

MINUTES OF THE CITY COUNCIL MEETING HELD NOVEMBER 8, 2005, AT 7:00 P.M.
IN THE CITY COUNCIL CHAMBERS AT COTTONWOOD HEIGHTS OFFICES.

MEMBERS PRESENT: Mayor Kelvyn Cullimore, Councilman Don Antczak, Councilman Scott Bracken, Councilman Bruce Jones, Councilman Gordon Thomas

STAFF PRESENT: City Manager Liane Stillman, City Attorney Shane Topham, Community Development Director Kevin Smith, Director of Finance David Muir

ALSO PRESENT: Det. Corbett Ford, Battalion Chief Mike Watson, Lt. Robby Russo, Kit Lindsey, Carrie Hecht, Dave & Beth Finch, Gay & John Eckert, A. & M. Frankovich, R. Fassio, Chris Ottesen, Miaken Christensen, Hersch Patton, Susan Ryser, Ron Lanahue, Steve Mendiola

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1.0 **WELCOME/PLEDGE**

1.1 The Pledge of Allegiance was led by Councilman Bracken.

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2.0 **PUBLIC COMMENTS**

2.1 Don Machin, told the Council that the issue of short-term rentals has been ongoing for over 20 years. He explained that the County's ordinance has been not to allow short-term rentals in residential areas, but they did not enforce the ordinance. He pointed out that Salt Lake County, Holladay City and Sandy City do not allow short-term rentals and questioned why Cottonwood Heights would allow such a program. He questioned what will happen to property values if short-term rentals are allowed in a residential neighborhood. Mr. Machin suggested that the Council table the ordinance for one year and consider enforcement of the existing County ordinance instead of changing the ordinance. Mr. Machin asked for the names and addresses of those taxpayers requesting the ordinance be changed. He stated that the majority of citizens would vote no on this ordinance.

3.0 **REPORTS/PRESENTATIONS**

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3.1 **Proclamation Honoring Donna Rudzik as Chair of the Bark in the Park Event**

3.1.1 Mayor Cullimore presented Donna Rudzik with a proclamation honoring her as Chair of the Bark in the Park event. Mayor Cullimore read the proclamation into the public record. (See attached).

- 3.1.2 Councilman Bracken asked Mr. Lovato his opinion on licensing cats.

Mr. Lovato said he believes it is a good idea, noting that Taylorsville is currently licensing cats. He believes that this would help cities get a handle on cats.

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3.2 Village at Park Avenue Presentation

- 3.2.1 Michael Heaps, Horrocks Engineers, reviewed traffic simulations on Creek Road and 1300 East showing the existing traffic and the projected traffic after the Village at Park Avenue project is completed. Trip generation rates taken from the Institute for Transportation Engineers were used to determine the amount of traffic and show that the development will increase the traffic by no more than five percent. He noted that if the development were retail or office there would be considerably more traffic impact.

3.2.2 Dan Christensen, reviewed renderings of the proposed project from various addresses and angles in Cottonwood Heights. He noted that the first floor elevation of every building, matches the elevation of 1300 East as it sits in front of the property. He explained that the project is being built in phases and each phase will be built when there is a certain number of presales to support each phase.

Mr. Christensen noted that the landscape plan is available for the City to review. Sandy City is not allowing a natural landscape with natural irrigation. They will be required to install a sprinkler system to maintain the trees.

- 3.2.3 Mayor Cullimore stated that Cottonwood Heights sent a letter to the Sandy City Planning Commission expressing specific concerns. He stated that there is still the issue of a parcel of property the developer needs to acquire from Cottonwood Heights in order to proceed with the project and questioned how the project would be affected without that piece of property.

Mr. Christensen explained that the right-of-way along Creek Road extends approximately four feet behind the retaining walls. The setback for the last building on the south end of the project would be affected. Sandy City requires a 30-foot setback to the rear property line. If the developer was not able to acquire the piece owned by Cottonwood Heights they would lose eight units out of the last building.

- 3.2.4 Mayor Cullimore opened the public comment period.

- 3.2.5 Steve Mendiola, said that the project seems okay and questioned why they are trying to hide it with vegetation. He questioned why it isn't being **xeroscaped** in order to save money on irrigation costs.

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3.3 Sheriff's Report – Detective Ford

- 3.3.1 Detective Ford stated that during the month of September there were 986 calls for service received which resulted in 621 cases being generated. He noted that suspicious activities and property crimes were down, but the Sheriff's office is seeing a rise in heroin use. He also said that there is more prescription drug use because there is no stigma attached to prescription drugs like there are street drugs.

4.0 PLANNING/PUBLIC WORKS MATTERS

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4.1 Action Item: Consideration of Ordinance No. 28 Amending Title 19 to Include a New Chapter 19.89, "Short-Term Rentals"

- 4.1.1 Mayor Cullimore stated that public hearings have been held before the Planning Commission and the City Council. The Planning Commission unanimously recommended the City Council adopt the proposed ordinance.
- 4.1.2 Kevin Smith, Community Development Director, stated that the City has been working on short-term rentals since last January. Salt Lake County did not allow vacation rentals in any R-1 zones, but did allow short-term rentals in the foothill zones and all R-2 zones by conditional use.

Mr. Smith said that the Planning Commission took public comment at three meetings, and recommended that Section 19.89.160 which stated that a hot tub or swimming pool could not be used past 10:00 p.m. in a short-term rental be deleted. The proposed ordinance allows that short-term rentals in R-2 and RM zones be approved on a Staff level assuming the rental meets all of the code requirements. They are allowed in R-1 zones (single-family zones) on the following collector streets: Fort Union, 3000 East, Wasatch Blvd., Bengal Blvd., Highland Drive, 2000 East, Creek Road, 1300 East, 2300 East, 2700 East, 3500 East between Bengal Blvd. and Wasatch Blvd. Mr. Smith recommended removing 2700 East from the list of roads included in the ordinance. The ordinance would also require that noticing be posted on the property so neighbors know who to contact if there is a problem.

- 4.1.3 Mayor Cullimore explained that part of the motivation of passing this ordinance is to have a better enforcement tool. There have been numerous complaints about rentals in R-1 zones that did not have licenses. He explained that it is the City's intent to try and strike a balance between the short-term rental industry and the rights of the neighbors and community to not be disturbed.
- 4.1.4 Mayor Cullimore opened the public comment period.

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- 4.1.5 Dave Finch, said that he lives in an R-1 zone on Fort Union Blvd and questioned if he would be required to pay the \$1,000 fee for a conditional use permit.

Mr. Smith explained that he would have to pay the fee which is the required cost is to process the conditional use application through Staff and the Planning Commission.

Mr. Finch said he believes the size of the posted notice is too big and should be minimized. He suggested it be half the size proposed.

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- 4.1.6 John Eckert, 8575 South Top of the World Circle, recommended this issue be tabled at this time. He recently purchased the home next to him and has been remodeling it to use as a rental. He said that commitments have been made for renting the house through February and said that if the Council intends to move forward, that 8565 Top of the World Circle be exempted from the ordinance so that he can proceed with the commitments he has made.

- 4.1.7 Tristan Webb, spoke on behalf of the professional application of the proposed ordinance. He said that under professional management, police are not called and there are not problems with short-term rentals. He said that he has seen instances in R-1 zones where the neighbors have been very glad to have short-term rentals instead of long-term rentals. Mr. Webb said that he is pleased with the ordinance as it is written and agreed that the inclusion of some kind of grace period would be appropriate.

- 4.1.8 Armand Balanger, asked how existing licenses from Salt Lake County would be handled.

City Attorney Shane Topham said that the ordinance provides that the City will take a look at existing conditions on a case by case basis and make a determination as to whether they are preexisting nonconforming uses.

Mr. Balanger said that illegal properties have been reported to Salt Lake County in the past and enforcement was nonexistent. He stated that he hopes the City will help the industry by regulating it and by eliminating the illegal rentals.

- 4.1.9 Gay Schmidt, stated that the residents have a reliance on the lack of County enforcement and there has been no ordinance in place since Cottonwood Heights became a City. She said that it is now the middle of November and contracts have been made for the ski season to out-of-town visitors and passing this ordinance without a grace period could leave owners of short term rentals in a position of jeopardy in terms of breach of contract. She asked the Council to consider a grace period for the ski season.

- 4.1.10 Dennis Cloward, Luxery Ski Accomodations, said he has been doing business in the Cottonwood Heights area since 1987. Most of his rentals are on Bengal Blvd, some in condominium complexes and one in Sandy. Mr. Cloward asked if a rental is located in an R-2 zone if it is permitted.

Mayor Cullimore stated rentals are permitted in R-2 zones.

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- 4.1.11 Steve Mendiola, said that he has a duplex, which is a condominium with CCRs in place to allow short-term rentals, but it is in the R-1-8 zone. He said that if he applies for a conditional use permit or a zoning change it would shut him down for the entire winter.

Mr. Smith said if the Council feels that there is a map error, the City can initiate a zone change application and process it from a City perspective.

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- 4.1.12 Mayor Cullimore said the Council needs to discuss the removal of 2700 East as a permitted area for short-term rentals because it is mostly single family residences.

Councilmen Bracken and Jones concurred that 2700 East should be removed as a permitted area for short-term rentals.

- 4.1.13 Mayor Cullimore said the Council received feedback that the notice to be posted is too big and Staff will look at adjusting the size to half of what was proposed, however, the signage does need to be uniform and remain posted at all times.

Mayor Cullimore said there were several points made that have validity regarding the timing for acquiring a license and there is an argument to be made for postponing implementation of the ordinance until March 1st.

City Attorney Shane Topham suggested having the ordinance become effective at a future date because there is specific statutory authority for doing so.

- 4.1.14 City Manager Liane Stillman commented that the reason the City is looking at this issue is because of the incredible number of complaints received the day the City incorporated. People were outraged at what had happened to their neighborhoods because of an unregulated industry and the lack of enforcement and regulation initiated the review of the short term rentals. She said that if a policy is put in place it is the expectation of the community that it will be enforced.

- 4.1.15 Councilman Jones suggested that the future effective date be the end of March, realizing that those that would not be able to obtain approval this year would be given a period of time to come into compliance.

Mayor Cullimore expressed concern about an end of March date because there would be no motivation to get the licensing done this year. He said that the first of March encourages rentals to come in now and start the licensing process.

Councilmen Thomas and Antczak concurred with the March 1st effective date.

4.1.16 City Attorney Shane Topham interlineated the Ordinance to reflect the effective date of March 1, 2006; to strike Section 19.89.050(9) “2700 East”; and to renumber (10) 3500 East to (9) 3500 East.

4.1.17 **MOTION:** Councilman Thomas moved to adopt Ordinance No. 28 as amended. The motion was seconded by Councilman Antczak.

Councilman Jones noted that he is in favor of the Ordinance but would prefer the effective date to be March 31st since people enter into contracts for the season.

The motion passed unanimously on a roll call vote.

4.2 **Action Item: Consideration of Ordinance No. 29 Naming 7325 South Between 1840 East and 1950 East and 1840 East between 7325 South and Rich Way as “Brighton Ridge Drive”**

4.2.1 **MOTION:** Councilman Antczak moved to adopt Ordinance No. 29. The motion was seconded by Councilman Bracken and passed unanimously on a roll call vote.

5.0 **OTHER MATTERS**

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5.1 **Public Comment: Consideration of Ordinance No. 30 Amending Title 8 of the Cottonwood Heights Code of Ordinances Relating to Animals**

5.1.1 Mayor Cullimore opened the public comment period. No comments were received.

5.1.2 Carrie Hecht, Animal Services, reviewed the proposed changes to Title 8 relating to Animals.

5.1.3 Sgt. Hecht proposed adding Section 8.12.055(G) “Requirements for Animal Grooming Parlor” which requires groomers to verify and document the status of current rabies vaccinations on all animals.

Mayor Cullimore expressed concern about what the groomers are expected to do once they verify the vaccinations and questioned whether the City was asking groomers to become enforcers.

Sgt. Hecht said it is mostly for the safety of the groomers and the other animals at the facility.

Mayor Cullimore questioned whether this was an undue burden on a small business owners.

Sgt. Hecht explained that the requirement is asking the groomer to verify and document the rabies vaccination. She said that when the business license inspection is done they would receive a verbal or written warning if they have not verified the rabies vaccination.

City Attorney Shane Topham stated it would be a misdemeanor if this section of the Code was not followed.

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- 5.1.4 Sgt. Hecht recommended the City adopt a “Notice of Violation and Stipulation Procedure” in this title. This is used as a “fix it ticket” to allow an owner to comply with any violation and then waive the fine if everything is taken care of. If the compliance is completed the ticket goes away, if not a fine is charged.

The Council agreed that this would be a good tool for Animal Services.

- 5.1.5 Section 8.16.010 would require that cats be licensed. Sgt. Hecht said that Taylorsville City licenses cats and Salt Lake City will include cat licensure in the next revision of the City ordinances. She said that cat licensing will increase revenue, will assist in making sure cats are current on their rabies vaccinations, and will assist Animal Services in getting cats to their rightful owners. Fees would be same for both cats and dogs.

The Council agreed to include cats in licensing.

- 5.1.6 In Section 8.12.140 “Domestic Fowl and Livestock”, Councilman Thomas questioned the number of large animals that could be kept in the Little Cottonwood Creek area. He stated that there has been talk of limiting large animals to two horses, cows, etc., and believes that some residents could currently have as many as five horses.

Mayor Cullimore agreed that there is a concern with implementing an ordinance that is more restrictive than what is actually occurring and asked if the ordinance could include a “grandfathering” clause. He suggested the City research this issue prior to implementing Section 8.12.140 or add a clause allowing people to continue with the number of animals they have.

- 5.1.7 Councilman Thomas expressed concern about the pigeons. He said that his neighbor has had racing pigeons for many years and there are other pigeon owners in the City.

Sgt. Hecht said that this section was patterned after Salt Lake City’s ordinance.

- 5.1.8 Ron Larabee, racing pigeon owner, said that he has 85 pigeons and told the Council that the number of pigeons is not the issue, it is how they are cared for and cleaned. Mr. Larabee said that he and an associate both obtained conditional use permits prior to moving to Little Cottonwood Creek. The conditional use permit included complying with health and nuisance stipulations.
- 5.1.9 Another resident agreed that there is not a correlation between the number of pigeons and pigeon problems. He said that he complies with the Health Department Regulations and the pigeons are trained to roost at night. He does not believe it is fair to place a limit on the number of pigeons.
- 5.1.10 Mayor Cullimore suggested that this Section be revisited. He said the Council needs to look at the matter from the point of view of the people that own pigeons. He also suggested research be done on the number of large animals and make it more specific and should include a 'grandfathering' clause for people that exceed the proposed number.
- 5.1.11 Mr. Larabee asked that they be allowed to review the revisions to the proposed ordinance.
- 5.1.12 The Council recommended adoption of the proposed ordinance with all of the recommended changes with the following exceptions: that adequate fencing be left as drafted by the City Attorney; that pigeon concerns be addressed; and that the section dealing with large animals be reviewed.
- 5.1.13 Sgt. Hecht will research bird flu to see if it is carried by chickens or pigeons. If so, a health certificate should be part of the conditional use permit.
- 5.1.14 The Council expressed concern over the verification of rabies vaccinations by groomers and agreed to add the word 'recommend' verification and documentation of current rabies vaccinations on all animals.
- 5.1.15 After the changes are made the proposed ordinance will then be posted on the website. Action on this item will be rescheduled as soon as it is ready.

6.0 CONSENT CALENDAR

6.1 Approval of October 25, 2005 Minutes

- 6.1.1 The minutes were approved as submitted.

7.0 ADJOURN TO WORK SESSION

- 7.1 Councilman Thomas moved to adjourn the business meeting and reconvene the work session. The motion was seconded by Councilman Jones and passed unanimously on a voice vote. The business meeting adjourned at 10:50 p.m.

Approved: 12-13-2005

Kelvyn Cullimore, Jr., Mayor

Don Antczak, Councilman

Scott Bracken, Councilman

Bruce Jones, Councilman

Gordon Thomas, Councilman