand-held radios. Additional costs for the radios in excess of the funds from the grant would be paid for by the city of West Jordan.

### **Applicant Disclosure of High Risk Status**

West Jordan City was not designated as being high risk by any federal grant making agency.

### **Review Narrative**

The West Jordan Police Department was committed to providing officers and staff with the ability to communicate with reliable and capable hand-held radios. Utilizing this

grant, West Jordan Police department would purchase 11 Motorola APX 6000 hand-held radios.

The City of West Jordan would publish the Fiscal Year 2015 JAG application on its web site and it would be posted at city hall on or before June 15, 2015, making it available to the public and members of the City Council. The Fiscal Year 2015 JAG application would be on the agenda for the West Jordan City Council meeting on July 22, 2015, when citizens would be given opportunity to make comments. A verification notice of the completion of the 30 day period necessary for review by the governing body and public hearing would be sent to the program manager.

### **Applicant Disclosure of Pending Applications**

The City of West Jordan and the West Jordan Police Department do not have any other pending applications for funding to support this project.

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

**MOTION: Councilmember Southworth moved to approve the Edward Byrne Memorial Justice Assistance Grant (JAG) application as outlined in the program narrative, and to accept the proposed grant funding and put into the appropriate budget lines of the police department, as recommended by the staff. The motion was seconded by Councilmember Rice.**

A roll call vote was taken

<b>Councilmember Haaga</b>	<b>Yes</b>
<b>Councilmember Hansen</b>	<b>Yes</b>
<b>Councilmember McConnehey</b>	<b>Yes</b>
<b>Councilmember Nichols</b>	<b>Yes</b>
<b>Councilmember Rice</b>	<b>Yes</b>
<b>Councilmember Southworth</b>	<b>Yes</b>
<b>Mayor Rolfe</b>	<b>Yes</b>

**The motion passed 7-0.**

### **RECEIVE PUBLIC INPUT AND CONSIDER FOR APPROVAL RESOLUTION 15-146, AMENDING THE FISCAL YEAR 2015-2016 SALARY SCHEDULE**

Bryce Haderlie explained that the changes on the salary schedule were mostly a reflection of past decisions of the Council and had been broken down to five different sections.

On June 10, 2015, the Mayor and Council had approved changes to some positions in order to keep them in line with the Competitive Plus Advantage Strategy that the City was following. Each year, Human Resources would continue to review jobs and make recommendations in order to ensure that the City remained competitive with the market.

Also on June 10, 2015, the Mayor and Council approved changes to consolidate some positions that no longer qualified under the City Career Ladder Program. Some new positions were also added under the Career Ladder Program.

Various job reclassifications had been discussed with and approved by the Mayor and Council throughout the year as the needs of departments grew and changed.

The miscellaneous changes were other “housekeeping” type issues reflecting minor changes that became necessary throughout the year. The following information was provided in the Council’s agenda packet.

Councilmember Southworth commented that it might be appropriate to table the discussion until the next Council meeting in light of his earlier request regarding the Mayor’s position.

**MOTION: Councilmember Southworth moved to continue the public hearing on this item until the next Council meeting. The motion was seconded by Councilmember McConnehey.**

Councilmember McConnehey stated that his reason for seconding the motion was different, in that he had concerns about some items contained in the staff report. He was concerned with two positions (in Human Resources and Engineering) that were changing from part time to full time but were not discussed in a Council meeting. He felt that should be addressed more transparently.

Councilmember Haaga spoke in favor of the motion and asked some clarifying questions regarding positions within the Police Department.

Mayor Rolfe pointed out that the City badly needed an additional building inspector. He asked the Council if there was any objection to moving forward in posting that position immediately.

Bryce Haderlie pointed out that the funds were in the budget and there would be a formal request at a future meeting in order to ensure full transparency. However he would proceed as directed by the Council.

There were no objections to posting that particular job opening as soon as possible.

A roll call vote was taken

<b>Councilmember Haaga</b>	<b>Yes</b>
<b>Councilmember Hansen</b>	<b>Yes</b>
<b>Councilmember McConnehey</b>	<b>Yes</b>
<b>Councilmember Nichols</b>	<b>Yes</b>
<b>Councilmember Rice</b>	<b>Yes</b>
<b>Councilmember Southworth</b>	<b>Yes</b>
<b>Mayor Rolfe</b>	<b>Yes</b>

**The motion passed 7-0.**

**RECEIVE PUBLIC INPUT PRIOR TO CONSIDERING ORDINANCE 15-19, AMENDING THE 2009 MUNICIPAL CODE – AMENDING SECTION 13-5-5 ‘CLARIFICATION OF ZONING’ AND 13-5-6 ‘ZONING CONDITIONS’ CITY-WIDE APPLICABILITY, CITY OF WEST JORDAN, APPLICANT**

David Oka reported that in connection with an item on the June 16, 2015 Planning Commission agenda, it was discovered that no information existed in the 2009 City Code concerning properties shown on the zoning map as RR-1, RR-.5, RE-1 and RE-.5. This situation arose, in part, by the City Council’s decision some time before 2000 to change the names of these zones to RR-40, RR-20, RE-40 and RE-20. Although the West Jordan Unified Development Code contemplated, in 2000, that changes would be made to zoning map to reflect the new names of these zones, no action of this type was taken. Subsequent iterations of the City Code in 2001 and 2009 apparently assumed that changes to the zoning map had been made, and all references to RR-1, RR-.5, RE-1 and RE-.5 were eliminated. Section 13-5-5, “Clarification of Zoning” in the 2009 City Code was proposed to be amended to insert a reference to these old zones and their renamed counterparts so that a search of the 2009 Code would find “RR-1”, for example, in this new subpart C and the searcher would learn that the RR-1 zone was renamed the RR-40 zone.

In looking at Section 13-5-5, staff’s attention was drawn to Section 13-5-6, “Zoning Conditions”, because the City no longer imposed conditions on zoning changes. Changes to Section 13-5-6 were proposed that would preserve references to zoning conditions imposed in the past on certain properties while recognizing that zoning conditions were no longer permitted.

Section 13-7D-7(B) provided findings for the amendment of the Zoning Title. Because of the affinity of the Subdivision Title to the Zoning Title, the same findings should support the amendment to the Subdivision title.

**Criteria 1:** *The proposed amendment conforms to the general plan and is consistent with the adopted goals, objectives and policies described therein.*

**Discussion:** One of the goals of the General Plan was to “promote the public interest, the interest of the community at large, rather than the interests of individuals or special interest groups within the community”. Another goal was to “inject long range considerations into the determination of short range actions”. The proposed amendments were clearly intended to meet both of these goals by eliminating confusion

over existing zoning map designations, and by eliminating confusion over the issue of zoning conditions.

**Finding:** The proposed amendments conformed to the general plan and are consistent with the adopted goals, objectives and policies described therein.

**Criteria 2:** *The proposed amendment is appropriate given the context of the request and there is sufficient justification for a modification to these titles.*

**Discussion:** As noted earlier in this report, actual confusion and problem confronted the Planning Commission when a property zoned as RR-1 was found not to have any Code-based authority for an accessory living unit, even though its renamed zone, RR-40 had such authority. The insertion of a provision in the City Code drawing attention to the name changes of these zones would eliminate confusion and problem in the future. Moreover, amendments to the “Zoning Conditions” section would also clarify and eliminate misunderstandings as to zoning conditions, both as to existing “ZC” properties and as to future consideration of conditions on a rezone request. Bringing the zoning provisions of the City Code into clarity and transparency was a public good to be supported as part of good government.

**Finding:** The proposed amendments were appropriate given the context and there was sufficient justification for a modification of these titles.

**Criteria 3:** **The proposed amendment will not create a conflict with any other section or part of this title or the general plan.**

**Discussion:** These amendments repealed problematic parts of the City Code and implemented other new parts, all in a well-coordinated effort to eliminate confusion and problems.

**Finding:** The proposed amendments would not create a conflict with any other section or part of this title or of the general plan.

**Criteria 4:** **The proposed amendment does not relieve a particular hardship, nor does it confer any special privileges to a single property owner or cause, and it is only necessary to make a modification to this title in light of corrections or changes in public policy.**

**Discussion:** These amendments were part of a City-wide effort to provide a City Code which could be effectively used and searched.

**Finding:** The proposed amendments did not relieve a particular hardship, nor did they confer any special privileges to a single property owner or cause, and the proposed amendments made necessary modifications to those titles in the light of correction and expansion of public policy.

Staff found that the proposed amendments met all of the criteria for City Code amendments set forth above. They made valuable and important improvements and clarifications to the existing “Zoning” title of the 2009 City Code.

Mayor Rolfe opened the Public Hearing. There was no one who wished to speak. Mayor Rolfe closed the Public Hearing.

**MOTION:** **Councilmember Southworth moved to adopt and approve Ordinance 15-19, amending Title 13, chapter 5, Sections 13-5-5 and 13-5-6 in the**

**2009 City Code, all as provided in the Ordinance attached to the Request for Council Action.” The motion was seconded by Councilmember McConnehey.**

A roll call vote was taken

<b>Councilmember Haaga</b>	<b>Yes</b>
<b>Councilmember Hansen</b>	<b>Yes</b>
<b>Councilmember McConnehey</b>	<b>Yes</b>
<b>Councilmember Nichols</b>	<b>Yes</b>
<b>Councilmember Rice</b>	<b>Yes</b>
<b>Councilmember Southworth</b>	<b>Yes</b>
<b>Mayor Rolfe</b>	<b>Yes</b>

**The motion passed 7-0.**

Councilmember Southworth stated that he needed to leave the meeting early and asked that Business Item 8c be moved forward on the agenda. There were no objections from the Council.

### ***VIII. BUSINESS ITEM***

#### **DISCUSSION REGARDING PROPOSED AGREEMENT WITH INTERIM CITY MANAGER/ASSISTANT CITY MANAGER**

Bryce Haderlie stated that when he was asked to serve as the Interim City Manager in August of 2014, he voluntarily agreed to work the remainder of the budget year for the same wage he had been making as Assistant City Manager. At a minimum, this would have been a 5% increase or \$5,500. With the start of the new budget year, he requested consideration for the proposed agreement to ensure a wage commensurate with cities of similar size and complexity and in correlation with the duties that he performed on a regular basis.

He indicated that he did not consider this to be a contract in the sense that he would be subject to the standard wage increases and benefits provided to other administrative employees. He had included some conditions that protected his vacation and executive leave if the employment situation prevented him from taking time off as had been the case during the previous 11 months.

He stated that he had enjoyed his employment with the City of West Jordan and wished to continue it into the future. He considered the opportunity to serve the Council, the staff, and the citizens of the City an honor and a responsibility that he took very seriously.

He indicated that he was not necessarily asking for a decision from the Council during this meeting but that he did seek their input on the issue.

Councilmember Southworth stated he was in favor of entertaining such a proposal and pointed out that similar discussions had taken place in other departments, and with elected officials in the past.

Councilmember Haaga stated that there was currently no contracted City Manager because the City was seeking a full time City Manager, and because there were costs to such a search, he was opposed to any pay raise.

Councilmember Rice stated she was in favor of paying people for the jobs they did and was therefore in favor of the proposal.

Councilmember McConnehey expressed his appreciation for the additional responsibility that Mr. Haderlie had borne. However, he was concerned about breaking precedent with what had been done in the past. Although he was open to further conversation, at this point he could not support some of the items listed in the proposed agreement.

Councilmember Nichols was in support of bringing a formal discussion back to the Council in the next meetings.

Bryce Haderlie explained that his goal in bringing the topic up at the meeting was to ascertain if there were any particular issues in his proposal that were of concern to the Council. He also sought protection for his career and wished to memorialize that if he was serving as the Interim City Manager, or if the Council chose someone else to be the City Manager and he reverted back to the Assistant City Manager, there would be some conditions that he would know what he and the Council had agreed to. If there were areas they were strongly opposed to, he was open to discussing it that evening, or on the side in the next week so that he could get an updated version prepared with the Council's input.

Mayor Rolfe stated his belief that this proposal was untimely as the City Manager position had closed that day. He stated there were many applications received and the City was close to interviewing and making a selection. Therefore he stated that moving ahead with such a proposal would be a mistake.

Councilmember Southworth excused himself from the meeting at 6:53 p.m.

**CONSENT ITEM 6A**

**APPROVE THE MINUTES OF JUNE 24, 2015 AND JULY 8, 2015 AS PRESENTED**

Councilmember Haaga explained that he still believed there was a hostile work environment in the City, and on the dais as well. Although the Councilmember that made certain statements during the June 24 meeting had now left the building, Councilmember Haaga wished to read a portion of the minutes. He stated that he would vote to approve the minutes but wanted to make sure the public understood what had transpired and that he thought it was wrong. He then read the comments made by Councilmember Southworth on June 24 into the record. Councilmember Haaga indicated that he wanted the public to

understand that what Councilmember Southworth had proposed was an action that was made without Council authority, that he (Councilmember Haaga) never voted, and that one individual's agreement or disagreement was not 'council action.' He stated that this was an act of a Councilmember changing the position of the City Council Executive Assistant. He (Councilmember Haaga) objected to it and felt it should be part of the investigation that was "supposedly over." He stated that no one had checked into that, nor had they checked into the email that resulted from it.

**MOTION: Councilmember Haaga moved to approve the minutes of June 24, 2015 and July 8, 2015 as presented. The motion was seconded by Mayor Rolfe.**

Mayor Rolfe stated that although he would vote to approve the minutes, he still believed it would take a Council action to change the terms of a position which would be reclassification.

A roll call vote was taken

<b>Councilmember Haaga</b>	<b>Yes</b>
<b>Councilmember Hansen</b>	<b>Yes</b>
<b>Councilmember McConnehey</b>	<b>Yes</b>
<b>Councilmember Nichols</b>	<b>Yes</b>
<b>Councilmember Rice</b>	<b>Yes</b>
<b>Councilmember Southworth</b>	<b>Absent</b>
<b>Mayor Rolfe</b>	<b>Yes</b>

**The motion passed 6-0.**

#### **DISCUSSION AND POSSIBLE ACTION REGARDING WEST JORDAN NOISE MITIGATION**

Julie Brown, Events Coordinator, explained that the West Jordan Arena rental requests for special events had increased substantially. In 2013, only City events (rodeo, demolition derby) and the Osmond Pioneer Pageant were in the arena. 2014 brought two more special events (Mexican rodeos) which successfully used the venue. In 2015, we had requests for five Mexican rodeos in the spring along with planned city events including the rodeo, demolition derby (September 12), Endurocross (September 26) and the Osmond Pioneer Pageant.

Arena use beyond the rodeo and derby had not been the norm for the facility and was unexpected for nearby neighborhoods.

Salt Lake Valley Health Department regulated amplified sound. They state that venues should keep amplified sound at 90 decibels or below. If over this for more than two hours, signs needed to be posted regarding hearing damage, and hearing protection offered at cost or free to patrons.

Amplified sound in any direction at 90 decibels (and less) would be heard in the neighborhoods—even with mitigation efforts.

What we could do was revise policy and try to reduce the volume the neighborhoods heard. Certain noises such as bass would sound more prevalent to neighbors. There were also some unpredictable behaviors to sound such as environmental factors that could change how far sound would travel.

Below was an ala carte list of ideas that could be implemented into policy to mitigate noise to the neighborhoods. These were in no specific order.

1. Require all speakers turned into the dirt and into the center of the arena or area being used.
2. Decibel reading by staff should not be higher than 80 at any given time inside the venue.
3. Plastic seats instead of bleacher seating would help absorb rather than reflect sound.
4. Surrounding the venue with speakers would increase perceived volume level to audience but not necessarily increase decibel level or sound to the neighborhoods.
5. Interrupt path of sound/barriers; Require riggings to hang or temporarily install sound dampening walls provided by renter.
6. Acoustical site planning: Require all renters to adhere to a layout that directed sound away from neighborhoods and away from structures that would “bounce” sound back to neighborhoods.
7. Require renters to notify all surrounding neighborhood homes of the event a minimum of 10 days prior and the possibility of noise pollution.
  - a. Require renter to provide someone onsite to take noise calls and deal with residents appropriately.
8. Require a larger venue deposit (\$2,500 instead of \$500) for events with amplified sound. If noise became an issue and was not dealt with according to policy or the City’s satisfaction, the deposit would not be refunded.
9. Get a sound audit of the venue. Begin implementing improvements to the venue to mitigate sound for all events. Determine transmission paths from different areas of the venue.
10. Vegetation Screening; Landscape around the venue to help noise mitigation.
11. Hire a sound auditor to give a Noise Reduction Coefficient (NRC) of the surrounding buildings. This would give the City a scalar representation of the amount of sound energy absorbed upon striking a particular surface so we could mitigate sound more efficiently.
12. Partial or full enclosure of facility
13. Limit quantity (days) in the arena that events could have amplified sound. (We would allow X days in the arena during a calendar year to have amplified sound, including/excluding City events)
14. Proactive and continuous public relations efforts with neighborhoods

- a. Design a complaint management procedure for City events and renters to follow.
15. Limit the days of the week special events could occur in the arena
16. Limit the total hours of amplified sound per day
17. Limit the hours of the day (1pm – 10pm on Thursday, Friday and Saturday and 3pm – 8pm on Sunday) that amplified sound could be used.

Currently there were the following pending Arena Use Applications for Sundays:

- Jordan Gonzales
- Orion Corporation
- Los Dos Gallos Special Events
- Rosa E. Garcia

Mayor Rolfe asked if it was Ms. Brown's opinion that these options would mitigate the problems that resulted in so many complaints. She responded that the only way to completely solve the problem was to put a roof over the facility. Otherwise, there would always be some noise escaping into nearby neighborhoods, even at the limits set by the Health Department.

Councilmember McConnehey expressed interest in learning more about Options #9 and #11. Regarding Option #17, he pointed out that Thursday was still often a school/work night for people so that concerned him. He felt that option #2 should be implemented immediately. He was also interested in getting input from a professional if Option #6 were to be implemented.

Councilmember Hansen was most interested in Option #2 and stated that she would prefer a level of 60 decibels at the property line.

Councilmember McConnehey recommended having a potential variance or method of appeal for specific events. For example, if Independence Day fell on a weekday.

Councilmember Rice stated that the options that interested her were #1, #2, #9, #10, #15 and #17.

The Council agreed to have staff conduct further research and bring a proposal back for formal action at a future meeting.

**DISCUSSION AND POSSIBLE ACTION REGARDING ORDINANCE 15-17, AMENDING TITLE 1, CHAPTER 14, ARTICLE C, DEALING WITH RESPONDING TO A NOTICE OF VIOLATION ISSUED BY THE CITY'S CODE ENFORCEMENT OFFICE, AND AMENDING TITLE 5, CHAPTER 3, DEFINING A PUBLIC NUISANCE**

Darien Alcorn, Acting City Attorney, turned the time over to Deputy City Attorney Robert Thorup who reminded the Council that a similar proposal was first presented and

discussed in the July 8, 2015 City Council meeting. Changes from the original proposal were:

- Changing “14 days” to “time specified in the notice.”
- Eliminating enforcement outside of City limits
- Increasing the fine accrual for weeds
- Increasing the “defense strip” to 50 feet and giving a “defense strip” definition.
- Separating “injurious weeds: (cut if over 12”) from “noxious weeds”

Councilmember Nichols inquired about vacant land surrounding new subdivisions and whether or not such property owners would be exempt from the ordinance. Robert Thorup explained there was no disparate treatment based on amount of property owned.

Councilmember Haaga inquired about renter/landlord situations, and about which party would be responsible for code violations on the property. Mr. Thorup explained that would need to be examined on a case by case basis but generally speaking, if a renter had the delegated authority to maintain the property, he/she would be responsible for complying with City Code.

Mayor Rolfe commented that the protection strip meant “mowed to the ground.” Leaving vegetation often controlled erosion and other things but in the event of fire, the strip provided a sufficient buffer to protect owners of adjacent properties.

It was noted that code violations pertaining to animals required immediate abatement as opposed to other issues such as weeds.

**MOTION: Councilmember Nichols moved to approve and adopt Ordinance 15-17, amending Title 1, Chapter 14, Article C, dealing with responding to a Notice of Violation issued by the City’s Code Enforcement Office and amending Title 5, Chapter 3 defining a public nuisance, all as provided in the Ordinance. The motion was seconded by Councilmember Rice.**

A roll call vote was taken

<b>Councilmember Haaga</b>	<b>Yes</b>
<b>Councilmember Hansen</b>	<b>Yes</b>
<b>Councilmember McConnehey</b>	<b>Yes</b>
<b>Councilmember Nichols</b>	<b>Yes</b>
<b>Councilmember Rice</b>	<b>Yes</b>
<b>Councilmember Southworth</b>	<b>Absent</b>
<b>Mayor Rolfe</b>	<b>Yes</b>

**The motion passed 6-0.**

**DISCUSSION AND POSSIBLE ACTION REGARDING FORM OF GOVERNMENT LEGISLATION**

## **DISCUSSION AND POSSIBLE ACTION REGARDING THE 2015 GENERAL ELECTION BALLOT**

Mayor Rolfe left the meeting at 7:19 p.m.

Councilmember Haaga distributed some documents to the Council. He stated there was no need to read the documents, but that he would explain what he would like to see happen that evening. He stated that the City's form of government was dysfunctional and that he had been approached by some legislators who asked why the Council did not put the issue to the voters. He explained that the majority of the Council had not voted to do that, but that even if the Council did agree to let the people decide, such a change would not take effect until 2018.

Councilmember Haaga reported that there was proposed legislation for the following January which would require that cities of the first class with a full time Mayor could designate the Mayor as the Chief Executive Officer of the City. The City Manager would then become the Chief Operating Officer. He explained that the documents he was distributing to the Council were copies of the 1977 law under which the City currently operated, a 2008 amendment, and a draft of what would be proposed in the next legislative session.

**MOTION: Councilmember Haaga moved to take a short break.** The motion died for lack of a second.

Mayor Rolfe returned to the meeting at 7:22 p.m. and asked to be updated on what had transpired in his absence.

Councilmember Haaga explained that he had explained the proposed legislation and wished to make the following motion.

**MOTION: Councilmember Haaga moved to place on the general election ballot of 2015 the question authorized by the State, "*Shall West Jordan adopt a Mayor/Council form of government?*" The motion was seconded by Mayor Rolfe.**

Councilmember McConnehey stated that he wished to reiterate his comments from the previous discussion on this topic. He would be in favor of researching the issue, sharing information with residents, holding an Open House so residents could engage with staff, etc. in order to determine the level of community support for the change. However, very few citizens had expressed such an interest to him directly. He also pointed out that there was very little time to take action for the 2015 ballot, but he would not be opposed to beginning the process for the subsequent election.

Councilmember Hansen stated that she was in agreement with Councilmember McConnehey. She felt that the public should be educated on the pros and cons of each form of government and of the fact that if the City *did* make the change, the Council/City Manager form currently followed would never again be an option since it was no longer allowed.

Councilmember Haaga pointed out that there was a legal process already in place that allowed for and required two public hearings, at which time the public would be provided with the pertinent information. There would also be a voter information packet that would be distributed. He reiterated his belief that the voters should be allowed to make the decision.

Councilmember Nichols stated that his position was clear. The Council had already voted on the issue and the citizens also had voted on the issue previously, and voted it down. He pointed out that there had been a national civil liberties organization that had been tasked with identifying the form of government which provided the most civil liberties to their citizens. That organization had identified the Council/Manager form of government. He supported that form of government, explained that it was highly effective, and stated he was therefore opposed to the motion.

Councilmember McConnehey stated that it had been insinuated that by *not* putting the issue on the ballot, the Council was not allowing the voters to decide. He believed that the voters *did* decide when the form of government was originally instituted in the City. However, he reiterated that he would be open to exploring the level of current interest within the community and that if it turned out that there was significant interest, a process existed by which citizens could place an initiative on the ballot.

Councilmember Haaga pointed out that the issue had not been on the ballot since 1988 when West Jordan was a much smaller city. As a resident he wanted a Mayor and Council that he had elected and did not wish to live under someone who had no vision for the City. For those Councilmembers' up for reelection, he asked how they could believe that their own votes were more important than those of the citizens.

Mayor Rolfe wished to reiterate the fact that a vote to change the form of government would have no direct effect on him since it would not take effect until his term was over. He also stated that he was not afraid to allow the citizens to decide the issue.

A roll call vote was taken

<b>Councilmember Haaga</b>	<b>Yes</b>
<b>Councilmember Hansen</b>	<b>No</b>
<b>Councilmember McConnehey</b>	<b>No</b>
<b>Councilmember Nichols</b>	<b>No</b>
<b>Councilmember Rice</b>	<b>No</b>
<b>Councilmember Southworth</b>	<b>Absent</b>

**Mayor Rolfe**

**Yes**

**The motion failed 2-4.**

**DISCUSSION AND POSSIBLE ACTION REGARDING WEST JORDAN CITY EMPLOYEE HOSTILE WORK ENVIRONMENT POLICY**

Councilmember Haaga stated that there had been multiple alleged allegations(s) of harassment, resulting in multiple employee turnovers including: Senior Planner, Senior Planner II, Deputy Attorney; Executive Council Assistant; City Attorney among others. The City Council had a duty and responsibility to stop all issues of alleged harassment allegations and mitigate further financial drain on the City resources and the citizens of West Jordan.

Councilmember Nichols asked for clarification from Councilmember Haaga. Your statement implied that these people left due to harassment. Could you please clarify?

Councilmember Haaga: No. I am just saying there have been multiple turnovers in our City.

Councilmember Nichols: Due to harassment or not due to harassment?

Councilmember Haaga: There has been multiple allegations of harassment resulting in multiple employee turnovers.

Councilmember Nichols: So you are saying, just for clarification, harassment caused the turnover?

Councilmember Haaga: I am just going to read my statement if that is ok.

Councilmember Nichols: Your statement is what confused me. Your statement is implying that.....

Councilmember Haaga: ... down to the solution, you will understand why I am reading it.

Councilmember Haaga continued that the City could not continue to ignore the issues and needed to seek avenues outside the City of West Jordan for independent and impartial investigations into the alleged allegations. This would free up City staff to continue the great work they did for the City and avoid additional stress to any City Staff who would investigate without fear of retaliation. All I ask... and I make the motion, that we follow the Utah Antidiscrimination Act; 34A-5-107(15) and have all the allegations that have been reported to Human Resources investigated impartially and independently by the State.

Councilmember Nichols stated that while he wholeheartedly agreed that issues of discrimination and harassment absolutely require investigation, he disagreed with

Councilmember Haaga. He clearly said, “there have been multiple alleged allegations resulting in employee turnovers.” And “these harassment allegations include Senior Planner, Senior Planner II, Deputy Attorney, Executive Council Assistant, City Attorney among others.” Councilmember Nichols stated that he disagreed with that statement in the strongest words. That was *not* what had taken place.

Councilmember McConnehey stated his agreement with Councilmember Nichols and that to his knowledge, any claims of harassment had been properly investigated as required. He said he *very much* took issue with the statement that “we cannot continue to ignore these issues,” implying that they had been ignored. He stated that immediate steps had been taken to investigate and remedy anything brought to the Council’s attention. If Councilmember Haaga is aware of things that had taken place that were improper, those things should be reported. However, he (Councilmember McConnehey) was not aware of anything that had fallen outside of the process dictated by the Employee Handbook. While he wholeheartedly agreed with the sentiment that harassment should not and could be tolerated, with the same level of emphasis he disagreed with the assertion and insinuation that some of the departed employees had left due to harassment. He stated that he had spoken with some of the individuals and at no time did they give even a hint of harassment.

Mayor Rolfe stated that he wished to make it clear that he was making no statement on the issue due to his belief that it was a legal matter that should be addressed in Closed Session.

Bryce Haderlie stated that he also wished to make it clear that the City had an Employee Policy Manual that identified harassment and how it was to be addressed. Each of the Councilmembers, the City Clerk, City Attorney, City Manager... each of the directors... any employee who felt there was harassment, could go to someone other than their immediate supervisor to report those claims. He also wished to make it *very* clear that there was a legal responsibility to report that harassment and deal with it. He wanted it to be known that he supported that policy. Although there were both state and federal organizations that dealt with these issues, the City had a responsibility to address them as well. He also pointed out that it was important to understand the legal definition of harassment under federal law—what it was and what it was not—and ensure that the term was used appropriately.

Councilmember Haaga stated that state and federal law overrode any municipal employment handbook. He indicated that he was merely asking that the Council contact the State to investigate those allegations that had been reported to Human Resources and conduct an impartial, independent investigation. He stated that he took an oath to uphold the law and he believed that the City should follow the State law.

Mayor Rolfe asked that the Council return to the Closed Session to address those issues left unresolved.

**IX. REMARKS**

Councilmember McConnehey stated he wished to make two remarks before there was a motion to adjourn. First, regarding the gentleman who owned Azteca de Oro, he wondered if the Council would agree to revisit the 15% limitation in City Code and if so, would there be consent to direct staff to refrain from enforcing that portion of the Code for 45 days or until there could be a vote on potential changes to the Code.

Bryce Haderlie stated that on the following morning, he and the Acting City Attorney would be meeting with Code Enforcement to see if there was a provision in place that would allow actions to be suspended while the City was working on certain things. He had made a commitment that the City would use the law and work within available boundaries. If those boundaries allowed for extensions, extensions would be given. However, he did not believe that the City could make a sweeping stay of enforcement activity.

Councilmember McConnehey recollected that it had been done previously when there had been an issue involving beekeeping. He stated that staff had been directed not to enforce that part of the ordinance. He asked that this situation be handled similarly if there was sufficient interest among Councilmembers in discussing it.

Acting City Attorney Darien Alcorn pointed out that the particular ordinance being discussed—the sign ordinance—which prohibited a sign from covering more than 15% of a wall... murals were not covered separately in the code. If there was a stay on code enforcement of the sign ordinance, it would need to be a stay on **all** signs within the City.

Councilmember McConnehey stated that he was asking that enforcement be stayed **only** on the portion of the ordinance that prohibited signs from covering more than 15%-- not the entire sign ordinance.

Ms. Alcorn responded that her point was that there could be other buildings that could put up larger signs during that interim period.

Councilmember McConnehey indicated that he could accept that for a 45 day period.

Mayor Rolfe stated that the City had committed on camera that they would address this issue. He indicated that he saw this more as a building decoration and would like to have the experts review it.

Councilmember McConnehey wanted to ensure that the City did nothing to harm the business and asked that the Council have the opportunity to seek an appropriate solution.

Mayor Rolfe stated he wanted the Council to direct staff to return the issue to the Council as soon as possible and to differentiate between decoration and signage. However, he

stated he could not support making an exception for a single business because it would be unfair.

Bryce Haderlie promised to use available administrative avenues in order to come up with a solution without causing further problems. He stated that further information would be forthcoming to the Council.

Councilmember McConnehey stated that his final comment was in reference to the tension that he had been told was apparent to anyone entering the Council chambers. He asked if there would be support in having a mediator come to see if he/she could help make the interactions among Council more comfortable and amicable. He proposed using funds from the Council contingency fund.

Mayor Rolfe indicated his support. No one voiced any opposition.

Councilmember McConnehey suggested that outside counsel Tracy Cowdell work to locate such a consultant right away.

Councilmember Hansen stated she would not be able to attend the 'Night Out Against Crime' this year but she recommended it to others as she had attended it each year since she had been elected.

Councilmember Nichols said that regarding a conversation earlier in the meeting pertaining to reclassification of positions, he believed that reclassification was a budgetary matter. Additionally, State code indicated that the City Manager's responsibilities were to "organize and direct the management of the executive affairs of the municipality"... also "create any other offices as may be deemed necessary... and "prescribe the powers and duties of all other officers." Finally, per the municipal code, "direct any department to perform work for any other department." He said he wished to make it clear that was his understanding of the law and of what took place during the June 24 meeting.

## **X. ADJOURN**

**MOTION: Councilmember Nichols moved to return to the closed session to discuss unfinished business after a five minute break and to then adjourn from the closed session. The motion was seconded by Councilmember Hansen.**

A roll call vote was taken

<b>Councilmember Haaga</b>	<b>Yes</b>
<b>Councilmember Hansen</b>	<b>Yes</b>
<b>Councilmember McConnehey</b>	<b>Yes</b>
<b>Councilmember Nichols</b>	<b>Yes</b>

<b>Councilmember Rice</b>	<b>Yes</b>
<b>Councilmember Southworth</b>	<b>Absent</b>
<b>Mayor Rolfe</b>	<b>Yes</b>

**The motion passed 6-0.**

The Council went into a closed session at 8:03 p.m. and adjourned at 9:10 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 12th day of August, 2015