

**MINUTES OF THE COTTONWOOD HEIGHTS CITY COUNCIL WORK SESSION  
HELD TUESDAY, APRIL 6, 2021, AT 5:00 P.M. THE MEETING WAS HELD  
ELECTRONICALLY, WITHOUT A PHYSICAL LOCATION, AS AUTHORIZED BY  
UTAH CODE ANNOTATED §52-4-207(4).**

**Members Present:** Mayor Mike Peterson, Council Member Scott Bracken, Council Member Tali Bruce, Council Member Christine Mikell, Council Member Douglas Petersen

**Staff Present:** City Manager Tim Tingey, City Attorney 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 Jurges

**1. Welcome and Determination – Mayor Peterson.**

Mayor Mike Peterson called the meeting to order at 5:00 p.m. and welcomed those listening. He read in its entirety the declaration giving the Council the authority to hold the meeting via Zoom, pursuant to Utah Code Annotated §52-4-207(4).

**2. Legislative Wrap-Up with City Lobbyists Brian Allen and Greg Curtis.**

Chair Peterson welcomed City Lobbyists, Brian Allen and Greg Curtis to the Cottonwood Heights City Council Work Session. Mr. Curtis reported that House Bill (“HB”) 244 passed. Cottonwood Heights will receive \$400,000 per year for the next 15 years. He also reported that they were able to direct some of the money into the trails and grants program. \$5 million was earmarked for the Office of Outdoor Recreation to the Bonneville Shoreline Trail. It will require local matches as part of the grant program. Mr. Curtis stated that \$30 million was put into the State Infrastructure Bank (“SIB”) Loan Fund. Mayor Peterson asked about the interest rate. Mr. Curtis explained that it is the borrowing rate of the State with up to 50 basis points.

Mr. Allen reported that he had sent an End of Session Report to the City Council and shared some of the highlights. He stated that the Accessory Dwelling Unit (“ADU”) bill was important, and a lot of time was spent negotiating it. There was a lot of pressure from leadership to get the ADU bill passed, and it ultimately did. The two billboard-related bills had stalled. However, he believed the issues would come back. They would need to work with the Utah League of Cities and Towns to help them work with the billboard companies on reasonable accommodations.

HB-98, sponsored by Representative Paul Ray, was vetoed by the governor due to Federal Emergency Management Agency (“FEMA”) issues. It would likely be brought back for a special session. Mr. Allen commented that he and Mr. Curtis would continue to keep an eye on that. He stated that anything that did not pass would likely come back next year and there would be some pre-filed bills to look at fairly early on. Mayor Peterson asked about the different law enforcement-related bills that were passed. Mr. Allen clarified that most of the bills were supported by the

Love, Listen, and Lead Coalition, so they were viewed as a good balance between community and law enforcement needs.

Council Member Bracken asked about ADUs. Mr. Allen explained that the City needs to allow for ADUs in 75% of residential zones. It allowed the City to require an additional parking spot on-premise and gave the City the ability to regulate for safety issues. The City Council would need to determine where ADUs would be permitted. City Manager, Tim Tingey reported that the City has until October to implement the ordinances and this would be a discussion item at the first City Council Meeting in May.

### **3. Review of Business Meeting Agenda – Mayor Peterson.**

The agenda items were reviewed and discussed.

Mayor Peterson reported that the Business Meeting would include citizen comment as well as a Police Report from Lieutenant Dan Bartlett. There would also be a Public Works Report from Public Works Director, Matt Shipp. Mayor Peterson noted that the Business Meeting also included one action item involving a resolution to approve entry into an Independent Contractor Agreement with Creative Energies, LLC. The agreement was to locate funding for a solar photovoltaic system for City Hall and install that system.

Community and Economic Development Director, Michael Johnson discussed the resolution. He stated that there had been a Request for Proposals (“RFP”) process for a consultant that could help procure the Rocky Mountain Power Blue Sky grant and handle the installation. There had been four applications and Creative Energies, LLC was selected. Mr. Johnson reported that the contract was contingent upon the following:

- The successful procurement of the Rocky Mountain Power Blue Sky grant at a subsidy rate of 80% or 85% of the total cost; and
- Budget approval from the Cottonwood Heights City Council for the remainder of the expense (anticipated to be approximately \$100,000).

Mr. Johnson explained that if one or both of those things did not happen, the contract would not move forward and there would be no expense to the City. Mayor Peterson believed the Rocky Mountain Power Blue Sky grant would be approximately \$400,000 and the City’s contribution would be approximately \$100,000. Mr. Johnson confirmed this.

### **4. Staff Reports.**

#### **a. Storm Water Fee Discussion – Public Works Director, Matt Shipp and Mr. Justin Dietrich with Bowen Collins & Associates.**

Mr. Shipp reported that the above matter was the second City Council Work Session with Bowen Collins & Associates. They were brought in to help develop a storm water program that could be

presented to the City Council as well as Cottonwood Heights residents for input. Mr. Shipp introduced Justin Dietrich and Emily Fica from Bowen Collins & Associates.

Mr. Dietrich shared a slide presentation with the City Council. He reported that there was old infrastructure in the City and a serious need to handle the repair and replacement of corroded corrugated metal pipes. T-O Engineers conducted a study the previous year to identify the needs of the City. There was approximately \$1 million per year in needs that had been slated over the next 10 to 20 years. Additionally, there were regulatory components to consider, which were becoming more burdensome. The Clean Water Act came with quite a bit of cost related to necessary documentation, inspections, and enforcement. Bowen Collins & Associates was there to create a policy, policy manual, and storm water utility program that would meet the regulatory burden but also take care of the capital needs and ensure there was a good funding stream for that. Mr. Dietrich outlined the following presentation goals:

- Discuss fee amount;
- Describe customer classes;
- Update billing approach;
- Explain credits and waivers;
- Review public involvement;
- Receive feedback; and
- Answer questions.

Mr. Dietrich shared a slide related to the fee amount. During the preliminary studies with T-O Engineers and Zions Bank, the Council looked at a \$7.50 per equivalent residential unit (“ERU”). Since then, updated data and revenue projections had been done. Based on the fee selected by the City Council, a certain amount of revenue would be generated. The lower the fee, the lower the amount of revenue that would be generated.

To handle all of the necessary capital improvements as well as regulatory compliance and administration, approximately \$1.7 million was needed per year. Mr. Dietrich overviewed some of the different options. For instance, \$7.50 per ERU would have a fee revenue of approximately \$1.1 million with an additional \$560,000 needed from the General Fund. \$11.21 per ERU would cover the \$1.7 million needed. The City Council had the option to underfund and take the capital improvements much slower.

The next slide related to billing. Mr. Dietrich reported that the plan was to utilize Rocky Mountain Power for this. Negotiations were ongoing, but there had been positive feedback so far. He noted that there had been discussions about quarterly billing. However, Rocky Mountain Power bills monthly, so it made sense to move forward with monthly billing.

Mr. Dietrich shared a slide related to customer classes. The customer classes were a way to simplify administration but also be equitable to the customers. He explained that the billed amount was based on how much impervious space a customer had. For instance, driveways, sidewalks, and patios. Mr. Dietrich stated that the ERUs are defined as:

- 5,000 square feet of impervious area (5,000 square feet of impervious area = 1 ERU)

There were five different customer classes, which included the following:

- Class 1: Typical Single-Family Residences;
- Class 2: Large Lot Single-Family Residences;
- Class 3: Stacked Multi-Family Residences;
- Class 4: Non-Stacked Multi-Family Residences; and
- Class 5: Commercial/Institutional/Civic/Mixed-Use/Other.

Class 1: Typical Single-Family Residences related to single-family residences with lots under 0.5 acres, an average impervious area of 4,000 square feet, and 0.8 ERUs. If a \$7.50 fee was adopted, the Storm Water Fee would be approximately \$6 per month.

Class 2: Large Lot Single-Family Residences related to single-family residences with lots over 0.5 acres, an average impervious area of 8,200 square feet, and 1.6 ERUs. If a \$7.50 fee was adopted, the Storm Water Fee would be approximately \$12 per month.

Class 3: Stacked Multi-Family Residences related to condominiums and apartments. This class has an average impervious area of 1,300 square feet and 0.3 ERUs. If a \$7.50 fee was adopted, the Storm Water Fee would be approximately \$2.25 per month.

Class 4: Non-Stacked Multi-Family Residences related to townhomes and duplexes. This class included an average impervious area of 2,500 square feet and 0.5 ERUs. If a \$7.50 fee was adopted, the Storm Water Fee would be approximately \$3.75 per month.

Class 5: Commercial/Institutional/Civic/Mixed-Use/Other included things like parks, cemeteries, restaurants, office buildings, and schools. Each of the Class 5 customers were unique and so the area would undergo a custom calculation. The impervious area would be mapped out using aerial imagery and divided by 5,000 square feet per ERU. Mr. Dietrich shared possible examples. For instance, City Hall has an impervious area of 173,000 square feet and 34.6 ERUs. If a \$7.50 fee were adopted, the Storm Water Fee would be approximately \$295.50 per month.

Mr. Dietrich shared a slide related to credits. He explained that the purpose of the credits was to create more equity in the fee. Some customers have their own private detention basins and do not utilize the detention basins that the City maintains. Credits are a way to acknowledge that some users participate in assisting the storm water system. The credits would be a percentage reduction off of the storm water fees. There were several potential credits, such as:

- Private detention;
- Private retention;
- Private 80<sup>th</sup> percentile storm retention;
- Private low impact development (“LID”) storm treatment:
  - Bioswale;
  - Vegetated strip;

- Infiltration trench;
- Dry well;
- Infiltration galleries;
- Rain harvest and reuse.
- Private conventional storm treatment; and
- Facilities personnel training.

There would be a maximum credit allowed of approximately 50%. Mr. Dietrich reported that an analysis was being done to ensure that there was a defensible number. However, 50% was typically the maximum amount of credit permitted.

Mr. Dietrich also discussed the waiver program. He explained that the waiver program would be for two identified purposes. One would be due to hardship. If someone was under financial duress, the plan was to offer waivers in 12-month increments. To make sure that the administration side was straightforward, the citizen would simply need to present proof that they qualified for some other type of public assistance, such as Electronic Benefits Transfer (“EBT”) or the Salt Lake County Hardship Tax Relief Program. The second purpose for a waiver was for those that were active-duty deployed members of the military.

Public involvement included working with the social media team to provide content and share updates with the public. There was also a website that included frequently asked questions, a newsletter, and a scheduled public open house. Mr. Dietrich reported that the public open house was scheduled to take place on April 19, 2021. They would receive comments from the public as well as answer any outstanding questions. Mr. Dietrich shared next steps with the City Council including the following:

- Coordinate with Rocky Mountain Power;
- Finalize the customer list;
- Value each of the credits;
- Continue with public involvement; and
- Public open house.

Mayor Peterson looked at the Storm Water Fee process similar to the Truth in Taxation process that the City went through a few years ago. Best estimates for an efficient program would be put together followed by public comment. However, he noted that after the public comment period, the City Council would have every right to adjust the policy and recommended amount. Mayor Peterson wondered what Rocky Mountain Power would charge to handle billing. Mr. Dietrich reported that Mr. Shipp received rough estimates and it would be approximately 36 cents per bill. There would also be start-up fees for the databases, which would be charged at an hourly rate.

Mayor Peterson asked if the City needed to have a full-time person to handle credits, accounts, and billing. He wondered who would manage the program from an accounting and reconciliation standpoint. Mr. Shipp stated that the credits would be reviewed internally by engineering, but Rocky Mountain Power would do the bulk of the work. Staff had discussed hiring someone full-time to handle billing and take care of other needs for the City, but at the current time, they had

chosen to work with Rocky Mountain Power. Mr. Shipp explained that the majority of the administrative work would be handled by Rocky Mountain Power. The City would collect the data and send it to them. Mr. Dietrich reported that the previously identified \$1.7 million budget included enough revenue to cover the cost of Rocky Mountain Power and a part-time person to take care of reconciliation or other City responsibilities. Mr. Shipp added that Rocky Mountain Power would report monthly and annually with reconciliation statements.

Council Member Tali Bruce mentioned previous discussions about offering a credit for homes that xeriscape their yard. Mr. Dietrich noted that the City Council has a lot of discretion but xeriscaping would not affect the storm water released into the system. It was better suited to conservation and water source preservation than the Storm Water Fees. He felt that the LID credits would be more appropriate and would check a similar box.

Council Member Douglas Petersen asked about the projections. Mr. Dietrich explained that the previous studies projected the total amount of impervious area that was expected to exist in Cottonwood Heights. However, there had since been an analysis of the whole City and they now know how many customers would be paying. It was a smaller number than what was originally projected. The City Council had the option to underfund the storm water needs and supplement with the General Fund or take a different path with respect to capital improvements. The City Council also had the option to choose the \$11.21 per ERU fee to meet the projected storm water revenue needs based on the existing customer base.

Council Member Bruce wondered whether there was a historical average to show what the City had spent from the General Fund on storm water. Mr. Tingey explained that a historical average was not included in the slide presentation. He noted that there had been times where both operational and capital costs had been in the \$600,000 range. It fluctuated from year to year depending on the specific projects that need to be addressed.

Council Member Bracken was uncertain about publicizing a \$7.50 per ERU fee when most people would not actually pay that much. He felt it would be easier and more transparent to understand from a public standpoint if the ERU was refined based on the 0.5-acre properties or 4,000 square feet.

. Council Member Bruce agreed and felt it would be more simplistic to convey. Mr. Dietrich reported that it would be simple to redefine the numbers if desired by the City Council.

Council Member Bracken asked if the waiver would be a permanent foregoing or if payment of the fee would be postponed. Mr. Dietrich explained that typically the waiver involves foregoing revenue for a certain period of time. Those that qualified would have the waiver applied for 12 months. In order to qualify again, they would need to come back and requalify for an additional 12 months. Council Member Bracken wondered whether there would be separate bills for common areas in condominiums. Mr. Dietrich explained that common areas were rolled into each individual unit.

Council Member Petersen reported that he had been contacted by one of the managers of a multi-unit apartment project. He was concerned that they would need to be the collectors of the fee. Council Member Petersen wondered how collections would work for multi-unit properties.

Mr. Dietrich explained that there would be some flexibility for more unique properties. For instance, it may make more sense to place a specific property into a Class 5 or a Class 3, depending on the specifics. He discussed potential scenarios and stated that the action item at the end of the slide presentation related to the finalization of the customer list. There was still work to be done.

Mayor Peterson felt that the information presented was helpful and offered additional clarity. He appreciated the work done by Mr. Shipp, Mr. Dietrich, and Ms. Fica.

**b. Gravel Pit Discussion – Community and Economic Development Director, Michael Johnson.**

Mr. Johnson reported that the gravel pit discussion would include an overview of the project so far and address some of the items that the City Council had questions and concerns about. For example, the traffic impacts on the City of Holladay area to the north and the building massing. Mr. Johnson noted that sensitive lands were also of concern but staff was still finalizing some responses to those questions. There would be further discussions on sensitive lands at the next meeting.

Slides were shared related to the project background. Mr. Johnson explained that pre-application meetings began in early 2018 and the complete application was received in August 2019. Over the past 18 to 20 months, the application had been through an extensive review process. From January to May 2020, the Architectural Review Commission (“ARC”) reviewed the application, made some suggestions that led to changes, and ultimately recommended approval of site design compliance. The Planning Commission process took place from July 2020 to October 2020 and included public comment and feedback to the applicant. In mid-October, the Planning Commission recommended approval with a 5-to-1 vote.

The application was introduced to the City Council in December 2020 and between December 2020 and February 2021 the Council discussed different components of the project. In January and March 2021, the project was discussed with the Parks, Trails, and Open Space Committee for their feedback. The Committee was not required to make a formal recommendation to the Council but were asked to send feedback on the related elements of the development. The feedback had not yet been received. However, Mr. Johnson stated that it would be shared once it was. He reported that staff had been working with the applicant to make sure that all documents were up to date, that changes recommended by the Planning Commission and the ARC had been submitted, and that all documentation was consistent.

Mr. Johnson reported that there were a handful of comments, concerns, and questions received from Mayor Peterson and the Council Members. Staff was working to fully respond to those. Toward the end of the month, the focus would be on putting together a final package.

The anticipated project roadmap was shared with the City Council, which included:

- April 6, 2021, City Council Work Session: discussion on traffic and building massing;
- April 20, 2021:

- Work Session: sensitive lands discussion;
- Business Meeting: public comment.
- April 2021: Full staff response to Council questions and concerns received to date;
- May 4, 2021:
  - Work Session: full project summary, final plans assembled, discussion of any remaining items;
  - Business Meeting: continued public comment.
- May 18, 2021:
  - Work Session: final document (PDZ ordinance and development plan) will be distributed for final City Council review;
  - Business Meeting: schedule project for action.

Mr. Johnson noted that there were numerous steps between the action plan and on the ground development. The site entitlement and the rezone were important first steps. Council Member Bruce expressed concern that sensitive lands would not be discussed until April 20, 2021, when she would be out of town. Mr. Johnson stated that the item could be brought back or moved to the May 2021 City Council Meeting.

There was discussion regarding traffic. Mr. Johnson shared a high-level site plan and showed the current configuration of the intersection at 6200 South off of State Road 190. It turned off to the north and the road leads into the Canyon Cove neighborhood in the City of Holladay. Mr. Johnson reported that most of the road network and proposed changes to the road network were within the Cottonwood Heights limits. However, the development would impact the City of Holladay and the residents that live in the Canyon Cove neighborhood. The majority of public comments received at the Planning Commission level came from residents from that neighborhood, who expressed concerns related to traffic.

Mr. Johnson explained that the original proposal included two new stop signs - one leading in and out of the new project and one across the street. There were concerns that the traffic would not be able to free flow. Through discussion and negotiation with residents, the developer and City of Holladay staff, and officials there was a proposed solution to address those traffic concerns. The developers agreed to remove the stop sign on the northern side of the road to allow traffic coming to and from the north to flow unimpeded. There was discussion regarding the placement of the stop signs.

Council Member Mikell wondered what the traffic study showed in relation to queueing. Mr. Johnson reported that the traffic study did not anticipate a lot of movement straight through from the Upper Wasatch into the new project area. The longest queue that would be created would be when leaving the project area, especially during peak hours. There would be a lot of traffic flowing from the north leaving that area in order to get onto the interstate.

Council Member Mikell asked if a roundabout had been considered. Mr. Johnson reported that the option had been explored but the grade was steep in that area. There was discussion regarding roundabouts and traffic flow. Mr. Johnson noted that due to the topography in the location and various other constraints, a roundabout would not work there. Council Member Mikell wondered

if this was a cost issue. She felt that if a roundabout was the best solution, it should be considered, even if it was more expensive. Mr. Johnson commented that the levels of service would still be well above the minimums. There would not be major traffic issues and a roundabout was not necessarily needed.

Mr. Shipp stated that a three-way stop was originally desired in the area but the residents to the north wanted to keep that as a free right. He added that there had been a lot of previous discussions related to a roundabout. The best location for a roundabout would be located within the City of Holladay limits and Holladay was opposed to the idea. Mr. Shipp made note of the elevation in the area.

Mayor Peterson asked if the current traffic study included projections for further development of the gravel pit. Mr. Johnson commented that traffic needed to be considered both short-term and long-term. When the southern portion of the gravel pit begins to build out, the entire area will be reanalyzed. However, they could not require the developer of the northern 20 acres to accommodate future traffic caused by a potential development to the south.

Mayor Peterson asked about Utah Department of Transportation (“UDOT”) access into the site. Mr. Johnson explained that one of the other concerns related to point of access. When the development was originally proposed, the secondary access point was identified as emergency access only. Staff worked with both UDOT and the developer and pushed for that to be a regular access point. It was entitled and the property was allowed to use it. One of the requirements was that the access where the ski shop was would become a regular access point for the development project until the southern gravel pit develops in the future. When that happens, the project would be entitled to at least three intersections directly off of State Road 190. Mr. Johnson discussed the UDOT Little Cottonwood Canyon Draft Environmental Impact Study (“EIS”) and the possibility of a transit hub. He stated that there was a long-range need to continue to look at the area as the southern property develops. A short-term solution required that secondary access point until the southern piece develops.

Mayor Peterson asked about the residential area to the north and wondered if it was built out. Mr. Johnson stated that the area was in the City of Holladay is largely residential. It seemed fairly built out but he did not know what the long-range plans were. He reported that Holladay had procured funding to do their own version of a Wasatch Boulevard Master Plan. It would focus on the corridor leading to the north that connects Cottonwood Heights to Millcreek. Mr. Johnson commented that as the road network is built out and there is further development, Cottonwood Heights, in collaboration with the City of Holladay, would need to continue to reassess the area.

Council Member Mikell did not believe that the apartment, condominium, and hotel guests would use the other access point. She felt that if there was a better option that was preferred, the City should look into that. She wanted to focus on the right option for the community. Mr. Johnson reported that two roundabout configurations had been explored. One did not work due to geometry and one was further north and not supported by the City of Holladay. The preferred solution was a three-way intersection. However, in order to be sensitive to the concerns of the City of Holladay, it made sense to remove one of the stop signs. The traffic would still flow and traffic studies showed that there would still be a high level of service.

Mayor Peterson noted that staff met on numerous occasions with the City of Holladay and received more feedback from Holladay than the Cottonwood Heights community with respect to the intersection. He believed that the City of Holladay had currently taken a position that they could not support any of the recommendations until the Wasatch Boulevard Master Plan is complete. Cottonwood Heights was unable to wait for the completion of that plan. As a result, they would need to look at the best approach to take now that would still allow some flexibility in the future.

Council Member Mikell wanted to know why there was not an additional turn lane that would head into the hotel, condominiums, and apartments. Mr. Johnson explained that there may be issues with intersection spacing and grading but they could look into the suggestion. Council Member Bruce wondered if the developer could scale back their development to reduce the overall traffic levels. Mr. Johnson stated that the full development would not put any of the roads into a failing condition. The data indicated that there was no need to scale back since the proposal could accommodate the traffic. He added that this was a six or seven-phase development that would take a number of years to complete. He offered to send additional information to the Council for review.

Mr. Johnson discussed the building massing. He acknowledged that there had been concerns related to the condominium height. The condominium building was proposed to be 13 stories tall, which would be approximately 140 feet. The maximum height permitted at that location was 300 feet. Mr. Johnson overviewed some of the language included in the PDD ordinance and the Wasatch Boulevard Master Plan. It encouraged high-density, mixed uses and walkable urban scale developments at the gravel pit. There was a lot of support in the Wasatch Boulevard Master Plan for the building intensity and building height. The ARC, Planning Commission, and staff supported the building height for that reason. While the building massing was unique for Cottonwood Heights compared to previous developments, it made sense in the area.

Tom Henriod and Serra Lakomski from Rockworth Companies shared a slide presentation with the City Council. Mr. Henriod stated that he would be happy to speak with any Council Members about the intersection. He added that Ryan Hales from Hales Engineering could also come back at a future meeting to further discuss the traffic concerns. Mr. Henriod addressed the building height issue and shared various renderings and comparison photos with the City Council. Mr. Henriod believed it was an appropriate location due to the mountain backdrop the Wasatch Boulevard Master Plan.

Mayor Peterson asked what the tallest building was in the Cottonwood Corporate Center, which is the closest commercial area. Mr. Johnson reported that it is six or seven stories or approximately 85 to 90 feet. The proposed condominium would be roughly 140 feet. He noted that context was key because the proposed condominium would be tucked back. Mayor Peterson asked about a view that was shared previously from District 3 down in the Old Mill Valley area. Mr. Johnson shared that image with the City Council. Mr. Johnson asked that any additional questions that Council Members would like staff to address be submitted via email. Staff would try to respond as much as possible by the end of the following week.

c. **City Hall Solar Contract with Creative Energies – Community and Economic Development Director, Michael Johnson.**

Mr. Johnson noted that he shared a brief overview of the item earlier in the Work Session. It related to a contract with Creative Energies, LLC. After going through the RFP process, Creative Energies, LLC was selected due to their comprehensive quote and level of experience. The Rocky Mountain Power Blue Sky grant was needed to make the project appealing from a return-on-investment perspective. The contract with Creative Energies, LLC would require that they submit a grant application on behalf of the City for an 80 to 85 percent subsidy of a solar installation at City Hall. It would also enter into an agreement with Creative Energies, LLC to conduct the work, which would include a structural analysis of the roof, fabrication, installation, and labor.

The total contract price was approximately \$500,000, but with the \$400,000 subsidy that was required to move forward with the project, the cost to the City would be approximately \$100,000. Mr. Johnson reiterated that the contract was contingent upon the following:

- The successful procurement of the Rocky Mountain Power Blue Sky grant at a subsidy rate of 80% or 85% of the total cost; and
- Budget approval from the Cottonwood Heights City Council for the remainder of the expense (anticipated to be approximately \$100,000).

Council Member Bracken noted that when City Hall was built, certain things were made to be solar-ready. He wondered if that was taken into account. Mr. Johnson reported that the contract included a full structural analysis. If that was not necessary, due to work that the City had done previously, the cost could decrease. Mayor Peterson asked if this was part of the Interlocal Sustainability Action Plan, which Mr. Johnson confirmed.

Council Member Mikell pointed out that the Rocky Mountain Power Blue Sky grant website stated that in Utah, the total funds available amount to \$800,000. She felt that obtaining \$400,000 of those funds would be difficult. Mr. Johnson explained that Creative Energies, LLC suggested the \$400,000 number. They were confident that they could procure that amount of funding if the application was submitted shortly. Council Member Mikell wondered what the Rocky Mountain Power Business Manager assigned to the City had to say about the project. Mr. Johnson stated that they could follow up with the Business Manager, but a different division administered the grant. Mr. Johnson reminded the Council that if the grant is not procured, the City is under no obligation to continue with the contract.

**MOTION:** Council Member Bruce moved to adjourn the Work Session and reconvene after the Business Meeting. The motion was seconded by Council Member Petersen. The motion passed with the unanimous consent of the Council.

The Work Session adjourned at 6:57 p.m. and reconvened at 7:53 p.m.

**d. Cottonwood Heights Code of Ordinances Title 14 – Road Standards Discussion – Public Works Director, Matt Shipp and City Attorney, Shane Topham.**

Mr. Tingey reported that City Attorney Shane Topham, Mr. Shipp, and himself had been working on modifications to the Cottonwood Heights Code of Ordinances: Title 14 – Highways, Sidewalks, and Public Places and specifically Chapter 14.16 – Excavations. Mr. Tingey noted that a Right-of-Way Manual was also drafted and sent to the City Council for review. Some of the modifications in the Right-of-Way Manual were outlined. Mr. Tingey stated that a few of the main issues included:

- Micro-trenching;
- Fees; and
- New road moratorium.

Mr. Tingey explained that micro-trenching is a new technique that had not been provided in Cottonwood Heights before. Other cities were considering and implementing it, so Cottonwood Heights wanted to make sure language was in the works to properly define and evaluate micro-trenching. Mr. Tingey explained that they wanted to have fees as well as other necessary elements in place in order to provide inspections. He discussed the new road moratorium and reported that there was not much that would be changed.

Mr. Topham reported that staff became aware of micro-trenching approximately six months ago. They felt it was important to develop a reasoned and thorough approach to deal with micro-trenching as a way to get ahead of the issue. The way they proposed to do that was through amendments to Chapter 14.16 of the Cottonwood Heights Code of Ordinances. He also referenced the Right-of-Way Manual, which included information related to applications for an excavation permit in the public right-of-way, fee structures, bonding amounts, and restoration obligations. It also included technical components. The goal was to protect the public right-of-way to the extent possible.

Some cities, such as Salt Lake City, went through the micro-trenching process several years ago. Staff was able to look at what was done. Mr. Topham overviewed some of the proposed amendments to Chapter 14.16. They included the addition of a definition for “Blue Stakes,” fiber optics, and micro-trenching. The definition for micro-trenching was:

- “Micro-trenching” means a novel process for installing fiber optics (or, potentially, other public utilities) in the public way, including cutting a trench in the public way paving that is (a) not over two inches wide and (b) at least eight inches deep, rather than the typical two-foot-wide pavement cut, to accommodate the permittee’s fiber optics (or other public utility lines).

Mr. Topham outlined further amendments to Chapter 14.16, including a mention to the Right-of-Way Manual, a reference to the Consolidated Fee Schedule, as well as a new section dedicated to micro-trenching. He overviewed 14.16.075 – Micro-Trenching and stated that it would require a

permit, the location would need to be approved by the Public Works Director, and the utility in the micro-trench must be at least eight inches below the surface.

Mr. Topham discussed Item D. He noted that the Code allows abutting landowners to repair their curb, gutter, and sidewalk when it becomes deteriorated. There could be situations where homeowners hire a contractor, that contractor went deeper than eight inches, and accidentally cuts the fiber optic cable. That would be expensive to repair and could cause disruption to those using the utilities. Item D specified that in those instances, the excavator would not be liable for accidental damage to micro-trenched fiber optics or other utilities that are less than 24-inches below the bottom of the pavement. Several conditions were also listed.

Item E proposed to use a separate agreement with the utility company that was essentially a contractual Release and Indemnification Agreement. It would protect the City and individuals from accidents that may occur in connection with the shallow utility lines. There were also amendments relating to bonding. Mr. Topham stated that the amendments to the Cottonwood Heights Code of Ordinances would be the subject of a public hearing followed by a decision by the City Council.

Council Member Bruce wondered how long micro-trenching had been in use. Mr. Topham believed it had been in use for four or five years within the United States. Council Member Bracken asked if micro-trenching was used for anything other than fiber optics. Mr. Shipp was not aware of any other current use. Council Member Petersen asked about cost. Mr. Shipp stated that micro-trenching is less costly to put in. Traditional methods require things like boring or digging up a large trench. Discussions were had about the micro-trenching process. Mr. Shipp explained that the original micro-trenching depth was four inches and was inside the asphalt. The new process ensured that it had a depth of at least eight inches.

Mayor Peterson expressed concern related to restoration. He wanted to ensure that whatever utility provided installation would return the public right-of-way or road to the original condition. Mr. Shipp discussed what the Right-of-Way Manual said about laterals (from one side of the road to the other). It specified that there would be a two-foot patch. Example images were shared with the City Council. Mr. Tingey stated that the patch component was built into the manual but there was also a reference to an exception that was outlined in the agreement. The utility provider would provide ongoing maintenance of the work if they did not do the patch work.

Mayor Peterson asked Mr. Shipp if he was comfortable with the approach. Mr. Shipp noted that staff had worked hard to include certain protections. However, he had some reservations. He did not feel that the micro-trenching had been done long enough to have good data. Mayor Peterson asked for clarification about the placement of the micro-trenching. Mr. Shipp explained that the preference was to have it take place next to the gutter wall or face of the curb.

Mr. Topham commented that ultimately, there would be a risk-benefit analysis that the City Council would need to consider. Staff could see risks with micro-trenching that could not be mitigated through language. There was nothing that could make this risk-free, as the approach came with a much larger risk than any other technique that had been done in the City previously. The Council would need to determine whether the desire to have a particular utility provider in the

City was worth the risk to City infrastructure. Mr. Topham addressed Item E again, which relates to the Release and Indemnification Agreement. He stated that micro-trenching is a novel technique and staff was doing their best to mitigate risk recognizing that there may be pushback from providers.

Mayor Peterson wondered if the Right-of-Way Manual was part of the ordinance. Mr. Topham explained that the Right-of-Way Manual was incorporated by reference into the ordinance. Since it contains construction standards, application processes, and the fee schedule, it was an important component of the chapter.

Mayor Peterson pointed out that Item F specifies that the Right-of-Way Manual is subject to amendment by the Manager and Director. He wondered who held those positions. Mr. Topham clarified that it meant the City Manager and the Director of Public Works. Discussions were had about approving subsequent amendments to the Right-of-Way Manual. Mayor Peterson felt that the manual should have City Council review for future amendments.

Council Members discussed potential concerns related to micro-trenching. Council Member Mikell commented that she could not support something like this unless Item E is included. She would feel better waiting a few years to pass the ordinance to see what happens in other cities. Council Member Bruce asked staff to look into the ramifications that New York faced. Council Member Bracken was interested in the experience Salt Lake City had. He was optimistic about micro-trenching but felt there needed to be further discussion.

Mr. Topham reported that the version of the items that the City Council was seeing had been softened considerably from where staff originally started. This was in an effort to find a middle ground. However, staff was told that they had not gone far enough. He stated that there may be increased pressure from residents who wanted access to particular utility services but did not understand the long-term risks it may pose to the public infrastructure.

Council Member Mikell wondered if there was a phased approach taken by the utility providers. Mr. Tingey stated that there was a phased approach, but the goal of the providers was to get the work done quickly. Council Member Mikell also wondered if it would be possible to receive input from citizens. Mr. Tingey stated that there could be a community survey that would allow the City Council to gain insights about the trade-offs citizens were willing to look at regarding these types of services. Council Member Bruce wondered if it would be possible to find out which of the surrounding cities had entered into agreements with utility providers for micro-trenching. Mr. Tingey reported that the information could be provided to the City Council.

Mayor Peterson commented that the City Council would like additional information. Mr. Tingey stated that he received enough feedback from the Council Members. Staff would conduct additional research and come back to the City Council for further discussion.

5. **Review of Calendars and Upcoming Events.**

- a. **April 21 to 23 – Utah League of Cities and Towns Annual Conference- Saint George, Utah.**

Mayor Peterson reminded the City Council that the Utah League of Cities and Towns' Annual Conference is scheduled for April 21 to April 23, 2021.

6. **Possible Closed Meeting to Discuss Litigation, Property Acquisition, and/or the Character and Professional Competence or Physical or Mental Health of an Individual.**

There was no Closed Meeting.

7. **Adjourn City Council Work Session.**

**MOTION:** Council Member Bracken moved to adjourn. The motion was seconded by Council Member Bruce. The motion passed with the unanimous consent of the Council.

The Work Session adjourned at 8:47 p.m.

**MINUTES OF THE COTTONWOOD HEIGHTS CITY COUNCIL BUSINESS MEETING HELD TUESDAY, APRIL 6, 2021, AT 7:00 P.M. THE MEETING WAS HELD ELECTRONICALLY, WITHOUT A PHYSICAL LOCATION, AS AUTHORIZED BY UTAH CODE ANNOTATED §52-4-207(4).**

**Members Present:** Mayor Mike Peterson, Council Member Scott Bracken, Council Member Tali Bruce, Council Member Christine Mikell, Council Member Douglas Petersen

**Staff Present:** City Manager Tim Tingey, City Attorney 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 Jurges, Communications Manager Lindsay Wilcox, Assistant Police Chief Paul Brenneman, Senior City Planner Andrew Hulka

**BUSINESS MEETING**

**1.0 WELCOME AND DETERMINATION**

**1.1 Mayor Peterson, as the Chair of the City Council, will Read the Written Determination Concerning an Anchor Location for this Electronic Meeting During the Current Pandemic, Pursuant to Utah Code Annotated §52-4-207(4).**

Mayor Mike Peterson called the meeting to order at 7:03 p.m. He read in its entirety the determination giving the Council the authority to hold the meeting via Zoom, pursuant to Utah Code Annotated §52-4-207(4).

**2.0 PLEDGE AND ACKNOWLEDGEMENTS**

Council Member Christine Mikell led the Cottonwood Heights City Council in the Pledge of Allegiance.

**3.0 CITIZEN COMMENTS**

Mayor Peterson opened the citizen comment period.

City Manager, Tim Tingey reported that written comments were submitted prior to the meeting and admitted into the record. The comments had been forwarded to the Council Members.

*Wendy Van Winkle* submitted information regarding traffic on Fort Union Boulevard.

*Lee Anne Walker* shared comments related to Ferguson Canyon, particularly rattlesnakes near the area that the City was looking to develop the parking and park area.

Mayor Peterson invited additional citizen comments.

*Timothy Hallbeck* found the discussions during the Work Session to be interesting. He appreciated the information related to access lanes for the gravel pit development. Mr. Hallbeck shared some jokes with the City Council.

*Robert Hortin* thanked staff for the clarification included in the Work Session regarding ERUs. He was present representing the Waterside Condominiums and thanked staff and the City Council that had taken his calls and returned messages from him. Mr. Hortin noted that there had been some discrepancy surrounding who would be billed as Class 3. He asked for additional clarification and discussed condominium-specific issues. Mayor Peterson commented that there would be further communication about unique situations.

There were no further citizen comments. Mayor Peterson closed the citizen comment period.

#### **4.0 STAFF QUARTERLY REPORTS**

##### **4.1 Police Report – Police Lieutenant Dan Bartlett.**

Police Lieutenant Dan Bartlett presented the Quarterly Report and stated that according to the March 2021 Statistical Report, there were 1,458 calls for service and 347 on view calls. The average travel and dispatch times remained about the same. He stated that this was something they had been working on for a while and they would continue to try to get the Priority One call times down to one minute and Priority Two call times down to two minutes. Lieutenant Bartlett shared the overall Uniform Crime Reporting UCR Program crime report for the month. He noted that the number of stolen vehicles rose significantly. He reported that there was a group in the City that may be responsible. The police believed they had identified the group and were working to resolve the issue as quickly as possible.

Lieutenant Bartlett reported on the number of arrests for the month of March. He stated that juvenile arrests were higher than normal due to an incident involving an after-school fight. The traffic citations were at 243, with 89 warnings and five DUIs for the month of March. The number of accidents was down slightly. Lieutenant Bartlett commented that there were typically between 20 and 32 accidents every month. The number of injury accidents were back down. An overview for January, February, and March 2021 was shared.

Information related to Code Enforcement calls was overviewed. Lieutenant Bartlett stated that they were being more proactive with ordinance enforcement and working to handle issues related to short-term rentals. He reported that there was one unattended death in March. Lieutenant Bartlett shared information related to distracted driving. The State has a campaign for Distracted Driving Month and Lieutenant Bartlett wanted to remind people about the three types of distracted driving. He asked everyone to be careful on the roads.

Council Member Mikell asked if the Police Department would be supportive of legislation that would make it illegal to text and drive. Lieutenant Bartlett noted that people cannot currently text and drive, but they would be supportive of any bill that would increase traffic safety in the City. Council Member Mikell wondered if the City Council could work with their Lobbyists on legislation related to traffic safety. Mayor Peterson noted that the City Council could raise that question and see if there was safety-related legislation to support.

Discussions were had about the March response times. Lieutenant Bartlett explained that this was something they were continually working on. He reported that they work with Salt Lake Valley Emergency Communications Center (“VECC”) and the Police Chief meets with them regularly. Based on the March response times data, the Priority One and Two calls require the same amount of time on the dispatch side. Between the dispatch and travel times, there were approximately 10-minute wait times. The goal was to have four to five-minute response times instead. Council Member Petersen wondered if there was movement in the right direction with VECC. Lieutenant Bartlett commented that they were trying to work with VECC so the Dispatcher knows that they want the information out as soon as possible. For instance, when the call comes in, they want the information right away so officers can be dispatched immediately.

Police Chief, Robby Russo reported that this was a transition period where some staff was trained on the Spillman dispatching software and others were trained on the Versaterm dispatching software. Chief Russo also explained that there were previous issues at VECC where some of the Unified Police Department (“UPD”) agencies had a policy that a call could be held for six to eight minutes before advising a supervisor that a call was in queue. He believed that issue had been resolved. One of the current issues had to do with the fact that priority one calls would go to Unified Fire Authority (“UFA”) first. When those times were added together, it appeared that the police took a long time to arrive, when in reality, it was because fire was dispatched first. Chief Russo commented that the response times were not what they would like them to be.

Mayor Peterson noted that Mr. Tingey represents Cottonwood Heights on the VECC Board. Mr. Tingey agreed with what had been said. He had hoped the numbers would have started to get better, but they had not. Mr. Tingey believed that once the full transition was made to Versaterm, it would make a difference. However, the numbers needed to be better and that had been emphasized by the Board. Mayor Peterson assumed every jurisdiction was dealing with the same challenges. Lieutenant Bartlett confirmed this and expressed his frustrations. Discussions were had about the reasons certain call times may be longer than others.

Council Member Bracken wondered if median call times could be shared rather than the averages. Lieutenant Bartlett commented that next month, they would share an example of a longer call time that threw the average time off as well as a shorter call time. This would give the City Council a better understanding of the differences. Mayor Peterson appreciated that the Police Department was working on these issues and thanked Lieutenant Bartlett for keeping the Council Members informed.

Council Member Bruce reported that SafeWise recently released their ranking of the safest Utah cities and Cottonwood Heights came in at number 26. She wondered if that ranking was typical. Lieutenant Bartlett noted that the SafeWise rankings are based off on the UCR. He noted that the

numbers could be skewed and adjusted to make the City rank higher, but he did not believe in doing that. He would never alter the UCR because it was a true statistic.

Council Member Bruce wondered if other cities were altering their crime reports. Lieutenant Bartlett denied this but stated that it was possible to alter numbers and Cottonwood Heights would not do that. He believed the City was very safe and the police department worked every day to try to reduce the UCR numbers. Council Members further discussed the SafeWise list. Mayor Peterson noted that the SafeWise list was worth looking into and he appreciated that Council Member Bruce brought it up during the meeting.

#### **4.2 Public Works Report – Public Works Director, Matt Shipp.**

Public Works Director, Matt Shipp shared the Public Works Report and overviewed the Operations and Maintenance Division. He showed statistics related to snow, salt use, and miles traveled. Mr. Shipp stated that the Storm Drain Division continued to meet the federal mandates. As issues arise, they are able to take care of them using camera pipes and cleaning. He overviewed the Engineering Division updates:

- Wasatch Park and Ride:
  - The final design for the project was underway;
- Ferguson Canyon Park:
  - The design firm had been chosen and they were now moving forward with a design;
- Bengal Boulevard Roundabout:
  - All properties had been obtained and the bid process would begin in April 2021. It was still on track to begin construction in the summer;
- Scottish Drive Subdivision:
  - The project was scheduled to begin in May 2021 and notifications would go out to all of the residents;
- Storm Water Fee:
  - Ongoing discussions and progress being made with the policy;
- 2020-2021 Maintenance Projects (3<sup>rd</sup> Year):
  - Crack sealing continued to be worked on for the third year of the 5-year road maintenance program;
  - Slurry would begin in May 2021.
- Funding Obtained:
  - The City applied for and received funding for the sidewalk and bicycle path on Bengal Boulevard between Highland Drive and 2160 East. The project would be done in conjunction with the Bengal/Highland intersection project;
  - Did not obtain funding for the sidewalk on 1700 East;
- Construction Projects on the Books for the Calendar Year:
  - Bengal Boulevard Roundabout;
  - 2020/2021 slurry seal projects;
  - 2021/2022 crack seal (year 4 of the 5-year program);
  - Striping;
  - Scottish Drive reconstruction;

- 1950 East reconstruction;
- TRCC projects:
  - Wayfinding signs;
  - Big Cottonwood Trail reconstruction;
- Wasatch Boulevard parking lot;
- Ferguson Canyon Park;
- 7200 South resurfacing;
- 2700 East sidewalk;
- Storm water project.

Council Member Bracken asked about the price range for a small project. Mr. Shipp explained that anything under \$20,000 would be considered small. Council Member Petersen asked about the denial for funding the sidewalk on 1700 East. He wondered what else could be done to ensure that funding was granted in the future. Mr. Shipp commented that he needed to meet with Wasatch Front for a debriefing to understand what could be done to improve the chances of obtaining that funding. There was still work to do, but they would continue to apply for the funding because they felt it was important. Mr. Shipp noted that even if the funding was granted, it would still be 3-to-5 years out once that funding was awarded.

Council Member Bruce asked about the cost of the 1700 East sidewalk. Mr. Shipp stated that it was between \$250,000 and \$300,000. Mr. Tingey noted that there were lower-level things that could be done. Mayor Peterson stated that the item could be brought back through the budget process if the City Council chose to do so.

Mayor Peterson asked Mr. Shipp for clarification related to two items on the construction projects list. Mr. Shipp pointed out the 2700 East sidewalk and the wayfinding signs on a map. Mayor Peterson felt that good progress was being made and thanked Mr. Shipp for his presentation.

Council Member Mikell wondered if the name Wasatch Park and Ride could be changed. Mr. Shipp reported that the project had a PIN number with UDOT and there was a title attached to it called Park and Ride. However, the title was something that could be discussed in the future. Mayor Peterson felt that Council Member Mikell made a good point. The Council discussed potential names.

## **5.0 ACTION ITEMS**

### **5.1 Consideration of Resolution 2021-14 Approving Entry into an Independent Contractor Agreement with Creative Energies, LLC.**

**MOTION:** Council Member Bruce moved to approve Resolution 2021-14 Approving Entry into an Independent Contractor Agreement with Creative Energies, LLC. The motion was seconded by Council Member Petersen. Vote on motion: Council Member Mikell-Aye, Council Member Bracken-Aye, Council Member Petersen-Aye, Council Member Bruce-Aye, Mayor Mike Peterson-Aye. The motion passed unanimously.

**6.0 CONSENT CALENDAR**

**6.1 Approval of the City Council Work Session and Business Meeting Minutes for March 16, 2021.**

**MOTION:** Council Member Bruce moved to approve the City Council Work Session and Business Meeting Minutes for March 16, 2021. The motion was seconded by Council Member Mikell. Vote on motion: Council Member Mikell-Aye, Council Member Bracken-Aye, Council Member Petersen-Aye, Council Member Bruce-Aye, Mayor Mike Peterson-Aye. The motion passed unanimously.

**7.0 ADJOURN CITY COUNCIL BUSINESS MEETING.**

**MOTION:** Council Member Bracken moved to adjourn the City Council Business Meeting and reconvene the Work Session. The motion was seconded by Council Member Petersen. The motion passed with the unanimous consent of the Council.

The meeting adjourned at 7:53 p.m.

*I hereby certify that the foregoing represents a true, accurate, and complete record of the Cottonwood Heights City Council Work and Business Meetings held Tuesday, April 6, 2021.*

Teri Forbes

Teri Forbes  
T Forbes Group  
Minutes Secretary

Minutes Approved: April 20, 2021