

**MINUTES OF THE COTTONWOOD HEIGHTS CITY COUNCIL WORK SESSION  
HELD TUESDAY, DECEMBER 17, 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 Christine W. Mikell, Council Member Mike Shelton

**Staff Present:** City Manager Tim Tingey, City Attorney W. Shane Topham, Police Chief Robby Russo, Assistant Fire Chief Mike Watson, 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:** Council Member Tali Bruce

**WORK SESSION**

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

**1. Planned Development District Ordinance Amendment – Mr. Mark Vlastic with Landmark Design.**

Mark Vlastic, President and Owner of Landmark Design was in attendance to present preliminary findings of the Planned Development District (“PDD”) Ordinance amendment. It was noted by Community and Economic Development Director, Michael Johnson that next steps will be to provide a draft for review.

Mr. Vlastic stated that the current Code is comprised of the following three tiers:

- Tier 1: Large properties of at least 10 acres in area, such as the gravel pit.
- Tier 2: Medium-sized properties of at least three acres in area, such as the west side of Wasatch and Fort Union Boulevards.
- Tier 3: Smaller properties of at least one acre in size focused on the side streets adjacent to Fort Union Boulevard.

The plan was to amend the Ordinance to allow for greater flexibility and contextual sensitivity, however, this has proven challenging for several reasons. Due to the relative complexity of the PDD Code, individuals have had difficulty understanding its purpose. An additional challenge stems from the fact that preliminary plans and drawings are required to be submitted in advance of re-zoning. There is also a lack of clarity regarding the level of detail needed prior to re-zoning.

Mr. Vlastic reported that Landmark Design has led a three-phase review process. The first phase involved assessing the Code and interviewing multiple individuals to ensure a clear understanding. Christine Mikell asked if area residents have been involved in the process. Mr. Vlastic stated that

residents will be involved later in the process. Once a draft ordinance is available, public feedback will be solicited. Council Member Mikell suggested that it might be beneficial to include residents earlier in the process, rather than after the fact. Mayor Peterson agreed that historically, people have been appreciated being allowed to provide feedback during the early stages of a project. Mr. Johnson wanted to ensure that when the draft Ordinance is available for review, residents are afforded ample time for review and feedback, rather than the standard three minutes allotted during Planning Commission Meetings. His recommendation was to involve residents once an initial draft is completed. Mayor Peterson reiterated that involving residents earlier in the process could be beneficial and appreciated. Council Member Mikell felt that if more time is dedicated early in the process to drafting a strong Ordinance, there will be fewer issues arise later.

Mr. Vlasic indicated that the final step in the process will be developing the draft. He expected there to be two or three preliminary drafts before the final draft is available for consideration for adoption. It was asked what the process will look like once the final draft is completed. Mr. Johnson confirmed that the draft will be presented to the Planning Commission for public recommendation and then to the City Council. Council Member Mikell asked how the PDD amendment process will affect the gravel pit. Mr. Johnson stated that the gravel pit process will not be impacted in any way.

Mr. Vlasic identified the following key findings stemming from discussions with the Planning Commission, applicant, etc.

- The Code lacks clarity and purpose;
- The decision-making process can be easily politicized;
- The ordinance lacks “triggers” for different stages of approval;
- The ordinance has unclear affordable housing requirements;
- The ordinance lacks definitions;
- Lack of understanding regarding the ordinance and how it should be applied;
- Tier III sites are not relevant and should be stricken;
- The ordinance lacks details and guidelines; and
- Staff should have more prerogative to make simple adjustments and work out details.

Mr. Vlasic stated that all comments will be taken under consideration as the process continues to move forward. Mayor Peterson stated that he would appreciate receiving an update on the specific changes that have been made in the PDD to address the above-referenced key findings. Mr. Johnson commented that all changes (and related rationale) are being tracked in the document for future reference. Council Member Mikell asked for further clarification of the concern that the PDD decision-making process can be “easily politicized”. Mr. Johnson explained that there are many long-range plans and visions for the future that are not referenced in the Ordinance, which may result in a matter of opinion on the development, rather than a clear representation of the vision for the City, relation to the Master Plans, etc. Ideally, the Ordinance will be more closely connected to the Master Plans, documents, and policies. As it currently stands, those key concepts are not clearly referenced. It was suggested that changes made to the Ordinance, as well as the rationale, be added to the Landmark Design presentation.

City Attorney, Shane Topham reported that the PDD process was originally designed to be legislative from start to finish, requiring approval from the City Council. He noted that this is not typically the preference of developers as it can be costly. The preference tends to be for conditional use, which is not in the best interest of the City. For this reason, he was concerned about the concept of “triggers during different stages of approval”. In his opinion, triggers equate to incremental vesting during the development process, which would make it more difficult for the City Council to issue rejections.

Messrs. Vlastic and Johnson confirmed that the target timeline is to present the first draft within the next month, depending on the public feedback process.

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

Mayor Peterson reviewed the proposed agenda items.

**3. Staff Reports.**

**a. City Council Committee Reassignments – Mayor Mike Peterson.**

City Manager, Tim Tingey stated that City Council has recommended that current Cottonwood Heights Historic Committee Members Allen Ereksen and James Kichas for reappointment. Ken Verdoia was recommended for appointment to the committee as a new member.

Mayor Peterson did not have strong personal feelings about any of the recommended appointments. He invited the Council Members to voice any opposition they may have. He reported that a New Interlocal Agreement with Unified Fire Authority requires the City Council to include an alternate committee member in the event of Mayor Peterson’s absence. The alternate must be elected by the Council.

Additionally, the majority of the membership on VECC is City Managers or City Attorneys. Per Mayor Peterson, Mr. Tingey volunteered to serve in this capacity.

Mr. Tingey reported that future Council Member Doug Petersen serves on many boards in comparison to others. Per Mr. Tingey, Tali Bruce suggested that Council Member Petersen serve as the Liaison for the Cottonwood Heights Business Association. Council Member Petersen was reported to be amenable to the suggestion.

Mr. Tingey reported that a resolution will be presented for review and a decision at the first meeting in January 2020.

**b. Little Willow Circle Flag Lot Setback Exception.**

Mr. Johnson reported that an application was received requesting an exception to the Subdivision Ordinance. The request pertains to the setback requirement for a flag lot on Little Willow Circle. Setbacks for flag lots are a component of the Subdivision Code, rather than the Zoning Ordinance. The referenced parcel is approximately 3.6 acres in size. It is a new flag lot development in a two-

lot subdivision. There is currently a permit issued for construction on the adjacent home to the north.

For context, Mr. Johnson explained that a building permit was issued and a site plan submitted. The setback requirement for flag lots is 20 feet on all sides. The approved building permit meets the specifications. Several months earlier, and late in the construction process, staff became aware of a potential issue regarding the location of the home. The permit was issued in November 2018. Prior to beginning construction, engineered site plans must be completed and survey stakes placed to mark footing locations. The survey stakes at 8564 South Little Willow Circle were improperly placed, which resulted in the home being placed incorrectly. It now violates the setback requirements. Mr. Johnson was unsure of the reason behind the error.

Staff was made aware of the issue on September 18, 2019, by the owner of the property to the north at 8558 South Little Willow Circle. The property owner, who was preparing to begin construction of his own home, submitted a letter stating that he was concerned that the house at 8564 South Little Willow Circle was too close to his property line. A Stop Work Order was subsequently issued. On September 27, 2019, survey results confirmed that the home was in violation of the setback requirements.

The applicant, Mohammad Vedadi, explored various options. It was determined that the situation does not meet the criteria for a variance. The provision in the Subdivision Ordinance that allows applicants to request an exception to subdivision standards, is most applicable to Mr. Vedadi's issue. Mr. Johnson stated that the critical consideration is that the two property owners have worked closely in an effort to resolve the issue themselves. The neighboring property owner has made a recommendation to the Planning Commission and City Council to grant the exception (subject to the criteria outlined in the staff report).

Staff recommended that the request be approved based on the following criteria:

- Finding: Exceptional conditions exist; and the welfare, best interests, and safety of the general public will be usefully served or protected.
- The owner of the adjacent property, who is most directly affected, supports the exception.

A question was raised about the possibility of re-doing the lot lines. Mr. Johnson stated that this is not an option as the owner to the north is maximizing the setback requirements for his own property. An additional property owner to the west is amenable to the exception but wants to ensure that the work is done properly, to minimize runoff to his lawn. A Council Member asked why the mistake was not caught during the footing inspection. Mr. Johnson explained that the lines may have been unclear due to both lots being comprised of dirt and gravel.

Mr. Johnson reported that the Planning Commission voted 5-to-0 to approve the request, with one abstention. The recommendation for approval was based on the fact that there is a finding in the Ordinance that justifies the request and that the only impacted neighbor is strongly in favor of the exception. Mayor Peterson noted that the list of conditional criteria that must be completed prior to granting the exception represents a good resolution to a difficult situation.

**c. Zone Map Amendment: 8120 South Royal Lane.**

Mr. Johnson presented an amendment to the zone map pertaining to 8120 South Royal Lane. The property is 1.19 acres in size and located off of Royal Lane, before the bridge and in close proximity to Royal Oaks Estates. The existing land use for the area (with the exception of one property) is rural residential density. The zoning of the larger area is predominantly 0.5-acre properties. There are four properties in the vicinity that do not comply with the zoning requirements.

As a result of the provided context, a land use map amendment is not required. The owner intends to divide the property and either convert the on-site accessory building or build a new home for his daughter. It was suggested that the applicant will have a difficult time successfully dividing the property into 0.5-acre parcels without intersecting the main home.

Mr. Johnson reported that staff recommends approval of the request. The Planning Commission accepted public comments, primarily from the Royal Lane HOA. The HOA representative stated that the applicant has not followed the outlined process for such requests. The Planning Commission recommended approval of the request with a 5-to-1 vote. The one dissenting vote felt that HOA consent should be received prior to making a conditional recommendation. Mr. Johnson reported that he and Mr. Topham informed the Commission that while HOA codes and governances are legally enforceable, they are civil stipulations that do not impact the City's processes.

A question was raised as to whether the City's decision has any impact on, or relation to, the HOA's decision. Mr. Johnson confirmed that the two are separate and have no impact on each other.

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

**Council Member Schedules for the Next Week – 2019/2020 Calendar:**

- a. December 24 and 25 – City Hall closed in observance of Christmas.
- b. January 1, 2020 – City Hall closed in observance of New Year's Day.

**5. 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 session regarding potential and pending litigation. 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 5:54 p.m. to 6:00 p.m.

**MOTION:** Council Member Bracken moved to adjourn the Closed Session. The motion was seconded by Council Member Shelton. The motion passed with the unanimous consent of the Council.

**6. Adjourn City Council Work Session.**

**MOTION:** Council Member Bracken moved to adjourn the Work Session. The motion was seconded by Council Member Shelton. The motion passed with the unanimous consent of the Council.

The City Council Work Session adjourned at 6:00 p.m.

**MINUTES OF THE COTTONWOOD HEIGHTS CITY COUNCIL MEETING HELD TUESDAY, DECEMBER 17, 2019 AT 7:00 P.M. IN THE COTTONWOOD HEIGHTS CITY COUNCIL CHAMBERS ROOM LOCATED AT 2277 EAST BENGAL BOULEVARD, COTTONWOOD HEIGHTS, UTAH**

**Present:** Mayor Mike Peterson, Council Member Scott Bracken, 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 Jorges, 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

**Excused:** Council Member Tali Bruce

**1.0 WELCOME/PLEDGE**

Mayor Peterson called the meeting to order at 7:00 p.m. Police Chief, Robby Russo led the Pledge of Allegiance.

**2.0 ACKNOWLEDGMENTS AND SPECIAL ACTION ITEM**

**2.1 Acknowledgment of the Service Provided by Council Member Shelton to the City of Cottonwood Heights.**

Mayor Peterson read aloud the resolution highlighting Council Member Michael Shelton’s service as a member of the Cottonwood Heights City Council. Following the reading of the resolution Council Member Shelton was invited to receive a token of appreciation on behalf of the Council.

Assistant Fire Chief, Mike Watson addressed the group, expressing his appreciation for Council Member Shelton’s service, particularly the global perspective he brought to various conversations. He stated that Council Member Shelton had an impact not only on local fire stations but on the Unified Fire Authority as a whole. He thanked Council Member Shelton for his work during his tenure.

City Manager, Tim Tingey expressed appreciation for the time he spent working with Council Member Shelton. Most notable was Council Member Shelton’s ability to view community issues through a holistic lens. Council Member Mikell also reflected on her work experience with Council Member Shelton. In particular, she referenced his kindness and emulative qualities as a mentor. He had been wonderful to learn from and she hoped to be able to continue to reach out to him for counsel.

Council Member Bracken found it difficult to believe he had worked with Council Member Shelton for eight years. Among Council Member Shelton's best qualities was his ability to remain steadfast in his beliefs and to bring a unique perspective.

Mayor Peterson considered Council Member Shelton to be the perfect example of what elected officials should be. He mentors through his actions and has an impeccable moral compass. Mayor Peterson considers him a friend both personally and to the City of Cottonwood Heights. He humorously stated that he intends to keep Council Member Shelton involved, even if only on the pickleball court.

**1.1 Consideration of Resolution 2019-77 Honoring Council Member Michael Shelton.**

**MOTION:** Council Member Bracken moved to approve Resolution 2019-77 Honoring Council Member Michael Shelton for his eight years of service. The motion was seconded by Council Member Mikell. The motion passed with the unanimous consent of the Council.

Council Member Shelton addressed the Council and expressed his gratitude for the kind words of his fellow council members and for the honor of serving on the Council. He remarked that he does not outwardly exemplify the sort of person who would be appointed to City Council but he was extremely grateful to have been given the opportunity to serve. He was mentored by people he respects greatly and feels that he will take away from the experience much more than he put into it. He was confident that District 1 is in good hands. He reflected that he has come to consider those with whom he has served, family. He hoped to remain in contact.

**1.2 CAFR Presentation.**

Administrative Services Director, S. Scott Jurges introduced the Comprehensive Annual Financial Report and acknowledged the contributions of Treasurer/Financial Reporting Manager, David Muir. Mr. Muir spent a significant amount of time compiling the FY2019 CAFR. Mr. Jurges stated that the report includes all Cottonwood Heights funds: General, Capital Projects, Debt Service, and Community Development Renewal Agency. The CAFR provides a detailed accounting of all funds. Mr. Jurges noted that pages 30 through 32 are key segments of the report, offering pertinent details of accounting. Council Member Shelton reiterated the importance of the document for gaining an understanding of the City's financials.

**1.3 Annual Report by City Auditors from Larson & Company.**

Russell Olson introduced himself as an employee of Larson & Company CPAs, the independent auditors contracted by the City. His firm reviews the CAFR document and provides a professional opinion. He directed the Council to page nine of the audit report, which includes the auditors' statement confirming review of the CAFR and their opinion that the financial statements are materially correct. He noted that much of the information in the CAFR is not subject to the audit.

Mr. Olson directed the Council to additional segments of the audit report. The Government Auditing Standards Report on page one is a communication confirming that government auditing

standards were adhered to during the review process. The State Compliance Report refers to audit areas that are required by the State. Larson & Company found the City of Cottonwood Heights to be in compliance with those areas. The management letter (“Communication to Those Charged with Governance”) is the mechanism for reporting issues that arose during the audit. There were none to report.

Mr. Olson noted one finding related to budget compliance in the Debt Service Fund. The fund exceeded the budget by approximately \$200.00. He said that it is not a major concern, but it does qualify as a finding.

#### **1.4 Introduction of Honorary Colonel Joel Kittrell.**

Police Chief, Robby Russo introduced Honorary Colonel, Joel Kittrell. Mr. Kittrell is a local defense attorney who has been in practice for 15 years, as well as an adjunct professor at the University of Utah. In addition, he serves on the Board of Directors for Big Brothers Big Sisters.

The Honorary Colonels is a non-profit group that supports law enforcement. The local chapter supports Cottonwood Heights Police specifically. The group primarily provides financial assistance to members of the law enforcement community.

Mr. Russo reported that there was previously a serious criminal case involving major implications for area families. In particular, there was one family that he remained in contact with throughout the process. The family indicated that Mr. Kittrell brought a great deal of comfort during a difficult time.

Mr. Russo presented Mr. Kittrell with his honorary badge. Mr. Kittrell reflected on three cases he has been involved in and shared his admiration and respect for how he has seen Cottonwood Heights police interact with community members during stressful situations. Mayor Peterson thanked Mr. Kittrell for his service and reflections.

#### **1.5 Introduction of New Cottonwood Heights Police Department K-9 Officer.**

Mr. Russo introduced the new Cottonwood Heights Police Department K-9 Officer Odin, a six-month-old Dutch Shepherd. He was accompanied by his handler, Sergeant Daugherty. Chief Russo reported that obtaining and training canines for the Police Department is very expensive and beyond the scope of the department’s funding. He introduced Kara and Glenn Clapp, longtime donors to the Cottonwood Heights Police Department. When they learned that K-9 officer Chip had passed away they reached out to assist the department in purchasing a new dog.

The Clapps presented the department with a check for \$7,500.00 to cover the purchase of Odin. Mr. Clapp shared the couple’s admiration for the Cottonwood Heights K-9 unit. Odin is the fourth dog that the Clapps have helped bring to the unit.

## **2.0 CITIZEN COMMENT**

Tim Hallbeck reflected on Council Member Shelton's good works and priorities during his tenure. He was concerned that plans for a local dog park have not moved forward. Mayor Peterson suggested that he connect with Mr. Tingey for an update on progress thus far. Mr. Hallbeck also requested that meeting materials be made available to the public. He felt that the amount of available content has recently been reduced. Mayor Peterson stated that Mr. Hallbeck will be updated on both concerns.

## **3.0 PUBLIC COMMENT**

### **3.1 Little Willow Circle Flag Lot Setback Exception.**

Community and Economic Development Director, Michael Johnson reported that a request has been received for a reduction in the flag lot setback requirements for a property on Little Willow Circle. The property is a recent flag lot, meaning that it does not have direct access from any dedicated road. There are two new lots currently under construction. The home in question is substantially far along in the construction process. The grading of the lot slopes drastically from east to west.

In November 2018, a building permit was issued for the home. The approval was based on a site plan that was submitted to the City and certified by a civil engineer. The property was surveyed, and the home was determined to comply with all flag lot setback requirements of 20 feet on all sides. In September 2019, a letter of concern was submitted by the owner of the property to the north – the second new lot under construction. The owner expressed concern that the property in question is in violation of the setback requirements. A Stop Work Order was issued, and upon investigation, it was determined that the home was not in compliance with the setback requirements. Mr. Johnson noted that appropriate steps had been taken, including marking the setbacks with survey stakes matching the approved site plan. There was no reason to believe that the stakes were inaccurately placed.

Mr. Johnson stated that the applicant explored the option of a variance, but it was determined that his situation was not a viable candidate for a variance. The subdivision exception provision of Title XII of the City Ordinance best suits the applicant's situation. Mr. Johnson said that the only impacted neighbor – the property owner to the north – is in support of granting the exception. Mr. Johnson stated that staff support approval of the exception, particularly given that the alternative will prove costly and wasteful.

Mr. Johnson explained that the Planning Commission accepted related public comments at its most recent meeting. They voted to recommend approval to the City Council with a 5-to-0 vote.

Mayor Peterson invited public comments. There were no public comments. The public hearing was closed.

### **3.2 Zone Map Amendment: 8120 South Royal Lane.**

Mr. Johnson reported that a request was received to amend the zoning regulations for 8120 South Royal Lane. The property is currently in the R-R-43 zone, which is comprised of residential rural, single-family homes on a minimum of one acre for any new lot. The existing parcel is 1.19 acres in size. The request is to amend the zoning to R-R-121: Rural Residential which allows single-family homes on a minimum lot size of 0.5 acres.

The existing land use is rural residential density and will not be affected by the proposed rezoning. Mr. Johnson noted that many of the surrounding homes already fall within the 0.5-acre zoning designation. There are also a few properties within the 1.0-acre zoning area that are not 1.0 acres in size. The applicant could potentially divide the lot into two separate lots, as long as all building and subdivision standards, codes, etc. are met. As a result, staff recommended approval of the amendment request. Mr. Johnson reported that after receiving public comments on the matter, the Planning Commission voted 5-to-1 to recommend approval to the City Council. He remarked that the request is available for public comment only. Final action will be taken at the next City Council Meeting.

Mayor Peterson invited public comments.

Mohammad Vedadi, the property owner and applicant, explained that his goal is to divide the property to ultimately provide a home for his daughter.

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

### **4.0 ACTION ITEMS**

#### **4.1 Consideration of Ordinance 335 Adopting an Annual Meeting Schedule for 2020.**

**MOTION:** Council Member Shelton moved to approve Ordinance 335 Adopting an Annual Meeting Schedule for 2020. Council Member Bracken seconded the motion. The motion passed with the unanimous consent of the Council.

#### **4.2 Consideration of Resolution 2019-78 Approving an Exception to Certain Requirements for a Subdivision Lot Located at 8564 South Little Willow Circle.**

**MOTION:** Council Member Shelton moved to approve Resolution 2019-78 approving an exception to certain requirements for a subdivision lot located at 8564 South Little Willow Circle. Council Member Mikell seconded the motion. The motion passed with the unanimous consent of the Council.

**4.3 Consideration of Resolution 2019-79 Approving Appointments to the Historic Committee.**

Council Member Shelton moved to approve Resolution 2019-79 approving appointments to the Historic Committee. Council Member Bracken seconded the motion. The motion passed with the unanimous consent of the Council.

**5.0 CONSENT CALENDAR**

**5.1 Approval of Minutes of the City Council Meeting of November 5, 2019.**

**MOTION:** Council Member Bracken moved to approve the minutes of the City Council Meeting of November 5, 2019. Council Member Mikell seconded the motion. The motion passed with the unanimous consent of the Council.

**6.0 ADJOURN CITY COUNCIL BUSINESS MEETING.**

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

The City Council Business Meeting adjourned at 8:15 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, December 17, 2019.*

Teri Forbes

Teri Forbes  
T Forbes Group  
Minutes Secretary

Minutes Approved: January 21, 2020