

MINUTES OF THE CITY COUNCIL MEETING HELD SEPTEMBER 11, 2007, AT 7:00 P.M., IN  
THE COTTONWOOD HEIGHTS CITY COUNCIL CHAMBER

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, Deputy City Manager Kevin Smith, Planning Director Michael Black, Bob Warnick

OTHERS PRESENT: Doug Shelby, Tom Barman, Hyrum Alba, Brad Gilson, Bob Good, Jan Weight, Don Machin, Ron Fullmer, Sheriff Winder, Detective Ford, Detective Bartlett, Chief Watson, Shantaye McCoy, Peyton Robinson, John Mensch, Representative Karen Morgan, Senator Carlene Walker, Mark Mackless

1.0 **WELCOME/PLEDGE/ACKNOWLEDGEMENT**

1.1 Mayor Cullimore called the meeting to order and welcomed those in attendance.

1.2 The Pledge of Allegiance was led by Councilman Thomas.

2.0 **CITIZEN COMMENTS**

2.1 Doug Shelby, General Partner of Walker Development, read the following letter into the public record: "Dear Mayor Cullimore: In recent weeks there seems to be an upsurge in rumors regarding the operational time frame of the gun club along with their various shooting activities, as well as the gravel mining operations. Many of the rumors may be misleading to the general public, public servants and especially to potential buyers of residential lots in Big Cottonwood Estates, which is nearing completion. As you know, both the mining and shooting have been long-term uses on our property. In order to avoid any confusion, it is Walker Development's position that both of these uses will continue perpetually into the future. The elected officials and staff of Cottonwood Heights' city should convey this same information to anyone concerned." The letter was signed by Mr. Shelby. He stated that he wants to make sure that everyone is on the same page.

2.2 Tom Barman, expressed concern regarding Big Cottonwood Canyon Road. He feels that the north side of the road, east of Wasatch Blvd is very poorly done. He also said the repaving of Bengal Blvd. is very rough and has eliminated recreational use such as bicycling, roller blading and skateboarding.

3.0 **Public Comment on a Request from Utah Property Development for a Conditional Use Permit to Build Three Professional Office buildings Totaling 42,000 Square Feet on Property Located at 7755 South Wasatch Blvd. (*Wasatch Office Property*)**

3.1.1 Mayor Cullimore explained that last October a meeting was held with citizens living in the area of the Wasatch Office project to discuss the status. At that time the issue of the slope stability study and the traffic study required by the Utah Department of Transportation (UDOT) were pending and needed to be completed. The issues have been completed, UDOT has issued a conditional letter of approval, and the final reviews of the geotechnical reports have been finished. The conditional use permit will be heard by the Planning Commission next week and the Council wanted to give an opportunity to the residents to comment so that the comments

could be passed along to the Planning Commission. Mayor Cullimore noted that the rezoning of this project was completed by Salt Lake County prior to the incorporation of the City.

3.1.2 City Engineer Brad Gilson explained that on August 3, 2007, UDOT sent the representative of Wasatch Office development a letter outlining four pending requirements for their approval. The plans which were received yesterday reflected the necessary changes. UDOT's main concern was traffic flow, which has been mitigated. Mr. Gilson reviewed a map of the traffic plan with those in attendance.

3.1.3 Hyrum Alba, said that the project has undergone a series of reviews using the International Building Code, Guidelines for Evaluating Surface Fault Rupture Hazards in Utah, Cottonwood Heights Sensitive Lands Ordinance, and Geologic Hazards Ordinance. Based on his last review letter of February 15, 2007, he stated that he sees no reason that approval should not be given.

He explained that the standard for building in a fault zone requirement requires measuring the fault displacement, the location, the building location and the use specific formulas to calculate where buildings can be moved and/or placed with respect to where the faults are located.

Mayor Cullimore asked what kinds of tests are done to make sure that this type of construction does not weaken the slope.

Mr. Alba explained that the original geotechnical reports did not meet the seismic requirements in accordance with the International Building Code. They were returned to the consultant with the recommendation that additional sampling and laboratory testing be done, and to increase the seismic shaking they used for their slope stability to meet the IBC. The report was then resubmitted with those conditions being met.

3.1.4 Councilman Thomas asked if the builder is required to do something beyond what would be considered 'normal' because of the geological situation.

Mr. Alba said the buildings have to be positioned in certain areas. Generally, the closer to the fault the higher the magnitude of shaking the building will undergo. In accordance with design standards, the building will probably have more reinforcement to accommodate additional anticipated movement.

Mr. Black noted that all building plans will be consistent with International Building Codes.

3.1.5 City Planner Michael Black reviewed the subject property, noting the locations of the structures on the property. The plans have been reviewed by the Architectural Review Commission, and will be back before them for a final check.

3.1.6 City Attorney Shane Topham noted for those in attendance that under the City ordinances conditional uses are decided by the Planning Commission. This is a special public hearing before the City Council, but they do not have decisional authority on this issue.

3.1.7 Mayor Cullimore opened the public comment period.

3.1.8 Bob Good, said that building three is between two fault lines which appear to be dangerous. The property is located in the sensitive lands area and the County approved construction without

considering the sensitive lands ordinance. In its approval, the County gave a 35-foot maximum height approval, when buildings on sensitive lands can be no more than 30 feet high. Mr. Good said that the application does not meet the conditional use or sensitive land requirements. He said that UDOT denied the application for approximately 18 months, until January 18, 2005, at which time it was approved. He expressed concern about the legality of the present situation, not what happened at Salt Lake County.

Mr. Black will provide a list of the concerns to the Planning Commission.

- 3.1.9 Jan Weight, said her bedroom window is directly above building number two and is concerned about the stability of her home and asked if the slope would be reinforced and stabilized. She also asked that the air conditioning units be placed to the front of the building.

City Engineer Brad Gilson said the engineer requirement is that the slope not be disturbed in any way and based on Mr. Alba's analysis, it is stable under a dynamic load. He explained that the disturbance will be at the toe, where retaining walls are required to buffer the load.

City Attorney Shane Topham said that the City has taken 2½ years and required the most exhaustive review possible to make sure that the citizens' safety and the safety of their property is protected. He believes the City has done everything it can to make sure this project is being done right and will be safe.

- 3.1.10 Senator Carlene Walker said that this is her district and her neighborhood, and her primary concern is the traffic. She has told Randy Park, UDOT, that they will be watching this situation carefully, particularly the ingress and egress are properly and safely done.

- 3.1.11 Mark Mackless, Prospector Drive, asked if there is a walkway off of building three.

Mr. Black reviewed the location of the walkway, which is for a secondary access to the parking lot.

- 3.1.12 Representative Karen Morgan, stated that she understands the difficult position the Council and Planning Commission are in. The County approved the project and UDOT approved the access, so the City must now deal with an issue it would not have approved. She said that this is a perfect example of why the City needed to be created. She asked that the Council recommend to the Planning Commission that they implement as many restrictions as possible, and that there be very strict enforcement.

- 3.1.13 Tom Barman, asked that the Council recommend landscaping and that the enforcement of noise and lights be done consistently. He said that the intersection at Bengal Blvd. is more dangerous than the 7-11 intersection, and the residents in the area want to be on record stating that they had the foreknowledge of the danger and that it was ignored.

Mr. Black reviewed the new landscaping plan which will be available for review this Friday. Mr. Black also addressed the lighting, which is full cut-off lighting. The only lighting acceptable after a certain time of night, would be the lighting required for safety.

- 3.1.14 Don Machin, said the State is currently undertaking a study regarding landslides and earthquake patterns and wondered if it affected this development. He would also like a traffic count for Wasatch Blvd. in this area.

City Engineer Brad Gilson said that he does not have the exact number, but the traffic on Wasatch Blvd. is moderate.

Hyrum Alba said that the Governor appointed a task force to analyze landslides, so the Committee would not be looking at the issues involved in this project, which deals with faults.

Mr. Machin said that the reclassification of the City's residential zoning has been flawed by the County and inherited by the City. He said that the Council can condemn the land so that a commercial project cannot be built.

- 3.1.16 Bob Good said that according to the sensitive land ordinance, underground construction is not allowed, and underground parking should not be allowed.
- 3.1.17 John Mensch, asked why the City doesn't get the State to finish Wasatch Blvd. with the upgrades prior to this project is constructed. He said that the traffic count was skewed and needs to be redone.
- 3.1.18 Peyton Robinson, agreed with the comments made by Representative Morgan, asking the Council to add all of the requirements that they can to this project including lighting and noise. He believes that there will be serious problems in the area because it is not stable, and agreed with comments that the intersection is very dangerous and needs to be addressed.
- 3.1.19 Shantaye McCoy, Prospector Drive, said she does not see a need for these office buildings because there are so many empty ones in the area.
- 3.1.20 Ron Fullmer, said that the area is very sandy and questions how it is stabilized without terracing and retaining the area. He believes it will have some liquefaction if there is an earthquake.
- 3.1.21 Mayor Cullimore noted that notices regarding the Planning Commission meeting were sent out to residences within 1,200 feet of the proposed project, state law requires 500 feet.

Mr. Black said the City sent out 550 notices last Friday.

- 3.1.22 A resident asked if the City would consider condemning the property.

Mayor Cullimore stated that there has been no other project that has taken 2½ years to go through the process because the City has had concerns about the geotechnical issues and the traffic issues. The law states that if the standards can be met, the development can proceed. The applicant has now met the requirements that allow them to move forward with a conditional use permit. Mayor Cullimore said that imposing conditions to protect the safety, health and welfare of our citizens will be the top priority.

City Attorney Shane Topham read the law on Conditional Use Approval which states "A conditional use shall be approved if reasonable conditions are proposed or can be imposed to

mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.”

- 3.1.23 Bob Good said the residents do not want commercial development on land that has fault lines running throughout it, and which was always intended to be residential. He said that the residents can bring suit if necessary.

#### 4.0 **REPORTS/PRESENTATIONS**

##### 4.1 **Salt Lake County Sheriff's Report**

- 4.1.1 Detective Ford reviewed the statistics for the month of August. There were 1097 calls for service which generated 679 cases. Burglaries increased to 35, and property damage and larcenies decreased.

- 4.1.2 Detective Bartlett stated that neighbors alerted the Sheriff's office to suspicious activity at 1422 East 7380 South and obtained a search warrant for that address. One of the suspects was booked into jail the day before the search warrant was executed and narcotics and a firearm were seized at that time. Detective Bartlett said he spoke to the owner of the property and was told that a property management company has been hired that will rent the home out at the end of the month.

Yesterday there was a burglary in progress and the homeowner called 911. Sgt. Brenneman spotted the burglary suspect and took him into custody. Staff believes that this is the same person who is responsible for several burglaries over the past two weeks.

- 4.1.3 Detective Ford noted that there was one DUI in May; six in June; seven in July and five in August.

#### 5.0 **ACTION ITEMS**

##### 5.1 **Consideration of Resolution No. 2007-38 Approving a Consulting Agreement with GSBS, P.C. for the City Center Master Plan**

- 5.1.1 City Attorney Shane Topham noted that GSBS has reviewed the proposed agreement and after a minor change concurs.

- 5.1.2 **MOTION:** Councilman Bracken moved to approve Resolution No. 2007-38 approving a consulting agreement with GSBS for the City Center Master Plan. The motion was seconded by Councilman Antczak and passed unanimously on a roll call vote.

##### 5.2 **Consideration of Ordinance No. 100 Rezoning Approximately 1.1 Acres of Real Property Located at 2330 East Fort Union Blvd. from Neighborhood Commercial to Regional Commercial and Amending the Zoning Map (A/KA Walgreens Zone Change)**

- 5.2.1 Associate Planner Glenn Symes reviewed the subject property. The applicant is requesting a change from Neighborhood Commercial to Regional Commercial which is consistent with the General Plan. The General Plan designation for the property is Mixed Use which allows any of the commercial zones.

5.2.2 Mayor Cullimore said that there was discussion that when the City first approved Neighborhood Commercial, the City was allowing larger buildings in the zone. Subsequently, it was changed to eliminate buildings that were bigger than 10,000 square feet, but the property had already been zoned and the buildings that are there are legal nonconforming uses. He said that if an application was filed requesting a rezone of that area to regional commercial, there would be a compelling argument that the historical use has been for buildings 10,000 square feet or bigger and the Walgreens has now been approved. He believes that having the Neighborhood Commercial zone in place gives the Council options when discussing future plans.

5.2.3 **MOTION:** Councilman Antczak moved to approve Ordinance 100. The motion was seconded by Councilman Thomas and passed unanimously on a roll call vote.

5.3 **Consideration of Resolution No. 2007-39 Ratifying Entry Into an Amendment to the Office Lease with WLA UPU-1-2, LLC for Additional Office Space**

5.3.1 **MOTION:** Councilman Antczak moved to approve Resolution No. 2007-39 for additional office space. The motion was seconded by Councilman Bracken and passed unanimously on a roll call vote.

Sheriff Winder addressed the Council stating that he is preparing a budget submission to the County Council and is asking for two 24-hour cars for the White City area. He will also be asking for additional resources for the Millcreek area and Oquirrh District. He stated that they are moving along with the air cards at this time.

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

6.1 Councilman Bracken moved to adjourn the business meeting and reconvene the work session. The motion was seconded by Councilman Thomas and passed unanimously on a voice vote. The business meeting adjourned at 9:02 p.m.

**Approved: October 9, 2007**

\_\_\_\_\_  
Kelvyn Cullimore, Jr., Mayor

\_\_\_\_\_  
Don Antczak, Councilman

\_\_\_\_\_  
Scott Bracken, Councilman

\_\_\_\_\_  
Bruce Jones, Councilman

\_\_\_\_\_  
Gordon Thomas, Councilman