

**MINUTES OF THE COTTONWOOD HEIGHTS CITY COUNCIL WORK SESSION
HELD TUESDAY, FEBRUARY 4, 2020, AT 5:00 P.M. IN THE COTTONWOOD
HEIGHTS CITY COUNCIL WORK 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

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 - City Recorder, Finance and Administrative Services Director S. Scott Jorges, City Attorney W. Shane Topham, Assistant Fire Chief Riley Pilgrim, Public Relations Specialist Tim Beery, Senior Planner Matt Taylor, City Planner Andrew Hulka, Assistant Police Chief Paul Brenneman

Excused: Council Member Douglas Petersen

WORK SESSION

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

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

The Business Meeting agenda was reviewed and discussed.

Community and Economic Development Director, Michael Johnson addressed Ordinance 339-A regarding the approval or disapproval of the rezoning of .74 acres of real property on Bengal Boulevard. He reported that the proposal is for an office complex that has been in existence since prior to the City's incorporation. He explained that the staff recommendation differs from the Planning Commission recommendation in that the Planning Commission recommended limiting some uses. Mr. Johnson noted that, with the exception of CBD products, all of the limitations recommended by the Planning Commission are already regulated by either the State or by another City ordinance in existence. Concern was expressed about the State changing their regulations in the future. Mr. Johnson responded that if the State were to make any changes, the City would have time to react on a more global basis. He expressed concern that creating a zone with conditions would create inconsistent zoning in a property by property basis.

A reimbursement check from Salt Lake County for previous construction of a roundabout was discussed. Mayor Peterson remarked that this is mainly a formality and noted that the County will be changing the procedure on how reimbursements are made.

2. Staff Reports.

a. Telecom Franchise Tax Discussion – Finance and Administrative Services Director, Scott Jurges.

Finance and Administrative Services Director, Scott Jurges noted that the Telecom Franchise Tax was discussed at the Council Retreat as a potential revenue option. The above matter is a requested follow up. He presented information on the taxes currently being charged to constituents in the City. He explained that the Telecom Franchise Tax was first authorized in Utah Code Section 10-1(4) on January 1, 2004. The current maximum rate of 3.5% was imposed on July 1, 2007. The only cities in Salt Lake County not currently charging the tax are Cottonwood Heights and Millcreek, which is a relatively new city. Within the State, 158 cities are currently charging this tax. At the present time townships, municipalities, and unincorporated areas are not authorized to charge this tax. All cities that charge the tax in Salt Lake County do so at the 3.5% rate.

Mr. Jurges explained that other cities seen reductions in revenue from the tax in recent years. Individual phone bills are now being split into telephone and data amounts. The Telecom Franchise Tax is only being charged on the telephone portion of the bill and not on the data portion. As the telephone portion of the bill has largely declined, there have been declines in the base amount the tax can be charged on. This results in reductions of collected revenue.

Mr. Jurges had looked at five to six years of history from other cities who collect this tax. Based on this research, Mr. Jurges changed his estimate from \$400,000 to \$350,00 in collected revenue in order to be more conservative. Many cities saw reductions in revenue, though the amounts differed. The cities of Draper, Midvale, and Holladay were used as examples. Draper had a 4% reduction, Midvale had 15%, and Holladay had 14%. In speaking with representatives from the cities with high reductions, it was unclear to Mr. Jurges what accounted for the decreases. Mr. Jurges opined that as the numbers are self-reported by the Telecom companies, it is possible that these companies are not reporting accurate addresses for the phones. Until the City puts the Telecom Franchise Tax in place, it will be difficult to know exactly how much can be collected.

The tax is based on the billing address of the phone, not the residence of the person who owns the phone. The owner of the phone will see this tax collected in their bill.

Mr. Jurges explained that in order to implement a tax, the City must adopt an ordinance that is outlined in State Code. He highlighted elements that are required in the tax ordinance. It needs to specify the tax rate, which cannot exceed 3.5%. It must also show the effective date of the ordinance. In order to be able to collect, this effective date needs to be at the start of a quarter – January 1, April 1, July 1, or October 1.

The City will need to enter into a Uniform Interlocal Agreement with the State Tax Commission that specifies that the Utah State Tax Commission will be the official collector of the tax. All of the required materials must be submitted to the State Tax Commission 90 days prior to the beginning of the tax collection start date, or else the City will face delay. The State Tax Commission can charge a collection fee of up to 1.5% of the fee collected to cover their costs. They are currently charging 0.65% of the fee collected.

Mr. Jorges provided an example of what the impact would be on a single phone bill. For a \$40 per month phone bill that is half telephone and half data, the fee collected would be \$0.70 per month or \$8.40 per year.

It was noted that the proposed ordinance was drafted in 2004 and the Council has been close to enacting it several times.

In response to a question about when the tax could be effectuated, City Attorney, Shane Topham explained that it is a matter of getting the necessary elements prepared and entering into the agreement with the State Tax Commission. It was expected to take roughly one month for the City to make the necessary preparations, and some time to get the agreement in place with the State Tax Commission. If July 1 is the desired effective date, the process would need to begin now.

It was noted that Salt Lake City had a reduction from \$6 million of net collection to \$3.6 million of net collection in a seven-year period. One of the main reasons was the parsing of the bills between phone and data sections. It could also be due to the declining use of landlines.

Mr. Jorges asked the Council for direction on how to pursue this course of revenue collection. He preferred it go through the budget process as an implementation mechanism, which means it would not be effective until September 1 if approved. He recommended deliberation, a thorough understanding of needs, and public input process through the budget.

This will be a continuing potential source of revenue that will be considered globally, taking into account all expenses and revenue streams.

b. Equal Rights Act – City Manager, Tim Tingey and City Council Member Bruce.

City Manager, Tim Tingey reported that the above item is a follow-up from the Council Retreat. Murray City recently approved a resolution in support of the Equal Rights Act (“ERA”). Mr. Tingey spoke with the Murray City’s Council Director about their public hearing on this issue. He was informed that there were a wide range of differing opinions expressed. The meeting included many who came from outside the City of Murray.

Mr. Tingey provided basic facts on the ERA to help the Council understand the issues of concern as well as positive aspects that being addressed with the public. The ERA states, “Equality of rights under the law shall not be abridged by the United States or by any State on account of sex.” Mr. Tingey presented a quote from Representative Kwan at the Murray City Council Meeting from January 21, 2020, where she addressed the history of women’s rights in the State of Utah. Her message was that adoption of the ERA will not change what Utah has already done, but it should benefit future generations. Council Member Bruce added that when the ERA was proposed in 1923, the drafters borrowed language from Utah’s Constitution.

Mr. Tingey highlighted some of the potential pros of the ERA. They included an offering of equal rights to both genders, potential reduction of workplace conflicts, and higher levels of economic growth, among others. He presented public comments in support of the ERA from the

Murray City Council Meeting.

Mr. Tingey highlighted potential concerns about the ERA. These included the fact that it was originally proposed in 1972 and needs to be reworked, that five states have rescinded their support of the ERA, and that it does not take more recent issues of gender identification into account, among others. Mr. Tingey presented public comments against the ERA from the Murray City Council Meeting. He also presented poll results in the State of Utah that show an overwhelming amount of support for an amendment to the U.S. Constitution that guarantees equal rights to men and women.

Council Member Bruce noted that Representative Kwan asked cities to individually submit a resolution of support and our resolution would show our legislators where we stand. According to the most recent poll conducted by the Salt Lake Tribune, 70% of Utahans are in support of ratifying the ERA. Council Member Bruce explained that the ERA is one sentence – that the equality of rights shall not be denied on account of sex. She felt that some of the concerns voiced in Murray were hyperbolic. Adoption of the ERA has symbolic power and sends a powerful message to women and girls that they are valued at a level equal to men. She also noted the positive legal ramifications of the ERA. If a female experiences discrimination, this would be a Constitutional issue and held to a higher judicial standard in a court of law.

Council Member Bruce presented a handout to those in attendance providing more information about the ERA and she feels it is needed.

A comment was made that this is a State issue and is being handled there. The role of a City is to treat all citizens and visitors equally without discrimination. It was expressed that this is not a municipal issue, despite Representative Kwan's call for cities to step up say something about it.

Those in attendance discussed the various pros and cons surrounding the resolution in support of the ERA. The City has passed resolutions in support of various issues in the past, such as condemning gun violence, Further comments emphasized Utah's history of equality of the sexes and a resolution focusing on that history and our support of women's rights..The State can choose what they want to do with that information and move forward or not.

Mr. Tingey asked for direction to move forward in drafting a resolution and bringing it to the Council for consideration. He mentioned that timing is an issue due to planned meeting absences planned by Council Members. He proposed that he could get a draft resolution to the Council on or before March 3.

It was proposed that Mr. Tingey work with Mr. Topham to draft language and provide it to the Council. Preference was expressed for language that cites the history of equality in the State of

Utah.

c. **Proposed Public Works Building Design – Public Works Director, Matt Shipp and City Manager, Tim Tingey.**

Mr. Tingey provided a follow-up on this item from the Retreat to fulfill the Council's request for more information.

Council Member Bruce asked about the background of the Public Works Building and why the building for equipment was not constructed years ago. The response was a lack of funds and the fact that the equipment has previously been housed in the County building and through other contracts. It took a lot of processing to develop a Public Works Yard and a Master Plan for the site. This project was never specifically identified as a funding piece in a five-year plan for the City. It has always been contemplated that the building would be built, it was just a matter of timing and budget.

Public Works Director, Matt Shipp displayed a map of the existing Public Works Yard. The visual showed where the future Public Works Building will be located. There is currently a trailer that is rented out on an annual basis where staff is housed that is on a month-to-month lease. Next to the trailer is a wash bay for the trucks to be washed after a storm to get the salt off. The parking area was paved during the first phase of development and was previously dirt and mud. There is currently a salt shed, and the plan includes future storage bays and a future Public Works Building.

Mr. Tingey spoke about the storm the previous day. He met with the Public Service and Public Works team during a break in the storm. Ideally, workers would have somewhere to rest during a break, as currently the facility is not comfortable. He expressed appreciation for their great effort to serve the public on the bad weather days. It was noted that Officer Gary Young has been seen shoveling sidewalks in his full officer uniform and takes great pride in the City.

The snow equipment requires a controlled environment, as it is in the bad weather daily. Mr. Shipp highlighted some of the issues they will be faced with if the equipment is left out in the elements. Without a proper facility, vehicles age much more rapidly. Summer is also hard on vehicles. If there is a Public Works Department, Mr. Shipp stressed that there needs to be a place to house it. Costs of equipment are increasing and the City needs to invest in what it already owns.

Mr. Tingey presented an architect's rendering of the Public Works office space, along with a plan layout for the storage bays.

Mr. Shipp provided a cost estimate of \$4.7 million. This figure includes the yard and the parking lot. The parking lot is in front of the offices, so it is not an area that should be built when it is staged. The priority is to build the shop first so that there is a place to work and store materials and save costs. The trucks are currently stored outside and need to be protected.

Mr. Shipp summarized the key points of the issue and the advantages of completing this project. He expressed appreciation to the Council for their support. He emphasized the need to take care of the Public Works Department assets.

It was reported that the Utah Department of Transportation (“UDOT”) reduced their unused snowplows from 25% to 5% because they kept their equipment running. They were able to save by keeping up with maintenance. The City purchased the trucks new and as they get older the need to care for them gets greater and greater. The previous days’ storm resulted in roughly 18 inches of snow with the trucks traveling a combined 2,400 miles. They also spread about 280 tons of salt in the City. It was noted that this sort of work is very hard on vehicles.

Concerns were voiced about the \$5 million needed for the project. There was a desire to see an analysis quantifying how much in savings the longevity of the vehicles will bring. The City needs continuing road work, the shed for the Public Works Department, and storm water. It is difficult to consider the Public Works Building in isolation when there are many other expenses the City is trying to work into the budget this year. It would be helpful to look at depreciation values from other cities or at a national level to see what the actual savings will be long term.

It was noted that when these services are contracted to a different party, the indirect costs make it more expensive for the City. Cottonwood Heights is in the top 10% in terms of city size in the State of Utah. Many cities of this size have their own services, and in past the analysis showed it was more cost effective for the City to provide these services on its own.

3. Review of Calendars and Upcoming Events.

Council Member Schedules for the Next Week – 2020 Calendar:

- a. February 6 – 5:00 p.m. – 7:00 p.m. – Fourth Annual Death by Chocolate in the Community Room at City Hall.
- b. February 17 – Presidents Day – City Offices will be closed.
- c. March 14 – Cottonwood Heights Film Festival – Butler Middle School Auditorium.
- d. April 22 – 24 – Utah League of Cities and Towns (“ULCT”) Mid-Year Conference in St. George.

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 discuss pending litigation. Council Member Mikell seconded the motion. The motion passed with the unanimous consent of the Council.

The City Council was in Work Session from 6:42 p.m. through 6:58 p.m.

5. Adjourn City Council Work Session.

The City Council Work Session adjourned at 6:58 p.m.

**MINUTES OF THE COTTONWOOD HEIGHTS CITY COUNCIL BUSINESS MEETING
HELD TUESDAY, FEBRUARY 4, 2020 AT 7:00 P.M. IN THE COTTONWOOD HEIGHTS
CITY COUNCIL CHAMBERS 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

Staff Present: City Manager Tim Tingey, City Attorney W. Shane Topham, Police Chief Robby Russo, Assistant Fire Chief Riley Pilgrim, 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

Excused: Council Member Douglas Petersen

1.0 WELCOME/PLEDGE

Mayor Peterson called the meeting to order at 7:03 p.m. He welcomed Council Member Ann Granato from Salt Lake County and expressed appreciation for her regular attendance at meetings.

2.0 PLEDGE

2.1 Flag Ceremony by Scout Troop – St. Thomas More Church.

Scout Flynn Johnson conducted the Flag Ceremony.

3.0 CITIZEN COMMENTS

Ann Garbani expressed appreciation for the work the Council does on behalf of the City. She was alerted by Council Member Bruce that the Council is considering supporting the Equal Rights Act. She spoke on behalf of herself and Shireen Ghorbani in support of the ERA. She stated that the ERA provides a fundamental legal remedy against sex discrimination. It guarantees that the rights affirmed in the Constitution are held equal to all citizens. Without the ERA, the statutes and case law that generations of women have fought for that have produced major advances in women's rights are vulnerable to being ignored. Ms. Garbani expressed appreciation to the County Recorder's Office for the study of the gender parity and the necessary changes made to make it a more equal workplace. She thanked the Council for their consideration.

Anne Ziegler from the Utah League of Women Voters addressed the Council to request their support for the ERA. The League of Women Voters is a national organization that has a specific process of review for any issues. The process involves intense study of the issue. The League has studied the ERA. Ms. Ziegler reported that the League of Women Voters supports equal rights for all regardless of sex. The League supports action to bring laws into compliance with the ERA. The League supports legislation to equalize the legal rights, obligations, and benefits available to

same-gender couples as those available to heterosexual couples. The League supports legislation to permit same-gender couples to marry under civil law. They believe that the civil status of marriage is already clearly distinguished from the religious institution of marriage and that religious rights will be preserved. Ms. Ziegler thanked the Council for their support.

Charlotte Maloney from the Utah ERA Coalition addressed the Council about the message the adoption of the ERA will send to the society. As a young adult, Ms. Maloney was in a government gift shop in Pennsylvania. She recalled a rack full of hats that said, “Future President,” which was labeled as “Boys Baseball Hats.” She was struck by the message that was being sent to her and younger girls about what things were off limits to females, from playing baseball to running for office. She expressed that in the ratification of the ERA, the message that boys and girls can do anything is something that is very important. She would like to see the City of Cottonwood Heights send the message that anything is attainable for anybody by supporting the ERA.

Kelly Jones, a North Salt Lake City resident, reported that she is also with the Utah ERA Coalition. The Coalition works with 30 to 40 different bipartisan groups that have come together on this important issue. She reported that in prior years some of the legislation in place to protect women has been walked back, defunded, and watered down. She addressed the legal protections the ERA would provide her daughter and other women in court and stated that women will only need to prove discrimination, rather than intent.

Will Johnson and Grant Brenum, representatives from the Boy Scout Troop, presented the Council with chocolates.

Mayor Peterson gave an update on the ERA question and stated that during a recent Council Retreat, the ERA was added as an item to consider. In a work session prior to tonight’s meeting, the Council was educated on issues surrounding the ERA. The Council gave initial direction for staff to prepare language for a potential resolution for the Council to review. The process was ongoing. He expressed appreciation to those who made comments on the matter.

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

4.0 ACTION ITEMS

4.1 Consideration of Ordinance 339-A Approving the Rezone of .74 Acres of Real Property located at 2540 East Bengal Boulevard – from R-1-8 (Residential Single-Family) to NC (Neighborhood Commercial) and Amending the Zoning Map.

OR

Consideration of Ordinance 339-D Denying the Rezone of .74 Acres of Real Property located at 2540 East Bengal Boulevard – from R-1-8 (Residential Single-Family) to NC (Neighborhood Commercial) and Amending the Zoning Map.

Community and Economic Development Director, Michael Johnson described the request and stated that the site is an existing commercial office development. It is a multi-tenant small office or retail building that has been in existence since prior to the City’s incorporation. It was a Neighborhood Commercial zoning prior to that time. Staff’s research found that in the early days of the City it had a Neighborhood Commercial zoning designation. In 2009, that designation changed, although there is no record of the City Council making such a zoning change. Since 2009, the area has been administered as an R-1-8.

Mr. Johnson noted that the General Plan Land Use Map shows a projected land use designation for the area as Neighborhood Commercial. As a result, the zoning request would result in the being more in compliance with the General Plan than it does currently. Staff and the Planning Commission recommended approval. Both entities differ slightly in their recommendation, as the Planning Commission recommended limiting specific uses. These uses included tattoo parlors, tobacco and vape shops, marijuana pharmacies, CBD shops, private clubs, bars, and check cashing pay day loan businesses. Staff’s analysis found that, with the exception of CBD shops, all of the listed uses are already regulated by either State or City ordinance and would be restricted in some form by existing codes. State Code could change, although Mr. Johnson indicated that the City would be made aware of that and could make adjustments as needed on properties City-wide. CBD-related products are not regulated as it involves the sale of a retail product. Staff does not feel the City should regulate the sale of one specific retail product and not others. Because of these findings staff recommended approval of the rezone without additional restrictions.

MOTION: Council Member Bruce moved to adopt Ordinance 339-A. Council Member Mikell seconded the motion. The motion passed with the unanimous consent of the Council.

Council Member Bracken appreciated the Planning Commission’s work and agreed with most of the restrictions they recommended. He recognized that the zoning is needed for the property owners. He hoped that the issues identified by the Planning Commission would not become problematic.

4.2 Consideration of Resolution 2020-03 Approving an Interlocal Agreement with Salt Lake County for Corridor Preservation Funding.

Mayor Peterson indicated that the above resolution involves a reimbursement from Salt Lake County. He explained that it is funding that has been previously approved and resolution finalizes that reimbursement.

MOTION: Council Member Bracken moved to adopt Resolution 2020-03. Council Member Bruce 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 December 3, 2019, and January 21, 2020. And, approval of Legislative Breakfast Meeting Minutes of January 7, 2020.

MOTION: Council Member Bruce moved to approve the Consent Calendar. 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. The motion passed with the unanimous consent of the Council.

The City Council Business Meeting adjourned at 7:27 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, February 4, 2020.

Teri Forbes

Teri Forbes
T Forbes Group
Minutes Secretary

Minutes Approved: March 3, 2020