

**MINUTES OF THE COTTONWOOD HEIGHTS CITY COUNCIL WORK SESSION
HELD TUESDAY, JANUARY 21, 2020, 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 Douglas Petersen

Staff Present: City Manager Tim Tingey, City Attorney W. Shane Topham, 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 Jorges, Communications Manager Tim Beery, Assistant Police Chief Paul Brenneman, Senior City Planner Matt Taylor, City Planner Andrew Hulka

Excused: Police Chief Robby Russo, Assistant Fire Chief Riley Pilgrim

WORK SESSION

Mayor Peterson called the meeting to order at 5:01 p.m. and welcomed those present.

1. Review of Business Meeting Agenda – Mayor Mike Peterson.

The Business Meeting agenda was reviewed.

With regard to Ordinance 337 regarding a Master License Agreement, Community and Economic Development Director, Michael Johnson reported that the request is from a cell provider who is requesting to install small cell towers. Because cell towers are considered public utilities, the City is limited in terms of what requirements can be imposed. It was noted that the standards are set by State law. Mr. Johnson explained that this particular provider has no immediate plans to install facilities, however, they have been asked to obtain a license with the City.

Ordinance 338 involves a Telecommunications System Franchise and is related to Ordinance 337. It was noted that there is no significant difference between this agreement and others that have been entered into. Mr. Johnson reported that adoption of an ordinance is proposed for approval that would address small wireless facilities and specifies where they can be placed and what they will look like. The various types of facilities were described. It was noted that the facilities within the City are primarily 20 feet tall and designed to resemble the City's standard light poles.

The last agenda item involved appointments to the Arts Council. Three reappointments were proposed with approval recommended for three-year terms.

2. Staff Reports.

a. Film Festival.

Mayor Peterson was pleased to announce that the City will be hosting its first film festival. City Manager, Tim Tingey provided the details of the event and recognized the efforts of Council Member Mikell for her work with the Arts Council. Council Member Shelton had also been involved in helping the event come to fruition. The event was scheduled for Saturday, March 14 at Butler Middle School beginning at 3:30 p.m. Two movies were to be shown with a pre-show for each. *The Eagle Huntress* will include a pre-show featuring a hawk watch demonstration. The film was to be shown from 4:00 p.m. to 5:45 p.m. After a break, the second pre-show will begin followed by the screening of *Wasteland*, which will take place from 7:00 p.m. to 8:45 p.m. The total cost was expected to be \$1,200 with donations being sought to cover the cost. It was noted that to date, half of the cost was covered by donations.

Council Member Mikell reported that she had been working to bring the film festival to the City for a few years. She attended the Sundance Film Festival and found *Wasteland* to be very inspiring and a film that supports the City's sustainability efforts. *Eagle Huntress* is a great movie for children. The Arts Council was pleased about the event and to be doing something different.

A question was raised about charging for the event. Mr. Tingey stated that they do not plan to charge this time but may need to consider doing so in the future. If fees are charged, the film providers are due a certain percentage of the ticket sales. It was suggested that concessions be sold to offset the cost. Mr. Tingey responded that food is not allowed in the auditorium but other options could be explored.

b. Budget Schedule Discussion.

Finance and Administrative Services Director, Scott Jurges discussed the calendar and upcoming meetings. He reported that on January 6, the department directors identified items they may need in the future. The Council Retreat is scheduled for January 22 at which time budget priorities and expectations will be addressed. On January 23, the department directors will formally submit their requests. A meeting will then take place with the Messrs. Jurges and Tingey and each of the department heads to discuss details. Requests were to be submitted by Thursday, January 23. Beginning on February 4, meetings will alternate between Budget Committee and Compensation Committee Meetings the hour prior to City Council Meetings.

Mr. Jurges reported that an initial list of requests was to be provided by February 21. In the coming months, staff will continue to work on the budget with a Work Session scheduled for April 21. The final budget must be adopted by June 21 with the target date being June 16, which is a regular meeting.

c. Zoning Map Amendment from R-1-8 to NC at 2540 East Bengal Boulevard.

Mr. Johnson presented a proposal to rezone the above property from Single-Family Residential to Neighborhood Commercial. A rendering of the building was displayed. Mr. Johnson reported

that the small commercial building on the site has housed small offices uses in the past. The current zoning is R-1-8, which makes the building non-conforming. This makes it difficult for the owner to lease space even though it is designed as a commercial building. Mr. Johnson explained that every commercial use is considered non-conforming because the zoning is R-1-8 and the only allowed use in the zone is single-family residential.

Mr. Johnson gave a history of the property and stated that the adjacent uses include a car wash, a small commercial center, a single-family neighborhood, a church, apartments, and a café. The land use designation is Neighborhood Commercial. Four businesses have had licenses on the property; however, any new use that is different is considered an illegal use. Historical zoning of the property was discussed. Mr. Johnson explained that between March and September of 2009, the property designation was changed from Neighborhood Commercial to R-1-8. There is no record of this being a formal change. Neighborhood Commercial allows for a variety of commercial uses. Every use is conditional and requires Planning Commission approval.

Staff recommended approval of the request without conditions. The request was reviewed by the Planning Commission a few weeks earlier and unanimously recommended approval. They did, however, express concerns with specific uses. The Planning Commission recommended that zoning conditions be imposed to prohibit uses such as tattoo parlors, vape shops, marijuana pharmacies, private clubs/bars, CBD shops, and payday loan businesses. Most of the uses listed are regulated by the State or elsewhere in the ordinance. Staff researched which would be viable should an application be submitted. It was determined that at the State level, tobacco specialty stores, marijuana pharmacies, bars, and clubs are prohibited due to State proximity requirements.

Tattoo parlors are not a listed use in the zoning ordinance and would not be allowed without going through a legislative process. If such a use were desired, a request would be made to the Planning Commission who would then forward a recommendation to the Council to add the use to the ordinance. It was noted that payday loan establishments are based on population with only one allowed in the City. CBD shops are not regulated and are a standard retail use. Mr. Johnson did not feel it was appropriate to regulate them beyond the conditional use process that is in place. Staff did not recommend that zoning conditions be established to prohibit specific retail uses.

In response to a question raised, Mr. Johnson stated that to his knowledge there were no plans to modify the building. Various other potential uses and tenants were discussed. The list of conditional and permitted uses was reviewed.

d. Small Cell Franchise Agreement.

City Attorney, Shane Topham, reported that two franchises are proposed. The first involves Ordinance 337, which is a Master License Agreement for small cell facilities consisting of small apparatus on poles. Ordinance 338 will consist of a franchise for fiber optic cable to connect the small cell facilities.

3. Review of Calendars and Upcoming Events.

Council Member Schedules for the Next Week – 2020 Calendar:

- a. January 22 – 10:00 a.m.-4:00 p.m. – City Council Retreat – City Council Work Room.
- b. January 27, 2020 – 7:30 p.m. – Utah Wind Symphony Presents – Elements at Butler Middle School.
- c. January 29 – Local Officials Day at the Legislature.
- d. January 30 – 6:30 p.m. – Volunteer Appreciation Dinner at City Hall.
- e. February 6 – 5:00 p.m.-7:00 p.m. – 4th Annual Death by Chocolate in the Community Room at City Hall.

4. 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 close the Open Session and open the Closed Meeting to discuss pending litigation. Council Member Mikell seconded the motion. The motion passed with the unanimous consent of the Council.

The Council was in Closed Session from 5:41 p.m. to 6:35 p.m.

5. Adjourn City Council Work Session.

The City Council Work Session adjourned at 6:35 p.m.

MINUTES OF THE COTTONWOOD HEIGHTS CITY COUNCIL MEETING HELD TUESDAY, JANUARY 21, 2020 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 Tali Bruce, Council Member Christine W. Mikell, Council Member Douglas Petersen

Staff Present: City Manager Tim Tingey, City Attorney W. Shane Topham, 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 Jorges, Communications Manager Tim Beery, Assistant Police Chief Paul Brenneman, Senior City Planner Matt Taylor, City Planner Andrew Hulka

Excused: Police Chief Robby Russo, Assistant Fire Chief Riley Pilgrim

1.0 WELCOME/PLEDGE

Mayor Peterson called the meeting to order at 7:03 p.m. Youth City Council Member, Michael Ernest led the Pledge of Allegiance.

2.0 PROCLAMATION

2.1 Consideration of Proclamation 2020-02 Honoring the 100th Anniversary of the League of Women Voters – Mayor Mike Peterson.

Ann Ziegler from the Utah League of Women Voters reported that they have nearly 300 local members including Council Member Tali Bruce and have been in existence for 100 years. She was proud of their organization and stated that they continue to work to encourage people to stay informed and vote. Ms. Ziegler reported that there are 18,000 women in the State of Utah who are not registered to vote. Their organization is non-partisan, they do not support candidates or parties, and try to educate people on the issues. Those involved in the organization who were present were recognized.

Mayor Peterson read the proclamation in its entirety and applauded the organization for its efforts. The proclamation was signed and presented to Ms. Ziegler.

3.0 CITIZEN COMMENTS

Miranda Maisto described an incident that occurred in early November 2019 where she and her dogs were hit by a car while crossing Wasatch Boulevard near 8350 South. She sprained her ankle and one of her dogs suffered injuries that required medical attention. Ms. Maisto expressed concern with the lack of safe sidewalks and crossings in the immediate community. When leaving her neighborhood, Ms. Maisto noted that there are no sidewalks or safe crossings from pedestrians

in any direction. This fact made her lose her insurance claim despite being a pedestrian and crossing where many other community members cross. She proposed a potential or temporary solution of a solar-powered crosswalk and flags, similar to ones they have downtown, be placed in the surrounding area. Ms. Maisto stated that this would positively affect her neighbors as well as the countless runners and walkers she sees on a daily basis that run along Wasatch Boulevard.

Ms. Maisto commented that there is no dog park in the community. This was brought to her attention as a result of her accident and the recent cougar sighting in the area. Before that, she was not aware of the lack of safe places to take her dogs. She noted this has also been a hot topic among other dog owners she has encountered on her daily hikes. Ms. Maisto thanked the City Council and hoped her comments would encourage deeper conversations about safety.

Mayor Peterson acknowledged that her concerns are a high priority that will be addressed.

Ellen Birrell appreciated the Utah League of Women Voters being recognized. She commented on efforts the City has made toward sustainability. She noted that the population in Cottonwood Heights is more than 51% female. Ms. Birrell felt that women are not represented in an elected capacity on the municipal, county, state or federal level. She proposed that the City Council recognize the important work that is going on and have Utah formally recognize the Equal Rights Amendment and see it ratified in the State of Utah this year.

Joe Bycroft, a Top of the World Drive resident, expressed appreciation to the City Council. He urged the Council to urge UTA to increase bus service not only to the ski areas but downtown as well. He hoped to see UTA extend its rail line from the University of Utah to the gravel pit. Mr. Mycroft commented that traffic from Sandy, Cottonwood Heights, and Draper is heavy to Research Park where bus service would be beneficial. It will also help reduce pollution in the valley. Mr. Mycroft also asked the City Council to work harder in conjunction with the State of Utah to reduce the speed limit on Wasatch Boulevard. He remarked that a 50 MPH speed limit in certain areas is too fast even if the road was widened. He recommended it be reduced by at least 10 MPH. Mr. Mycroft also suggested that police officers write more tickets on Wasatch Boulevard in an effort to reduce speeds.

Mayor Peterson responded that the City has spoken to UDOT regarding speed limits and they have support to consider lowering it. That was due to Council Member Mikell's efforts.

There were no further public comments. The citizen comment was closed.

4.0 PUBLIC COMMENT

4.1 Zoning Map Amendment from R-1-8 to NC at 2540 East Bengal Boulevard.

Community and Economic Development Director, Michael Johnson presented the staff report and stated that the request is for a zone map amendment from R-1-8 to Neighborhood Commercial. The subject property is located at 2540 East Bengal Boulevard and is currently a small office building that houses four businesses. The property is about .75-acre in size. The existing property has remained largely unchanged since the City's incorporation. The surrounding zoning was

discussed. It was noted that the existing land use designation is Neighborhood Commercial. There are four businesses that are active in the building including two small offices, a computer services business, and a music studio. Prior to the City's incorporation, the zoning was C-1, which is similar to neighborhood commercial.

Mr. Johnson reported that in 2005, the original zoning map showed that the property was intended to be zoned Neighborhood Commercial. Since 2009, the property has been reflected as R-1-8 on the zoning maps. Currently, it is a commercial building that is leased to commercial tenants; however, any non-residential use is not allowed. The current uses are considered non-conforming. If any of the uses lapse for over one year or if any new use attempts to lease space in the building it would not be allowed.

Staff recommended approval based on the findings outlined in the staff report. The request was also compatible with the long-range land use designation. The Planning Commission reviewed the request at their last meeting and unanimously recommended approval with the imposition of zoning conditions prohibiting specific uses including tattoo parlors, tobacco shops, marijuana pharmacies, CBD shops, private clubs, and payday loan businesses. Upon further research, it was discovered that most of the uses are already prohibited either by City or State Code. The one use that would be allowed is a CBD shop, which is allowed as a retail business. The public hearing was to be held tonight with a final decision to be made at a subsequent meeting.

In response to a question raised by Council Member Bracken, Mr. Johnson stated that the application was received in December and processed in a timely manner.

Council Member Mikell asked about the notification requirements. Mr. Johnson explained that property owners within 500 feet received notice and a physical sign was posted on the property. Notice was also posted on the City website, sent to those on the City's email list, on the State's public notice website, and published in the local newspaper.

Mayor Peterson opened the public hearing.

Joe Mycroft looked at the qualifications for properties zoned for this type of use and stated that the gas station is not in compliance according to the list.

Kelvin Humphreys identified himself as the new owner of the office building and looked forward to the rezone. He expressed frustration with the situation in that it has cost them thousands of dollars and set back one of their new tenants, an autism therapy group. They have a waitlist to treat children but are not able to because of this issue. Mr. Humphreys observed that there are a number of lots that appear to not be zoned correctly. He pointed out that he has a lot hinging on the rezoning of the property.

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

5.0 STANDING QUARTERLY REPORTS

5.1 Monthly Financial Report – Finance and Administrative Services Director, Scott Jurges.

Financial and Administrative Services Director, Scott Jurges presented the Monthly Financial Report and stated that 2017, 2018, and 2019 are complete with the total amounts expended. The report also included the budget for the current year of \$17,550,000. They have under-expenses and clarified that the budget did not grow by \$1 million between 2019 and 2020. At this point in the year, they are typically 46.9% spent for the year. There is some fluctuation with expenditures from month to month based on the timing of payments. Mr. Jurges stated that he had no reason to be concerned that they will exceed budget or have issues.

Revenues were presented with the trend in 2017, 2018, and 2019, to increase by \$200,000 to \$300,000 per year on average. They received \$6,341,000 last year with the budget being set at \$6,350,000. That figure was artificially low and sales taxes are two months behind the actual month in which they are received. As a result, sales tax collections were very strong at the end of last year and came in higher than anticipated. They are currently at 33.89% at 33.33% of the year. During certain times of the year, tax revenues are higher than others. In addition, they have only received sales taxes through October. Mr. Jurges pointed out that they are 5% ahead of 2019 numbers, which is a positive. He pointed out that there is a new \$600,000 sales tax-like revenue for transportation this year.

Mr. Jurges next presented the Municipal Energy Tax and explained that it includes taxes on gas and power. As they become more efficient, they are seeing a slight regression in the collection amounts. The budget was set at \$2,050,000 and was set prior to receiving the final amount. He noted that compared to last year they are 1.4% behind what they were in 2019. Another factor was solar. As more people put in solar and there is less power purchased, there is an impact on what the City collects from that particular revenue source.

The Cable Franchise Tax was next presented. Mr. Jurges reported that it has been decreasing the past few years. They collect payments quarterly and thus far they have collected \$83,000 compared to \$80,000 the prior year. He was unsure how the shift toward subscription-based wireless services will factor into this revenue source.

With respect to Class C Road Funds, Mr. Jurges reported that they are disbursed based on population and the number of lane miles in the City. He pointed out that there is no significant growth in either category. Most of the growth is taking place in the south and west portions of the valley. When there is growth in those areas, it dilutes the City's share. It was estimated that there are 128 lane miles in the City.

Mr. Jurges next presented the monthly financial and reported that at the beginning of the budget year \$567,000 was budgeted as use of fund balance.

5.2 Unified Fire Report – Battalion Chief Wade Watkins.

Battalion Chief Wade Watkins introduced himself and presented the Unified Fire Report. He reported that there were 2,084 incidents last year. The monthly incident breakdowns were consistent throughout the year with the average being 176 per month. They were on track and on course for the year. The top five fire dispatch calls included structure fires, natural vegetation fires, outside fires, mobile property, and rubbish fires. The top EMS medical calls involved falls, sick persons, traffic accidents, unconscious, and breathing calls. There were also a significant number of public service assistant calls.

Response time data was next presented. Chief Watkins reported that Station 110 responded 1,291 times. This year, 73% of calls were categorized as EMS calls. In response to a question raised, Chief Watkins stated that every vehicle in the community has EMS and ALS capability.

6.0 ACTION ITEMS

6.1 Consideration of Ordinance 337 Granting a Master License Agreement to SQF, LLC.

City Attorney, Shane Topham reported that the Small Cell Deployment Act was enacted by the Utah Legislature in its 2018 session. It preempts local governments from regulating all aspects of small cell installations in the City. In late 2018, the City enacted Chapter 14.28, which regulates small cell installations. Mr. Topham explained that this is the third provider that has sought a Master License Agreement for wireless facilities in the public way.

MOTION: Council Member Bruce moved to adopt Ordinance 337. Council Member Bracken seconded the motion. Vote on motion: Council Member Petersen-Aye, Council Member Bracken-Aye, Council Member Bruce-Aye, Council Member Mikell-Aye, Mayor Mike Peterson-Aye. The motion passed unanimously.

6.2 Consideration of Ordinance 338 Granting a Telecommunications System Franchise to SQF, LLC.

MOTION: Council Member Bracken moved to adopt Ordinance 338. Council Member Bruce seconded the motion. Vote on motion: Council Member Petersen-Aye, Council Member Bracken-Aye, Council Member Bruce-Aye, Council Member Mikell-Aye, Mayor Mike Peterson-Aye. The motion passed unanimously.

6.3 Consideration of Resolution 2020-02 Approving Appointments to the Arts Council.

Mr. Tingey reported that the names of Whitney Dodge, Elise Hogan, and Katy Mitarai are set forth in the resolution. It was proposed that they continue to serve on the Arts Council. Each was appointed to three-year terms to serve through 2023.

MOTION: Council Member Mikell moved to adopt Resolution 2020-02. Council Member Bruce seconded the motion. Vote on motion: Council Member Petersen-Aye, Council Member Bracken-Aye, Council Member Bruce-Aye, Council Member Mikell-Aye, Mayor Mike Peterson-Aye. The motion passed unanimously.

7.0 CONSENT CALENDAR

7.1 Approval of Minutes of the City Council Meeting of December 17, 2019, and the Minutes of the City Council Oath of Office of January 6, 2020.

MOTION: Council Member Bruce moved to approve the Consent Calendar. Council Member Mikell seconded the motion. Vote on motion: Council Member Petersen-Aye, Council Member Bracken-Aye, Council Member Bruce-Aye, Council Member Mikell-Aye, Mayor Mike Peterson-Aye. The motion passed unanimously.

8.0 ADJOURN CITY COUNCIL BUSINESS MEETING.

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

The City Council Business Meeting adjourned at 8:07 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, January 21, 2020.

Teri Forbes

Teri Forbes
T Forbes Group
Minutes Secretary

Minutes Approved: February 4, 2020