

1 **MINUTES OF THE COTTONWOOD HEIGHTS CITY COUNCIL BUSINESS MEETING**  
2 **HELD TUESDAY, JULY 11, 2017 AT 7:00 P.M. IN THE COTTONWOOD HEIGHTS CITY**  
3 **COUNCIL CONFERENCE ROOM LOCATED AT 2277 EAST BENGAL BOULEVARD,**  
4 **COTTONWOOD HEIGHTS, UTAH**  
5

6 **Members Present:** Mayor Kelvyn Cullimore, Councilman Scott Bracken, Councilman Mike  
7 Peterson, Councilman Mike Shelton, Councilman Tee Tyler.  
8

9 **Staff Present:** City Manager John Park, Assistant City Manager Bryce Haderlie, City  
10 Attorney Shane Topham, Finance Director Dean Lundell, Assistant Fire Chief  
11 Mike Watson, Police Chief Robby Russo, Community Development Director  
12 Brian Berndt, City Recorder Paula Melgar, Finance Director Dean Lundell,  
13 Public Works Director Matt Shipp, Public Relations Specialist Dan Metcalf  
14

15 **1.0 WELCOME**  
16

17 1.1 Mayor Kelvyn Cullimore called the meeting to order at 7:00 p.m.  
18

19 1.2 Councilman Bracken introduced Youth City Council Member, Adriana Steck.  
20

21 1.3 The Pledge of Allegiance was led by Councilman Peterson.  
22

23 **2.0 CITIZEN COMMENTS**  
24

25 2.1 Brett Bestor reported that he lives near where the recent fire occurred. He believed that the  
26 proposal made during the Work Session would help greatly. He suggested that signage be  
27 posted to specify that there should be no fireworks within 300 feet. He also commented that  
28 the two days before and after regulation are unobserved in terms of firework enforcement. He  
29 pointed out that citizens can record illegal activity and turn it over to law enforcement. He  
30 stated that the cemetery crews wait until the last minute to cut the dry grass and leave the  
31 remains behind. He recommended the grass be cut sooner rather than later.  
32

33 2.2 David Schoeneck gave his address as 3094 East Banbury Road and expressed concern with  
34 the 300-foot restriction. He believed that a 150-foot aerial firework will travel much further  
35 than that. It did not make sense to him to allow aerial fireworks when the fire danger is so  
36 great. He commented that there are professional fireworks all over the State and he suggested  
37 that citizens be limited to those. He disagreed with the argument that the City cannot ban  
38 fireworks because they cannot enforce them and argued that they should catch as many as  
39 possible and issue citations. Residents will soon see that there are criminal and financial  
40 consequences and a moral obligation to do the right thing. Mr. Schoeneck commented that  
41 he has received no call or word from the person responsible for nearly burning down his home.  
42 He asked the Council to take action and encourage them when reviewing the photographs to  
43 see the irony of the field burning and fireworks going off behind it. He urged the Council to  
44 ban any additional fireworks.  
45

46 2.3 Emily Waggle stated that when her first child was six weeks old, their house in Sugarhouse  
47 caught on fire from children who were suspected to have been playing with fireworks. Each  
48 July they relive their experience of losing everything. She asked the Council to look at the

1 common goal of safety and protect those who put their lives at risk for the sake of the citizens.  
2 Major medical issues resulted from the fire. Ms. Waggle provided the Council with before  
3 and after pictures. She urged the City to mitigate the risk, which she considered to be  
4 completely avoidable.  
5

6 2.4 Jody Schoeneck reported that she stood trembling in her backyard with her hose while she  
7 watched the fire get closer and closer to her home. With the gas line in her backyard, she was  
8 told that it would have only taken 20 more seconds for her home to be destroyed had the fire  
9 department not arrived when it did. She urged the Council to make changes.  
10

11 2.5 Ralph Warner gave his address as 3384 Marinda Way and stated that his home sits above  
12 some of his neighbors. He described a previous fire that started near his home. Had he not  
13 been able to control it, his home and seven others would have been lost. Mr. Warner expressed  
14 support for the proposed ordinance and the suggestion that neighbors be diligent in  
15 videotaping people setting off fireworks so that they can be held accountable.  
16

17 2.6 Major Cullimore urged the citizens to be judicious in the use of their cell phones and avoid  
18 confrontations. Those should be left to law enforcement.  
19

20 2.7 Chuck Lewis gave his address as 7433 Brighton Way and thanked the firefighters who cut  
21 through the chain linked fences and fought the fire through the night. He thanked the Police  
22 Department who prevented him from walking home but allowed them to open the garage door  
23 and rescue their cats. During the 28 years he has lived in his home, he has fought at least four  
24 fires. Three of the four were from fireworks. Mr. Lewis stated that he has been diligent in  
25 maintaining low-profile landscaping to help eliminate the risk of fire in the future. He asked  
26 what good does it do make rules if they are not enforced. He indicated that he stays home  
27 during the July holidays to make sure that his property is safe from fireworks.  
28

29 2.8 Barbara Marsh gave her address as 7453 Stone Road and stated that when she arrived home  
30 on July 5, there was soot everywhere. Even though she lives on a different street than the  
31 Schoenecks, they were heavily affected. She spoke with Public Relations Specialist, Dan  
32 Metcalf, who reported that the City is bound by State law. Ms. Marsh reviewed the firework  
33 restrictions of nearby cities and Utah Code Annotated Section 53-72-02, which states that the  
34 discharge of fireworks on public property is prohibited. She asked for clarification on the  
35 public roads restriction and recommended the restrictions be imposed in Cottonwood Heights  
36 as they have been elsewhere.  
37

38 2.9 Mayor Cullimore clarified that Cottonwood Heights bans fireworks east of Wasatch  
39 Boulevard and near urban interface areas, which is what other cities have done. The Fire  
40 Department determines where the lines are. Since the State passed the new laws in 2011, it  
41 has been difficult to determine the level of enforcement.  
42

43 2.10 Marie Poulson identified herself as the area's State representative and stated that the fire  
44 occurred in her neighborhood. The home that was affected is along her walking route. She  
45 expressed great sorrow and stated that it frightened those who live her neighborhood. As the  
46 area representative, she wanted to receive as much input as possible to help mitigate the  
47 problem on a State level. Ms. Poulson stated that she is bombarded every year with fireworks  
48 and air quality dangers. The problem is that when the Legislative Session comes around, the

1 issue is forgotten and does not get the attention it should. She reported that State law does not  
2 allow cities to ban fireworks all together. She has a colleague who is sponsoring a bill that  
3 would ban aerial fireworks State-wide. She also plans to sponsor a bill that allows cities to  
4 make judgements according to conditions. She stated that every community is unique and  
5 because of Cottonwood Heights' location, the dry conditions are a serious issue. She  
6 encouraged citizens to voice their opinion.  
7

8 2.11 Nash Williams gave his address as 3396 East Antler Way. He reported that the night the fire  
9 occurred, he went to Bywater Park and watched it spread quickly. With the help of the Fire  
10 Department, he was advised to remove the grass and combustibles from around the base of  
11 his home, branches six feet above the wooden fence, and consider replacing his wood fencing  
12 with metal. He expressed concern about evacuating his home, as his driveway has a canopy  
13 of pine trees. Mr. Williams stated that this was a manmade condition. He supported any  
14 remedies the City could offer.  
15

16 2.12 Jo Clay reported that she lives east of Wasatch Boulevard and stated that the previous states  
17 she has lived in do not allow aerial fireworks. She was appalled that with the dry conditions  
18 and beautiful wildlands throughout Utah that aerial fireworks are allowed. She encouraged  
19 the City Council to do what they can to limit fireworks.  
20

21 2.13 John Hammond felt compassion for those who have voiced opposition to aerial fireworks but  
22 believed there were a couple of areas that could be marked as allowable locations. He  
23 concurred that fireworks should be limited to the holiday and not days that precede or follow.  
24

25 2.14 Margo Lewis reported that she lives next door to Dave and Jody Schoeneck whose home was  
26 affected by the fire. She remarked that the fear one feels is difficult to imagine. The wind  
27 from the canyons carried the embers, which is what started the fire. She felt strongly that  
28 aerial fireworks need to be banned in the area.  
29

30 2.15 Michael Hopkins stated he moved to Cottonwood Heights from California. He was happy to  
31 have freedoms in this community that he could not enjoy living out of state. He saw the matter  
32 as a freedom issue and an opportunity to express joy and pride on the 4<sup>th</sup> of July. He believed  
33 that if they are going to talk about taking measures to secure their neighborhoods they should  
34 talk about other things such as banning alcohol in the community as well. Mr. Hopkins  
35 commented that many more people are harmed by alcohol than by fireworks. He supported  
36 keeping the law as it is because he and his children enjoy fireworks.  
37

38 2.16 Jill Smith stated she lives on Martha's Cove near Scottish Road. She voiced her support for  
39 the resolution. She addressed the issue of weed enforcement as well, which she felt should be  
40 taken seriously.  
41

42 2.17 Rick May expressed concern with the cemetery and areas that run from Canyon Racquet Club  
43 to Bywater Park, which are very dry. He stated that the City is full of dead trees that are not  
44 being cut down and pose a fire hazard. He did not understand why fireworks are permitted in  
45 the State.  
46

47 2.18 Tim Hallbeck agreed with the previous comments made.  
48

1 2.19 Megan Gates stated that her dog is traumatized by fireworks. She was devastated when she  
2 saw the Schoeneck's home on July 5. She urged the Council to take action to ensure that  
3 something similar doesn't happen again.  
4

5 2.20 Stu Marsh gave his address as 7453 Stone Road and stated that he has resided there for 42  
6 years. If the City places a ban on aerial fireworks, they may want to have the UFA give a  
7 demonstration on how they fight a fire like the one that occurred on July 5.  
8

9 2.21 David Schoeneck expressed his gratitude to the Police and Fire Departments for saving their  
10 home. He believed divine intervention was involved.  
11

12 2.22 Rob Rothbauer commented that he has found empty shell casings on his roof and was  
13 surprised when he discovered that aeriels are legal. He was in favor of banning aerial  
14 fireworks.  
15

### 16 **3.0 STANDING MONTHLY REPORTS**

#### 17 **3.1 Police Report – Police Support Specialist, Candie Terry.**

18  
19  
20 3.1.1 Police Support Specialist, Candie Terry, presented the Police Report for the month of June  
21 2017. She reported that Sandy City requested assistance from the Cottonwood Heights Police  
22 Department in an active shooter situation. Calls for service totaled 421 911 calls, 483 on-  
23 view calls, and 915 phone calls. There were 491 Priority 1 calls received, 452 Priority 2 calls,  
24 and 289 Priority 3 calls. Priority 1 response times averaged 3:57, Priority 2 averaged 5:55,  
25 and Priority 3 averaged 7:12. There were 226 reports for District 1, 100 for District 2, 142 for  
26 District 3, and 104 for District 4. Top reports for District 1 included accidents and thefts  
27 followed by animal problems and burglaries. District 2 reports included parking problems,  
28 ordinance violations, and animal problems. A traffic accident was detailed. Adult arrests  
29 were up at 106 and 15 juvenile arrests. Jail restrictions were lifted on June 6, 2017. There  
30 were 223 traffic citations issued, 14 DUIs, and 90 warnings. Accidents totaled 37 with  
31 property damage and 11 with injury.  
32

#### 33 **3.2 Public Works Report – Public Works Director, Matt Shipp.**

34  
35 3.2.1 Public Works Director, Matt Shipp, presented the Public Works Report for the month of June  
36 2017 and stated that the Public Works Yard is set to be paved Friday and Saturday. The only  
37 issue involved the Rocky Mountain Power pole. All other utility issues had been resolved.  
38 Staff met with Siesta Drive homeowners who look forward to resolving the water issue. They  
39 are putting a bid out for salt and plowing for the winter season. They are removing and  
40 cleaning up sand bags, preparing for Butlerville Days, and assisting the Cottonwood  
41 Recreation Center staff.  
42

43 3.2.2 Mr. Shipp reported that the Ferguson Canyon contract will be presented to the Council soon.  
44 They were waiting for the Canyon Centre Development Agreement to be finalized. The Big  
45 Cottonwood Trail funding came through thanks to Gilson Engineering who did a great job of  
46 securing the funding and going above and beyond what was expected. They will present some  
47 of the proposed capital projects next week including the Highland Drive climbing lane and  
48 Fort Union crack and chip seal. Striping bids were received and they will focus on the mains,

1 arterial mains, and the school zones. Others include the pavement evaluation project for which  
2 the RFQ was sent out to engineering firms and the 2700 East and Ferguson Canyon outfall.  
3 UDOT projects included the High-T, Highland Drive and La Cresta, the scope and cost  
4 estimates for the design, and the Fort Union and Highland Drive projects. The electrical poles  
5 were moved and staff was trying to determine who is responsible for moving the remaining  
6 communication lines to the new poles.  
7

8 3.2.3 Mr. Shipp reported that the Cottonwood Heights Improvement Sewer Line Project on Fort  
9 Union is complete. With regard to the water line on Fort Union, Salt Lake City Public Utilities  
10 personnel held a Pre-Construction Meeting with the Contractor, Newman Construction, but  
11 have yet to hold one with the City. Once it starts it will be digging up the same area as the  
12 sewer lines. The Virginia Hills Subdivision is complete and the project at the end of the  
13 subdivision is moving forward.  
14

15 3.2.4 Mr. Shipp reviewed the codes staff works under and detailed hours for the month.  
16

#### 17 **4.0 ACTION ITEMS**

##### 18 19 **4.1 Consideration of Ordinance 275 Enacting Additional Restrictions on the Use of** 20 **Fireworks.**

21  
22 4.1.1 Mayor Cullimore reported that State law regarding the Utah Fireworks Act was passed in  
23 2011. The Act prevents cities from passing any ordinance or law contrary to the Utah  
24 Fireworks Act. That Act does, however, grant certain opportunities for cities to place bans on  
25 fireworks but it is clearly defined. Working with the Unified Fire Authority, they can establish  
26 areas of wildland interface, dense brush, and high-risk areas. They can impose bans on those  
27 areas and have prohibited aerals within 300 feet and regular fireworks within 50 feet. Signs  
28 have been posted for years, however, this year several were stolen. The Mayor explained that  
29 after the fire on July 4, they reviewed the damage to the home and understood the potential of  
30 what could have happened had first responders not arrived on scene so quickly. The Mayor  
31 explained that there are times when conditions require a more restrictive approach. As a  
32 Council, they felt there was room in the state statute to go further. The ban being considered  
33 would ban aerial fireworks over the 24<sup>th</sup> of July holiday. It is a temporary ban. The Council  
34 will postpone more permanent actions until they see what happens with the Legislature at the  
35 next session who will have an opportunity to reconsider the issue. Photographs of the fire and  
36 damage were presented.  
37

38 4.1.2 Mayor Cullimore commented that it is not the Council's intent to take away people's right to  
39 celebrate as they choose but it is their responsibility to weigh the conditions that exist at any  
40 given time and determine whether steps need to be taken to protect the community. There  
41 were three fires on July 4<sup>th</sup> in Cottonwood Heights and another on July 9. There has been a  
42 tremendous response from the community and the Mayor stated that he personally has  
43 received over 100 emails from concerned citizens virtually all in favor of banning fireworks.  
44

45 4.1.3 UFA Assistant Fire Chief, Mike Watson, stated that on the 4<sup>th</sup> of July, their resources were  
46 overwhelmed and firefighters went from one fire to the next. At any given time, they do not  
47 know where they will be needed next. This effort required more than just the coordinated  
48 efforts of firefighters. With regard to dispatch to the fire, they were sent to Enchanted Hills.

1 One police officer notified the UFA that they needed to be at the corner of Brighton Way.  
2 One of the Battalion Chiefs believes they would have lost seven homes that night had it not  
3 been for the Police Department. Valley Dispatch received over 700 calls on the 4<sup>th</sup> of July.  
4

5 4.1.4 Chief Robby Russo offered his sincere apology to the Schoenecks. He was proud of the  
6 investigative work done afterward and that they were able to bring the person involved to  
7 justice.  
8

9 4.1.5 Councilman Peterson expressed sympathy to the Schoenecks and agreed with the citizen  
10 comments shared. He thanked those present for sharing their experiences and sentiments. He  
11 explained that this is a temporary ban that allows for an opportunity to evaluate the situation  
12 and see what action the Legislature takes. The Council recognized that this puts a heavy  
13 burden on the Public Safety Department in terms of enforcement and they are willing to accept  
14 that challenge. He expressed his support for the ban.  
15

16 4.1.6 Councilman Tyler thanked those who addressed the Council enlightening them on the  
17 community sentiment. He commended the first responders and stated that did a very good job  
18 as the fire spread quickly. In the State of Utah, there are 245 cities, each with different  
19 exposure and fire liability. Representative Poulson's comments were very important and  
20 cities are trumped with regard to what they can do relative to State law. He believed this was  
21 a long-term problem that needs to be addressed when it comes back to the State Legislature.  
22

23 4.1.7 Councilman Shelton stated that this is an easy issue. Several years ago, his backyard was  
24 burned in a similar fashion. He has lived with this terrifying memory every firework season.  
25 What he dislikes about this situation is that the right thing to do in his mind is to ban fireworks  
26 of this type. This, however, puts a significant burden on businesses who are legally set up to  
27 operate and sell them and families who have already purchased fireworks that are now not  
28 allowed in the City. He was in favor of the ban and as an elected official, when this judgment  
29 is left to the conditions, it is too late. Leaving the decision to the City Council this late in the  
30 game impacts a lot of lives negatively.  
31

32 4.1.8 Councilman Bracken reported that he has received comments from people on both sides of  
33 the issue. He encouraged the citizens to express their position to the Legislature since the  
34 laws dictate what the city can and cannot do. He had many questions about the ordinance and  
35 its enforceability and balancing the interests of businesses and residents. He supported the  
36 ordinance because it is temporary. He hoped the Legislature would do something to better  
37 address the concerns. He had questions about enforceability among others and believes they  
38 had come to a better version of the ordinance. He stated that he could support it because it is  
39 temporary. He hoped to get relief from the Legislature at the next session. Due to the wet  
40 spring, the growth has become fuel, which he believed created a situation making aerial  
41 fireworks negligent. He did not want to see another homeowner in distress because of the  
42 negligence of others.  
43

44 4.1.9 City Attorney, Shane Topham, emphasized that State law does preempt the City. He explained  
45 that the City cannot enact an ordinance that restricts the use of fireworks during designated  
46 time periods including July 4<sup>th</sup>, July 24<sup>th</sup>, New Year's Day, and Chinese New Year. It does,  
47 however, include exemptions, one that addresses wildland interface areas designated by the  
48 Fire Marshal. The City has the ability to enact municipal ordinances prohibiting the negligent

1 use of otherwise legal fireworks in those areas. The ordinance describes the environmental  
2 conditions the City currently faces and expresses the Council's view that the use of aerial  
3 fireworks that extend over 15 feet in height or travel more than 10 feet laterally are a danger  
4 and due to the current conditions, the Council views that use as negligent. Banning the  
5 negligent use of fireworks is permitted under the state statute.  
6

7 4.1.10 Mayor Cullimore remarked that enacting the ordinance will send the proper message and  
8 enable the City to avoid potential problems as was seen on July 4th. The irony is that the fire  
9 Schoebeck's experienced was caused by fireworks being discharged in violation of the current  
10 law. The fact that the law is in place does not prohibit stupidity.  
11

12 **4.1.11 MOTION:** Councilman Peterson moved to approve Ordinance 275. The motion was  
13 seconded by Councilman Tyler. Vote on motion: Councilman Shelton-Aye, Councilman  
14 Bracken-Aye, Councilman Peterson-Aye, Councilman Tyler-Aye, Mayor Kelvyn Cullimore-  
15 Aye. The motion passed unanimously.  
16

17 **4.2 Consideration of Resolution 2017-47 Declaring Certain Property Surplus.**  
18

19 4.2.1 Mayor Cullimore reported that the above resolution declares certain property surplus and  
20 includes two motorcycles that have been in use for six years.  
21

22 **4.2.2 MOTION:** Councilman Tyler moved to approve Resolution 2017-47. The motion was  
23 seconded by Councilman Bracken. Vote on motion: Councilman Shelton-Aye, Councilman  
24 Bracken-Aye, Councilman Peterson-Aye, Councilman Tyler-Aye, Mayor Kelvyn Cullimore-  
25 Aye. The motion passed unanimously.  
26

27 **4.3 Consideration of Resolution 2017-48 Approving Entry into Amendment No. 1 to**  
28 **Interlocal Agreement for Public Works-Related Services and Materials with Salt Lake**  
29 **County.**  
30

31 4.3.1 Mayor Cullimore reported that the above resolution approves entry into an Amendment No. 1  
32 to an Interlocal Agreement for Public Works-related services and materials with Salt Lake  
33 County. There are certain things they do for Cottonwood Heights and this facilitates that  
34 agreement for another year.  
35

36 **4.3.2 MOTION:** Councilman Shelton moved to approve Resolution 2017-48. The motion was  
37 seconded by Councilman Peterson. Vote on motion: Councilman Shelton-Aye, Councilman  
38 Bracken-Aye, Councilman Peterson-Aye, Councilman Tyler-Aye, Mayor Cullimore-Aye.  
39 The motion passed unanimously.  
40

41 **4.4 Consideration of Resolution 2017-49 Approving Entry into an Interlocal Agreement**  
42 **with Salt Lake County for Transfer of up to \$250,000 of Transportation Funds to the**  
43 **City.**  
44

45 4.4.1 Mayor Cullimore reported that the above resolution approves entry into an Interlocal  
46 Agreement with Salt Lake County for their \$250,000 CATNIP grant that helps fund the  
47 completion of the Big Cottonwood Canyon Trail.  
48

1 **4.4.2 MOTION:** Councilman Bracken moved to approve Resolution 2017-49. The motion was  
2 seconded by Councilman Shelton. Vote on motion: Councilman Shelton-Aye, Councilman  
3 Bracken-Aye, Councilman Peterson-Aye, Councilman Tyler-Aye, Mayor Kelvyn Cullimore-  
4 Aye. The motion passed unanimously.  
5

6 **5.0 CONSENT CALENDAR**  
7

8 **5.1 Approval of City Council Business Meeting minutes for June 20, 2017. Also, approval**  
9 **of minutes for the City Council Work Session of May 9 and 16, 2017.**  
10

11 **5.2 MOTION:** Councilman Peterson moved to approve the City Council Business Meeting  
12 minutes for June 20, 2017 and the City Council Work Sessions of May 9 and May 16, 2017.  
13 The motion was seconded by Councilman Bracken. Vote on motion: Councilman Shelton-  
14 Aye, Councilman Bracken-Aye, Councilman Peterson-Aye, Councilman Tyler-Aye, Mayor  
15 Kelvyn Cullimore-Aye. The motion passed unanimously.  
16

17 **6.0 ADJOURN BUSINESS MEETING AND RECONVENE WORK SESSION**  
18

19 **6.1 MOTION:** Councilman Bracken moved to adjourn the Business Meeting. The motion  
20 passed unanimously.  
21

22 6.2 The meeting was adjourned at 8:54 p.m.

1 *I hereby certify that the foregoing represents a true, accurate and complete record of the Cottonwood*  
2 *Heights City Council Business Meeting held Tuesday, July 11, 2017.*

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10 Teri Forbes  
11 T Forbes Group  
12 Minutes Secretary  
13  
14 Minutes approved: August 8, 2017