

**MINUTES OF THE COTTONWOOD HEIGHTS CITY COUNCIL WORK SESSION  
HELD TUESDAY, NOVEMBER 5, 2019 AT 5:00 P.M. IN THE COTTONWOOD  
HEIGHTS CITY COUNCIL CONFERENCE ROOM LOCATED AT 2277 EAST BENGAL  
BOULEVARD, COTTONWOOD HEIGHTS, UTAH**

**Present:** Mayor Mike Peterson, Council Member Scott Bracken, Council Member Tali Bruce, Council Member Christine W. Mikell, Council Member Mike Shelton

**Staff Present:** City Manager Tim Tingey, City Attorney W. Shane Topham, Police Chief Robby Russo, Assistant Police Chief Paul Brenneman, Records Culture and Human Resources Director Paula Melgar, Community and Economic Development Director Michael Johnson, Public Works Director Matt Shipp, Finance and Administrative Services Director S. Scott Jurges, Communications Manager Tim Beery

**Excused:** Assistant Fire Chief Mike Watson, Senior Planner Matt Taylor, City Planner Andrew Hulka

**WORK SESSION**

Mayor Peterson called the meeting to order at 5:02 p.m. and welcomed those present.

**1. Y2 Analytics Community Survey – Ms. Kyrene Gibb, Partner, Vice President of Research.**

Kyrene Gibb presented an updated draft of the proposed community survey, reflecting changes identified since the previous meeting. She highlighted the suggested edits and invited feedback from the group. There was also discussion regarding the technical logistics of administering the survey.

There was dissension amongst the Council members stemming from differing perceptions about the allocation of funding.

Survey results were expected to be available within 30 days of completion. Fielding will be completed prior to Thanksgiving 2019 with the analysis to conclude shortly thereafter. Survey results were targeted to be compiled prior to the planned Retreat.

**2. Brooksee Marathon Debriefing – Mr. Alec Fowler, with Brooksee.**

Alec Fowler from Brooksee provided an update following the September Brooksee Marathon. There were no major issues on the racecourse other than minor incidents involving public intoxication. In addition, there were no significant traffic delays with traffic flowing in both directions on Wasatch Boulevard by 9:00 a.m., which was a marked improvement over previous years. Thirty-one businesses elected to participate in marketing opportunities, which was the largest number of participants in the event's history. Just over 4,100 runners participated in the

race. Weather was ideal and there were no hospital transports. In the future, additional Cottonwood Heights and non-profit organizations will be contacted for potential sponsorship of aid stations, etc. The Council's assistance was requested identifying groups of interest. The Council agreed to evaluate the possibility of providing resources in this area.

Mayor Peterson expressed interest in quantifying the economic benefit of the marathon. Salt Lake City performed an assessment in 2016 or 2017 at the County level only. Organizers followed up one year earlier to inquire about the possibility of conducting an assessment on a City-specific level. Such an assessment was deemed financially infeasible. Mayor Peterson suggested considering the exploration of other options that might be more cost-effective but still elicit similar data. The Launch Team (the 501(c)(3) non-profit arm of the organization) has worked to encourage children between the ages of 8 and 18 to run half marathons. As a result, 125 youth participated in the Brooksee Marathon.

There was continued interest in finding ways to compile and share information with the community and provide an economic benefit of the race to the region. The Race Committee was committed to filling 100% of the available volunteer positions with City-based organization support before making opportunities available to outside organizations.

**3. Review of Business Meeting Agenda – Mayor Mike Peterson.**

The agenda items were reviewed and discussed. Mayor Peterson reported that Brooksee will present a check to the Cottonwood Heights Foundation tonight.

At Mayor Peterson's request, Public Works Director, Matthew Shipp offered an overview of the Data Report that he was scheduled to present at the November 5, 2019, City Council Business Meeting.

Mayor Peterson identified two action items to be addressed during the meeting including Ordinance 332 regarding an amendment to the budget, and an amendment to Ordinance 333 regarding wireless facilities.

**4. Staff Reports.**

**a. Affordable Housing – Community and Economic Development Director, Michael Johnson.**

Community and Economic Development Director, Michael Johnson provided a State-mandated update of the Affordable Housing Element of the City's General Plan. He explained that cities are required to adopt Moderate-Income Housing Elements as components of their General Plan and incorporate at least three strategies to achieve this goal. Updated plans must be adopted by December 1, 2019. Progress updates will be required annually.

Outlined strategies for Cottonwood Heights included:

- Allowing for higher density or moderate-income residential development in commercial and mixed-use zones, commercial centers, or employment centers.
- Implement zoning incentives for low to moderate-income units in new developments.
- Utilize a moderate-income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency.

The Planning Commission recommended unanimous approval of the plan on October 16, 2019. A final decision will be required by December 1, 2019.

Recommendations of the study included:

- Continue to utilize newly amended density bonus programs included in the PDD ordinance to create set-asides at specified income levels.
  - Focus on reinvesting CRA funding toward moderate-income housing projects.
  - Work with other jurisdictions to create funding sources for extremely low-income housing units (less than 30% AMI) where appropriate.
  - The Commission declined to have Christine Richmond attend the forthcoming meeting to present on the Affordable Housing plan.
- b. **Code Modification on Wireless Cell Tower Facilities – Community and Economic Development Director, Michael Johnson.**

Amendments to Ordinance 333 were reviewed. As a result of a recent inquiry about the installation of utility poles on cul-de-sacs, it was determined that additional language was needed for the ordinance to accurately reflect potential scenarios.

5. **Review of Calendars and Upcoming Events.**

**Council Member Schedules for the Next Week – 2019 Calendar**

- a. **November – Donations for the Road Home – Drop Off at City Hall.**
- b. **November 5 – General Election.**
- c. **November 11 – City Hall will be Closed in Observance of Veterans Day.**
- d. **November 25 – 7:30 p.m. Utah Wind Symphony – Butler Middle School.**
- e. **November 28 and 29 – City Hall Closed in Observance of Thanksgiving.**
- f. **December 2- Light the Heights at City Hall.**
- g. **December 7 – 4:00 p.m. and 7:00 p.m. – Play – *The Best Christmas Pageant Ever!*- Butler Middle School Auditorium.**
- h. **December 9 – 7:00 p.m. – Play – *The Best Christmas Pageant Ever!*- Butler Middle School Auditorium.**
- i. **December 24 and 25 – City Hall Closed in Observance of Christmas.**

6. **Possible Closed Meeting to Discuss Litigation, Property Acquisition and/or the Character and Professional Competence or Physical or Mental Health of an Individual.**

**MOTION:** Council Member Bracken moved to go into closed meeting to discuss a personnel-related issue. The motion was seconded by Council Member Shelton. The motion passed with the unanimous consent of the Council.

The City Council was in Closed Session from 6:35 p.m. to 7:01 p.m.

7. **Adjourn City Council Work Session.**

**MOTION:** Council Member Bracken moved to adjourn the Closed Meeting and resume the Work Session and adjourn. Council Member Shelton seconded the motion. The motion passed with the unanimous consent of the Council.

The City Council Work Session adjourned at 7:01 p.m.

**MINUTES OF THE COTTONWOOD HEIGHTS CITY COUNCIL BUSINESS MEETING  
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**Present:** Mayor Mike Peterson, Council Member Tali Bruce, Council Member Christine W. Mikell, Council Member Mike Shelton

**Staff Present:** City Manager Tim Tingey, Police Chief Robby Russo, Public Works Director Matt Shipp, Community and Economic Development Director Michael Johnson, Records Culture and Human Resources Director Paula Melgar, Finance and Administrative Services Director S. Scott Jurgens, City Attorney W. Shane Topham, Assistant Fire Chief Mike Watson, Public Relations Specialist Tim Beery, Senior City Planner Matthew Taylor, City Planner Andrew Hulka, Assistant Police Chief Paul Brenneman

**BUSINESS MEETING**

**1.0 WELCOME/PLEDGE**

Mayor Peterson called the meeting to order at 7:00 p.m. and welcomed those present.

The Pledge of Allegiance was led by Quinn Williams.

**2.0 Acknowledgements**

**2.1 Brooksee Donation to the Cottonwood Heights Foundation – Alec Fowler with Brooksee.**

Mayor Peterson acknowledged the presence of Senator Kathleen Riebe as well as Trustees from the Cottonwood Heights Parks and Recreation Service Area identified as Bart Hopkin, Carl Evans, and Debbie Tyler.

Alec Fowler from Brooksee expressed gratitude to the City on behalf of the Big Cottonwood Marathon for being such a wonderful partner. Over 4,000 runners participated in the race, which makes it the second-largest in the state. More than 31 local Cottonwood Heights-based businesses participated in advertising and PR opportunities. There were also 125 youth aged 8 to 18 that participated as part of the non-profit team. Many are were City residents.

Mr. Fowler was present to make a donation to the Cottonwood Heights Recreation Foundation in the amount of \$4,150. Ben Hill, Executive Director of the Cottonwood Height Parks and Recreation Service Area reported that the funds raised by the Foundation allow them to sponsor families who cannot afford to participate in recreational activities. Mr. Hill expressed his thanks.

## **2.2 Recognition of Canine Officer Chip and Sergeant Thom Daugherty – by Chief Robby Russo.**

Police Chief, Robby Russo reported that there are three canines in the Cottonwood Heights Police Department who perform a myriad of tasks including searching for evidence, chasing suspects, looking for drugs, and protecting the handler. One of the canines, Chip, recently became ill and died of cancer. The dogs live with their handlers and become part of the family, which makes their passing difficult. Chip was recognized as an officer with his end of watch being August 28, 2019, after eight years of service. A plaque was presented to the Police Department along with Chip's collar in recognition of his service. Mayor Peterson expressed his thanks to Officer Daugherty as well.

## **3.0 CITIZEN COMMENTS**

Yvette Whitby was present to publicly thank the Cottonwood Heights Police Department. She stated that she is a resident of Cottonwood Heights but works as a Prosecutor for West Valley City. Recently, she worked on a case involving a convicted domestic violence offender and she feared for her safety. Ms. Whitby contacted the Police Department about her concerns. Over the next several weeks she felt safe in her home as officers made random stops to her home. She thanked the Police Department for their efforts and presented the officers with a gift of gratitude.

Roger Kehr, a Sandy resident, reported that he serves on the Cottonwood Heights Parks Trails and Open Space Committee and as Chair of the Dog Park Subcommittee. Two weeks earlier, the committee passed a resolution recommending that the City Council look at Mountain View Park as a possible location for a Dog Park. Mr. Kehr reported that there are more households with dogs (39%) than children. Mayor Peterson thanked Mr. Kehr for his service.

Eric Kraan reported on the moderate-income housing effort and was pleased to see that the PDD will be considered to include provisions for housing for those earning below 50% of the median income. He reported that one month earlier a resident spoke about striping on Wasatch Boulevard between the High T and the City limits on the south side. They have not yet been painted and pose a danger due to limited visibility. Mr. Kraan stated that the following day the Planning Commission will hear and perhaps approve the second of two mixed-use higher density projects along Fort Union Boulevard. His understanding was that it meets all of the requirements established by the City Council. Later in the meeting, Public Works Director, Matt Shipp will address the intersection of Fort Union Boulevard and Highland Drive. Mr. Kraan urged the Council to think about what the Master Plan calls for on Fort Union Boulevard. He commented that higher density and increasing the distance an elderly person has to walk to cross the street makes it less pedestrian-friendly and more dangerous.

Rex Lee read a message from John McIntire regarding the failed storm drain between Creek Road and Tyndale Court that flooded his basement causing over \$110,000 in damage. Mr. McIntire did not think it was honorable or honest based on the evidence submitted, for the City to deny his claim.

The evidence against the City was described including the following:

- a 2006 report from the City Engineer indicated that this particular storm drain needed to be replaced to avoid the likely probability of extensive property damage.
- A section of the pipe failed and caused a large sinkhole in the road. The City only replaced one section and repaired the road.
- A section of the same pipe directly adjacent to the most recent 2019 failure failed in 2015 caused a large sinkhole and extensive damage to yards and the pressurized irrigation system. The City replaced only one section and paid for the repairs. The contractor who replaced the section in 2015, informed the City that the section that failed and flooded Mr. McIntire's basement was also corroded and needed to be replaced. He was directed by City officials to replace only the failed section and ignore the other.

Mr. McIntire questioned why the City would assume liability for the damage that occurred for the 2013 and 2015 failures but not his claim. Mr. Lee indicated that Mr. McIntire is very frustrated and has been offered a minor settlement to waive the City of obligation.

Mr. Lee, a Scottish Drive resident, stated that his home was flooded the same night that Mr. McIntire's home was flooded. He thanked the City Council for recently appropriating \$180,000 to fix the storm drain system on Scottish Drive but was dismayed that the City is denying his claim in excess of \$91,000. The City has chosen to hide behind immunity disclaimers in the face of overwhelming facts indicating negligence on the part of the City. The insurance carrier will no longer speak to him and has instructed the City not to speak to him about it. As a result, Mr. Lee stated that he will continue to speak out in an effort to help the City Council recognize the gross negligence that has occurred and the high price he has paid personally. Mr. Lee was disappointed that the City chose to hire Travelers as a middleman between Cottonwood Heights and the Utah Government Trust. As the middleman, Travelers' sole responsibility is to deny claims. However, because they are employed by the City, they have a tendency to rule in their favor. Mr. Lee stated that those who were flooded feel it is unfair for the City to hide behind small print while they suffer the consequences. Mr. Lee stated that he has had to finance the cost of repairing the damage while the City offers him only \$7,000.

Mayor Peterson stated that the City of Cottonwood Heights, like the more than 200 other cities in the State of Utah, all work with the Utah Local Government Trust who negotiates settlements. He agreed to meet with Mr. Lee separately to discuss the issue.

City Manager, Tim Tingey, reported that the City Council members received public comment from Kimberly Kraan, which was posted on the Utah Public Notice website.

There were no further public comments. The Citizen Comment period was closed.

#### **4.0 PUBLIC HEARING**

##### **4.1 Public Hearing on Proposed Budget Amendment to the 2019-2020 Fiscal Year – Finance Director, Scott Jurges.**

Finance Director, Scott Jurges, presented the proposed budget amendment and stated that the changes through the end of September will be incorporated into the budget. He described the various proposed changes and explained that frequently revenue is used to cover expenditures that are incurred. With regard to the School Resource Officer, they were renegotiating with the school who will reimburse the City \$80,000 that will be put back into the budget. Other proposed changes were described.

Mayor Peterson opened the public hearing.

Rex Lee thanked the Council on behalf of Mr. McIntire for the \$48,000 that was dedicated to the repair of the 48-inch corrugated pipe referred to in his comments. He pointed out that that is part of the section that needs to be replaced.

There were no further public comments. The public hearing was closed.

#### **5.0 PUBLIC COMMENTS**

##### **5.1 Affordable Housing Plan Update – Introduction by Community and Economic Development Director, Michael Johnson.**

Community and Economic Development Director, Michael Johnson reported that the proposal is to update the Affordable Housing Element of the City's General Plan. It is the result of SB 34 that was enacted earlier in the year. It requires all cities within the State to adopt updated general plan elements dealing with affordable housing. The legislation mandates a few additional requirements. For example, the plan must include a minimum of three strategies to achieve the goal of providing opportunities to individuals of all income levels in the City. The updated plan must be adopted by December 1. Mr. Johnson explained that the City is required to report annually and include information on how they are implementing the goals identified as part of the plan. The three goals selected were as follows:

1. Allow for higher-density and moderate-income residential development in commercial and mixed-use zones, commercial centers, or employment centers.
2. Implement zoning incentives for low to moderate-income units in new developments.
3. Utilize a moderate-income housing set aside from community reinvestment areas.

Mr. Johnson reported that the matter was heard by the Planning Commission on October 13 and recommended unanimous approval to the City Council. He indicated that the Cottonwood Heights

Area Median Income (“AMI”) is \$86,207. 27% of households in Cottonwood Heights are at or below the AMI.

The report findings were that currently there is a small surplus of affordable and available units at 80% AMI, however, there is a deficit of units below 50% AMI. He noted that very low-income housing units are difficult to provide. The projected City population will peak in 2030 and declines thereafter. With no further growth, by 2030 there will be 586 fewer housing units than the demand.

The study recommendations were to continue to create opportunities for housing units at a very low affordability level, focus on reinvesting CRA funds toward moderate-income housing projects, and work with other jurisdictions and entities collaboratively to achieve extremely low-income housing at 30% or less AMI.

Mayor Peterson opened the public hearing.

Senator Kathleen Riebe expressed her support and stressed the importance of providing an opportunity for all who work in the community to live here. The intent is to mitigate the shortage that exists. They have worked with the Utah League of Cities and Towns to create the legislation so that it applies across all demographics. She thanked the Council for being willing to compromise and work toward making the needed changes. Mayor Peterson thanked Senator Riebe for being present and available.

There were no further public comments. The public hearing was closed.

## **6.0 STAFF REPORTS**

### **6.1 Fort Union and Highland Intersection Data Report – Public Works Director, Matt Shipp.**

Public Works Director, Matt Shipp reported that a few weeks prior he updated the Council on the project status. He explained that when the job opened there were problems with the signal timing and equipment. Once the issue was identified, adjustments were made. He described how an intersection is evaluated, which focuses on approach delays and getting as many cars through as possible. The stop bar is where most of the activity occurs. A split failure occurs when a signal is unable to serve all of the vehicles in the queue. Statistical data was presented as well as physical constraints that exist. The information would continue to be analyzed periodically.

## **7.0 ACTION ITEMS**

### **7.1 Consideration of Ordinance 332 Approving an Amendment to the 2019-20 Budget.**

**MOTION:** Council Member Bracken moved to approve Ordinance 332. The motion was seconded by Council Member Shelton. Vote on motion: Council Member Mikell-Aye, Council Member Bruce-Aye, Council Member Bracken-Aye, Council Member Shelton-Aye, Mayor Peterson-Aye. The motion passed unanimously.

**7.2 Consideration of Ordinance 333 Approving an Amendment to Code Section 14.28.080 Regarding Wireless Facilities in the Public Right-of-Way.**

Mr. Johnson reported that the existing ordinance for wireless facilities in the public right-of-way includes a provision that limits the placement of facilities along residential streets at a certain width. Staff proposed language to include cul-de-sacs in the language.

**MOTION:** Council Member Mikell moved to approve Ordinance 333. The motion was seconded by Council Member Bruce. Vote on motion: Council Member Mikell-Aye, Council Member Bruce-Aye, Council Member Bracken-Aye, Council Member Shelton-Aye, Mayor Peterson-Aye. The motion passed unanimously.

**8.0 CONSENT CALENDAR**

**8.1 Approval of the City Council Town Hall Meeting Minutes of October 7, 2019. Approval of the City Council Work Session and Business Meeting Minutes of October 1, 2019.**

**MOTION:** Council Member Shelton moved to approve the City Council Town Hall Meeting minutes of October 7, 2019, and the City Council Work Session and Business Meeting minutes of October 1, 2019. The motion was seconded by Council Member Bracken. The motion passed with the unanimous consent of the Council.

**9.0 ADJOURN CITY COUNCIL BUSINESS MEETING.**

**MOTION:** Council Member Bracken moved to adjourn the Business Meeting and reconvene the Work Meeting. Council Member Shelton seconded the motion. The motion passed with the unanimous consent of the Council.

The City Council Business Meeting adjourned at approximately 8:00 p.m.

*I hereby certify that the foregoing represents a true, accurate and complete record of the Cottonwood Heights City Council Business Meeting held Tuesday, November 5, 2019.*

Teri Forbes

Teri Forbes  
T Forbes Group  
Minutes Secretary

Minutes Approved: December 17, 2019