

MINUTES OF THE COTTONWOOD HEIGHTS CITY COUNCIL LEGISLATIVE WORK SESSION HELD THURSDAY, FEBRUARY 23, 2023, AT 9:00 A.M. VIA ZOOM WITH AN ANCHOR LOCATION AT THE COTTONWOOD HEIGHTS CITY COUNCIL WORK ROOM LOCATED AT 2277 EAST BENGAL BOULEVARD, COTTONWOOD HEIGHTS, UTAH

Members Present: Mayor Mike Weichers, Council Member Scott Bracken, Council Member Douglas Petersen, Council Member Shawn E. Newell, Council Member Ellen Birrell

Staff Present: City Manager Tim Tingey, Records Culture and Human Resources Director Paula Melgar, System Administrator Alex Earl

1. Welcome – Mayor Weichers.

Mayor Mike Weichers called the meeting to order at 9:05 a.m. and welcomed those present.

2. Legislative Update and Discussion with City Manager, Tim Tingey and City Lobbyists Mr. Greg Curtis, Mr. Brian Allen, and Ms. Chantel Nate.

City Manager, Tim Tingey, reported that over the last week, there have been several bills to be reviewed. The previous Tuesday, staff met with the Legislative Policy Committee who reviewed several bills pertaining to transportation funding, taxes, land use task force issues, land use, and other updates.

City Lobbyist, Brian Allen, reported on the volume of bills this Legislative Session and stated that there were over 1,800 open bill files. Fortunately, not all have come as numbered bills. He commented that he has never seen the House get to 552 bills or the Senate get to 282. The Senate could go to 300 for the first time. With regard to bills with a possible impact on the City, they are tracking over 500. With respect to bills with probable or high impact, they are at just over 140. This year there are far more bills dealing with municipal issues.

HB-21 would require every meeting to be open and public. They spoke to the sponsor the previous day and the bill was amended in committee to include only policymaking boards. Any board that can make policy or spend money would be required to have open and public meetings. All others would have the option.

HB-173 pertained to Attorney Fees with regard to governmental immunity. Mr. Allen met with Representative Birkeland the previous day and realizes there are a lot of challenges with the bill. In committee, she amended it to be a task force bill that will likely go to a working group. It would be an ongoing discussion. Representative Birkeland invited Mr. Allen, or someone on the City's behalf, to participate in the process.

HB-294 – The Budget Transparency Bill, would require population on the Budget. It passed out of the Senate Committee the previous day. Mr. Allen spoke to the committee members, as did the Utah League of Cities of Towns (“ULCT”), and thought they had it killed. His understanding was

that they ran out of time and it was put on the agenda for the following day. He reminded a couple of people that the bill was bad and they ultimately voted against it. Others voted in favor of it after forgetting about the issues. There were still ongoing efforts to kill it on the Senate floor.

HB-329 – The Adult Event Permit Bill passed out of the House and is with the Senate. It is not yet fixed. They are moving bills that are being worked on now due to timing. Mr. Allen met with the sponsor the previous day and provided language to help fix the bill so that it does not put the City in the position of having to determine the bill content. They expect to have it fixed or killed in the Senate. The sponsor is Evan Vickers who has generally been good to work with.

The Food Tax Bill was substituted and will only impact the State portion of the sales tax on food. The City portion will still remain in effect and is tied to the Constitutional Amendment earmark on income tax. The bill will have to pass after which the earmark would have to be passed by the voters to take effect.

It was noted that the Housing Affordability Bill was in the Senate.

The Land Use Bill by Steve White was still being worked on by the ULCT who still wants a couple of things done. It seemed to be moving in the right direction.

HB-499 – The Homeless Services Bill is close with a few issues remaining to resolve.

SB-75 – The Sand and Gravel Tax Bill, passed both Houses and is being enrolled and will be sent to the Governor. There was talk at the ULCT meeting about asking for a veto. Mr. Allen was not sure that was possible. He expected the bill to help the City more than not, however, it cracks the 50/50 issue that has been around for 33 years.

Mr. Tingey reported that the ULCT was concerned that the fiscal impact on cities was not determined before the bill was passed. It will likely benefit Cottonwood Heights but that may not be true for other municipalities. If there is contemplation of a veto, that would be the reasoning.

Mr. Allen stated that he has seen a number of fairly impactful bills that have passed without fiscal notes moving through the process. He was surprised at how little attention was being paid to fiscal impact this year. It was noted that the fiscal impact to Cottonwood Heights would probably be beneficial but it would be short-term because they know that the gravel pit has a life span that is near its end. Once the gravel pit operation ceases, it will be detrimental to the City and not worth the short-term gain.

HB-301 – The Transportation Tax, has passed the House and Senate. It deals with fuel tax changes and taxes on Electric Charging Stations. It has strong support in the House. He was not sure if it had support in the Senate.

HB-476 – The Food Truck Bill, is a Health Department Bill and does not require Tier 1 Food Trucks to have a commissary.

Mr. Allen reported that there has been interest in HB-527. They spoke to the sponsor and the Office of Mining at the State level and it appears to involve a process change pertaining to vested rights. He was not sure of the impact. They have until January 2024 to file a Notice of a Vested Rights, challenge a Notice of a Vested Right, or within one year after someone becomes aware of a vested right. It shifts the process for the State Office of Mining to approve an expansion or change to a mining operation. Currently, they are required to review an application. Once approved, a public hearing must be held. This would require the public hearing to be held prior to approval. A complete application would be submitted after which a public hearing would be held and a determination made on whether to approve it. There are provisions in the process that require the Office of Mining to notify an impacted county or municipality of an application that is being considered. It also creates a party status for a city or county so that they can challenge it. He did not understand the vesting fees. Currently, the ULCT has not taken a position on the bill as it is fairly new. Mr. Allen spoke to the sponsor who was willing to consider changes that would allow cities and counties to have more input.

Mr. Tingey responded to an email the previous day and spoke to ULCT staff about it. They had concerns and indicated that they would be opposing it. They are also working with the sponsor to better understand it and determine if it can be mitigated. The ULCT plans to oppose it unless they can work through the issues.

Council Member Birrell stated that for her constituents there is a real concern that the bill will strip the ability of local governments to prevent mines and gravel pits from coming into their communities. She commented that anything that takes away the County or City's jurisdictional power to fend off inappropriate mining businesses in inappropriate places should be opposed by the City regardless of whether it affects them financially since it impacts the quality of life for citizens. Mr. Allen reported that he spoke to the Mining Board who indicated that the change will not impact the City or County's ability to enforce local planning. It does not create a right to establish a new mine where one doesn't currently exist. Any new mine would have to comply with local zoning ordinances.

Council Member Birrell asked about the potential expansion of a mine, which was of concern. Mr. Allen explained that if there is an existing vested right, it puts the onus on the Mining Board to determine how it impacts the local community. An existing mine with a vested right is different. Council Member Birrell reported that Utah Physicians for a Healthy Environment ("UPHE") has done research on this. She suggested that Mr. Allen contact them to understand the long-term implications for the Wasatch Front. Mr. Allen agreed to do so and stated that they are waiting for the ULCT to determine what it means for other cities with mining interests. They informed the sponsor that they have concerns, particularly in terms of local control issues and he seemed open to adding additional language to address that.

A question was raised with regard to the large number of bills and if it will congest the process. Mr. Allen stated the excessive number of bills is due to the current process allowing for it. There is not a problem with congestion because bills are being moved through quickly without public comment being considered. There are a large number of bills moving through committee without a fiscal note. Typically, Legislators want to know the fiscal impact of a bill before voting on it. Many are receiving a fiscal note but later in the process. Eminent domain issues were discussed.

City Lobbyist, Greg Curtis reported on the status of trails monies and stated that they are trying to prepare their budgets. It has been determined that there will be ongoing money for trails but they do not know exactly how much. When they began to add up all of the items they talked about funding, they realized that they would have spent twice as much. As a result, they are trying to balance that. While there will be ongoing money for trails, he doubted it would be the anticipated \$45 million per year.

The primary discussion this week has been the fifth of the fifth. There are three pieces of legislation being put forward. Senator Harper's bill has gone through the Senate and would extend the date of authorization for three years from July 1, 2023, through July 1, 2026. It also extends the current authorization and leaves all of the money with transit. Representative Christopherson is the sponsor of HB-500 which is supported by everyone but Salt Lake County. The cities support it because they get .05%. Salt Lake County gets .05% but only .02% for their priority. Salt Lake County has been asking for .05% for homeless transition, mental health counseling, and other services to help those suffering from the housing crisis. The House was willing to do .02%.

Senator Cullimore introduced SB-260, which would give the County .05% for homeless transition services with .15% going to transit. All of the cities in Salt Lake County are concerned. If it passes, the County has made it clear that they will not impose the tax. As long as the County has the option to impose it but does not get what they are asking for, they will not impose the tax. Senator Cullimore moved it out of the Senate Transportation Committee and is having a substitute drafted. They are working with House and Senate leadership. Mr. Curtis reported that the County would get .05% but only .02% could be used for the services they are asking for. It was noted that HB-500 would include new monies that would be available to cities, which is why it has broad support. Negotiations were ongoing.

Mr. Curtis next reported on direct funding of local projects and stated that there have been a lot of disappointed Requests for Appropriation ("RFA") this year with respect to local roads, water, and sewer. They are trying to draw a line in that regard. If the County were to impose it, the City would receive .05%. He commented that Salt Lake County always gets shortchanged in this regard. Ultimately, .05% would equate to \$17 million across Salt Lake County.

Council Member Birrell asked about HB-301 related to the taxation on the registration of Electric Vehicles ("EV"). Mr. Curtis was not sure of the exact status but stated that it is Representative Schultz's bill and will pass. Council Member Birrell's understanding was that it relates to the annual registration where they would measure the vehicle miles traveled. The fee would be higher for Electric Vehicles that are traveling long distances. Mr. Curtis stated that the bill would change the registration fees for all vehicles. A 12% tax would be added at charging stations, which equates to about \$3 per charge. Currently, the gas tax is about \$4 for one tank of gas. They are trying to find something that is somewhat equivalent. There is currently no tax on charging EVs at home. They have not yet gone to a Miles Driven Fee but one is being explored. Mr. Curtis explained that currently, EVs are using the roads for free and are not paying for road maintenance. This is a way to capture funding to maintain roads.

Council Member Birrell asked why EV stations are being built if the idea was to incentivize to invest in buying EVs. To now make it less attractive was of concern and contrary to what they are trying to accomplish. Mr. Curtis stated that the highways still have to be maintained. Council Member Birrell stated that people are not transitioning to EVs at the rate they need to. It needs to be incentivized and not discouraged. She was very opposed to the bill. She suggested they tax the things they do not want and not tax things they want more of.

The cost of EVs was discussed. Council Member Birrell commented that she recently purchased an EV and spent more on it than she ever has on a car. She stated that there were no incentives. Council Member Bracken commented that Tesla recently announced that their average car price is now lower than the average gasoline-powered vehicle in the United States. Ford, General Motors, and others will soon be matching those discounts. The cost also became significantly less expensive with a \$7,500 rebate. He stated that the extra cost argument can quickly be dismissed. Council Member Birrell stated that she does not benefit from the tax rebates although a portion of the population does.

Mr. Curtis reported that a few years ago they indexed the Gas Tax based on the cost of fuel. With the increase in fuel costs over the past few years, there will be a significant increase in the Gas Tax. The bill would increase the registration fee to delay an increase in the Gas Tax.

3. Adjourn.

MOTION: Council Member Birrell moved to ADJOURN. The motion was seconded by Council Member Petersen. The motion passed with the unanimous consent of the Council.

The Work Session adjourned at 9:42 a.m.

I hereby certify that the foregoing represents a true, accurate, and complete record of the Cottonwood Heights City Council Legislative Work Session held Thursday, February 23, 2023.

Teri Forbes

Teri Forbes
T Forbes Group
Minutes Secretary

Minutes Approved: March 21, 2023.