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IN THE THIRD DISTRICT COURT, WEST JORDAN DEPARTMENT
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

KIM ROLFE (Mayor of West Jordan),

Plaintiff,

vs.

WEST JORDAN CITY COUNCIL,

Defendant.

**PETITION FOR A TEMPORARY
RESTRAINING ORDER AND/OR
PRELIMINARY INJUNCTION,
REQUEST FOR A HEARING**

Court Case No.

Judge

COMES NOW the Plaintiff, by and through counsel, and pursuant to Utah Rules of Civil Procedure 65(b) and moves this court for a temporary restraining order and/or preliminary injunction restraining and enjoining Defendant and all persons acting at Defendant's direction, including its officers, agents, servants, and employees, from discussion and possible action on Business Items 8(e) and (f) listed on the City Council Agenda for the August 25, 2015 City Council Meeting scheduled for 6 p.m. Business Item (e): regards proposed Ordinance 15-21, amending the 2009 West Jordan Municipal Code, Title 1, 'Administration,' Chapter 7, regarding Mayor, Council, City Manager and Department Heads responsibilities; and proposed Resolution 15-162, amending the City Council Rules, Policies, and Procedures [Councilmember Nichols]. Business Item (f): regards proposed Ordinance 15-26, amending the 2009 West Jordan Municipal Code, Title 1, 'Administration,' Chapter 7, regarding Mayor salary and duties [Councilmember

Southworth]. And for a hearing on the matter.

Plaintiffs also request that the temporary restraining order remain in effect until such time as the Court dissolves it or grants Plaintiffs' motion for preliminary injunction or other requested relief or after a full hearing on the issue.

This case merits expedited consideration due to time constraints and the immediate irreparable harm it would cause the plaintiff and his family.

Plaintiff's application is based on the following grounds:

1. A temporary restraining order is the appropriate legal remedy to restrain or enjoin the defendant from acting in an unconscionable manner to harm the plaintiff out of, what may very well be, spite. (See Salt Lake Tribune article dated 4/28/2015 where Councilman Ben Southworth publicly denounces the mayor for alleged improper and illegal abuse of power; Southworth also lost to Plaintiff in 2013 election, Southworth is the sponsor of the proposed amendment to changing the mayor's salary, Attachment 1.)

2. Plaintiff will suffer immediate irreparable harm unless the court issues a temporary restraining order preventing defendant from drastically reducing plaintiff's compensation and benefits by approximately 90%, immediately effecting the plaintiff's livelihood and ability to take care of his family.

3. Plaintiff will suffer immediate irreparable harm unless the court issues a temporary restraining order ordering defendant to restrain from taking away from plaintiff (who is an elected official answerable to his constituents) a significant portion of his power, authority, and oversight and giving such power, authority and oversight to the city manager and department heads (who are not answerable to the constituents) in violation of 2007 Utah Code section 10-3-1223 & 1226. (The Plaintiff is willing to testify regarding this point and to clarify other matters at a hearing.)

4. The threat of injury to plaintiff far outweighs whatever damage a temporary restraining order may cause defendant. Since it would simply require maintaining the

status quo for the time being.

5. Issuance of a temporary restraining order will not be adverse to the public interest. The public benefits when government power, authority and oversight rests with elected public servants accountable to them as opposed to unelected bureaucrats. Also, the public benefits from a full time mayor who can give them the attention they have grown accustomed too, and in the long run, they will benefit from a better quality of individuals who will be attracted to run for mayor under the current system. (See Salt Lake Tribune article dated 5/30/2013, where former Mayor Melissa Johnson stated, "the position (mayor) is far from part time." She also stated she had to give up her private sector job due to the full time demands of representing West Jordan. Johnson spearheaded the drive to make the position full time for her successors.))(See Exhibit2).

6. There is a substantial likelihood that after a full hearing of the issues, plaintiff will prevail on the merits of the claims. Also the case presents serious issues regarding possible violation of state law which should be the subject of further review and litigation.

This Application is supported by an attached verified affidavit from the plaintiff stating specific facts he is privy to and other mentioned attachments.

Exhibit 1

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West Jordan councilman denounces 'abuse of power' in city government

By DAN HARRIE (/staff/?ID=21) | The Salt Lake Tribune [CONNECT](#) (/staff/?ID=21)

First Published Apr 28 2015 07:27PM • Last Updated Apr 29 2015 10:10 am

Turmoil » Council set to take vote of confidence in leaders in wake of city attorney's ouster, county inquiry.

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West Jordan city's internal feud is taking another twist, with a special session of the City Council called Wednesday for a vote that could lead to the reversal of last week's mysterious ouster of City Attorney Jeff Robinson.

The emergency meeting, scheduled for 6 p.m., was initiated by Councilman Ben Southworth, who says Mayor Kim Rolfe had no authority under the city's manager-council form of government to orchestrate Robinson's being placed on paid leave and escorted out of City Hall by the chief of police.

"In my opinion it appears to be improper and illegal that Jeff Robinson was put on leave," Southworth said Tuesday. "I'm not a judge and jury, but it appears that way to me."

Southworth said it's time for West Jordan to get back on track after months of internal turmoil.

"I'll just be frank — what I see is an abuse of power," he said. "There is a culture of fear that is running through the city of West Jordan right now. ... I say as a two-term council member, I have served with three different mayors and I have never seen such dysfunction and a lack of leadership."

Rolfe said he would not respond to those charges, although he said the infighting is not keeping the city from keeping its focus on important issues.

Rolfe and Southworth were rivals in the 2013 election, but say they are not carrying grudges.

The mayor did say he initiated the suspension of Robinson at the direction of the full council and believes any attempt to reverse that action would be challenged.

The resolution on the agenda doesn't call for reinstatement of Robinson, but is in the form of a vote of confidence for acting City Manager Bryce Haderlie to run the day-to-day affairs of the city.

"It's basically to reaffirm we're placing our support in Bryce Haderlie as the acting city manager and with that comes all the responsibilities and duties that are afforded the executive, under our form of government," Southworth said. "Jeff Robinson's employment falls under that [executive] role."

Whether Robinson chooses to return may be a different matter.

"I don't even know at this point if Jeff would accept [reinstatement]. I've spoken to Jeff and he's a little hesitant, from Jeff's perspective, if he wants to step back in the crossfire again or the crosshairs again," Southworth said.

He said it was particularly aggravating that the mayor and another councilman suggested a link between Robinson's suspension and investigations into the city by the Salt Lake County district attorney's office and the Davis County attorney.

"We can't substantiate that," Southworth said.

Rolfe, who asked for the Salt Lake County investigation into the hiring of former Councilman Justin Stoker as city public works deputy director, met with D.A. Sim Gill on Monday.

"I did meet with him and there is an investigation, an active investigation, going forward. That's all I can say at this time," Rolfe said Tuesday. He intends to make a report of the meeting to the full council Wednesday.

Another item placed on the agenda by Rolfe is discussion of selection of the city's legal representation. The mayor favors a new direction, which could mean hiring an outside firm to replace the city attorney's office.

A third agenda item is moving forward with hiring an executive recruiting firm to recruit a new city manager. Haderlie has been acting executive for several months since City Manager Richard Davis stepped down abruptly, and without explanation, in August.

Exhibit 2

The Salt Lake Tribune

West Jordan City Council raises mayor's salary almost five-fold

Full-time job • Vote raises pay from \$18K to \$89K; pay package takes effect in January.

BY CATHY MCKITRICK THE SALT LAKE TRIBUNE

PUBLISHED MAY 30, 2013 9:33 AM

This is an archived article that was published on sltrib.com in 2013, and information in the article may be outdated. It is provided only for personal research purposes and may not be reprinted.

West Jordan • Council members in Utah's fourth largest city voted Wednesday to increase the mayor's pay almost fivefold, just days before the filing period opens for municipal races that will be on November's ballot.

While more than 105,000 people reside in West Jordan, the city operates under the council-manager form of government where the mayor is considered part-time and head of the City Council — and gets compensated accordingly.

In West Jordan, that salary is \$18,366 per year plus benefits, said Mayor Melissa Johnson, but the position is far from part-time. Johnson said she gave up her private-sector job due to the full-time demands of representing the city as its lead elected official.

While Johnson will not seek re-election in November, she hoped to pave the way for her successor to receive compensation commensurate with the job's full-time nature. The period to file for nonpartisan mayor and City Council races runs from Monday through June 7.

The council voted 4-to-1 to raise the mayor's salary to \$89,500 plus a full benefit package and vehicle allowance, which bumps full compensation to about \$130,000. The new rate takes effect in January.

A handful of Salt Lake County cities operate under the council-mayor form of government, with "strong" mayors who function as executives who administer the day-to-day affairs of the city. That list includes Murray, Salt Lake City, Sandy, South Salt Lake and Taylorsville.

Councilman Justin Stoker, one of the four votes in favor, noted that most of Utah's "strong" mayors earn more than \$100,000 plus benefits.

"I don't think we need to go there," Stoker said of the six-figure salary, "even though ... our mayor would be going to the same meetings and have many of the same responsibilities."

Councilman Chris McConnehey, also a yes vote, said he believed the city was moving in the right direction, "even though I'm somewhat uneasy about the magnitude of some of the changes."

Councilman Chad Nichols was absent for the vote due to a delayed airplane flight. Councilman Ben Southworth exited the meeting during the discussion and vote because he intends to run for mayor in November.

Councilman Clive Killpack cast the lone no vote.

"I think it's a little high in the price," Killpack said, noting that he probably would have been in favor of a \$78,000 annual salary.

While salary adjustments can be made by the City Council, a change in a city's form of government must be decided by voters at the ballot box.

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**IN THE THIRD DISTRICT COURT,
WEST JORDAN DIVISION,
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH**

KIM ROLFE,

Plaintiff,

vs.

WEST JORDAN CITY COUNCIL,

Defendants.

KIM ROLFE AFFIDAVIT

Case No:

Judge:

COUNTY OF SALT LAKE)

STATE OF UTAH) ss.
)

1. My name is Kim Rolfe and I am the current Mayor of West Jordan City. I was elected mayor in November 2013 and have served as mayor since January 1, 2014.

2. Previous to my time as mayor, the mayoral position in West Jordan was considered a part time position with pay accordingly. As the city and its government grew over time, it became obvious the mayor's role was a full time job and compensation needed to adjusted accordingly. This was accomplished before my time as mayor.

3. When I was elected mayor, the West Jordan City Code stated the following regarding the mayor's duties: "The mayor is a full time position requiring at least forty (40) hours of service to the city each week, ..." (See West Jordan City Code Title 1, Chapter 7B, Section 2A; (WJCC 1-7B-2A)).

4. On average I have worked 60 hours a week for the city in my capacity as mayor.

5. Compensation for the mayor (reflecting the full time nature of the job) was codified as follows: "The mayor shall be paid an annual salary of up to a maximum of eighty nine thousand five hundred dollars (\$89,500.00); ... The mayor will also receive the standard benefits provided by the city to appointed officers of the city;" ...

6. Since the position of mayor was full time and I was compensated as such, when I accepted the position, I took a leave of absence from my employment in the private sector.

7. The West Jordan City Council now proposes to make the mayor position part time with compensation set at eight hundred fifteen dollars (\$815.00) a month, which works out to nine thousand seven hundred and eighty dollars (\$9780.00) a year. A 90% drop in compensation.

8. This proposal is set for discussion and possible action at the City Counsel Meeting set for tomorrow August 25, 2015 at 6 p.m. It is listed in the City Council Agenda as Business Item 8 (f), proposed Ordinance 15-26. This specific Request for Action item if approved states: "This Ordinance shall become immediately effective."

9. This will cause irreparable harm to me and my family as I can not live and support my family on \$815.00 a month. I will therefore have to return to my former job in the private sector to supplement my income. That position requires an average of sixty hours per week. Hence, I will not be available to serve in the capacity I was elected for. This will create an undue hardship on my family with no time to prepare or make adjustments.

10. Also, I may have to cut drastically the time I will be available to the citizens of West Jordan as their mayor. I was elected to a full time position as the mayor. I was elected to be a full time mayor through the end of this current term. I have modified my life to be available for this position. My expectation of the office is to fulfill the term for which I was elected for the capacity I was elected. If I am working full time in the private sector, I cannot physically accomplish both tasks to the level that I am obligated to either.

11. The citizens will continue to call with their complaints regardless as to what the city council decides, but I may not be able to help them as before. This can only deteriorate relations between the people of West Jordan and their elected leaders. Thus, the public will be harmed by this action as well.

12. It is also my belief that if the mayoral position is amended to be part time, with the compensation mentioned above, the city will not be able to attract the most able and qualified people to run, to the detriment of the city.


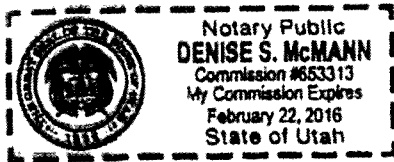
13. With Business Item 8 (e), proposed Ordinances 15-21 & 15-162, the city council is attempting to amend the West Jordan Municipal Code in regards to the responsibilities of the mayor, city council, city manager and department heads in ways that, I believe, are not in conformance with governing Utah State law (2007 Utah Code, Sections 10-3-1223 & 1226.)

Specifically, they are taking away responsibilities and oversight away from the elected officials (the mayor and council) who are answerable to the people, and delegating these powers to the city manager and department heads, who are not answerable. Again, the public will be harmed by this.



KIM ROLFE

SUBSCRIBED and sworn to, or affirmed, before me on this 24 day of August, 2015.


NOTARY

My Commission Expires:

Residing at: South Lake