

MINUTES OF THE COTTONWOOD HEIGHTS CITY COUNCIL MEETING HELD TUESDAY, MAY 22, 2012, AT 7:00 P.M. IN THE COTTONWOOD HEIGHTS CITY COUNCIL CHAMBERS

Members Present: Mayor Kelvyn Cullimore, Councilman Tee Tyler, Councilman Scott Bracken, Councilman Mike Peterson, Councilman Mike Shelton

Staff Present: City Attorney Shane Topham, Community and Economic Development Director Brian Berndt, Public Relations Specialist Stephanie Archibald, City Engineer Brad Gilson, Chief Robby Russo, Assistant Chief Mike Watson, Public Works Director Mike Allen, Finance Director Steve Fawcett, Deputy City Recorder Kory Solorio

**1.0 WELCOME/PLEDGE/ACKNOWLEDGEMENTS**

- 1.1 Mayor Cullimore called the meeting to order at 7:00 p.m. and welcomed those attending.
- 1.2 Councilman Mike Shelton led the Pledge of Allegiance.

**2.0 CITIZEN COMMENTS**

- 2.1 Jared Johnson, representing YESCO, stated that he deals with regulatory affairs and addresses questions regarding electronic signs and billboards throughout the country. He reported that the first electronic billboard was installed over a decade ago in preparation for the Olympics, noting that there are ways to appropriately and properly regulate them. He considered a temporary moratorium to be unnecessary and hasty. He expressed interest in participating in the process and will make himself available to help.
- 2.2 Leslie Van Frank, attorney representing Reagan Outdoor Advertising, questions the countervailing public interest referred to in the moratorium. She said that the YESCO submittals showed no adverse traffic effects, and the electronic billboards tend to be less bright than regular poster billboards. Ms. Van Frank noted that they had not received notification of public meetings and asked to be provided notice in the future.

City Attorney, Shane Topham said that no request for notice was in the possession of the City. He asked that Ms. Van Frank watch the agendas going forward and informed her that the matter will be remanded back to the Planning Commission for further work.

- 2.3 Dewey Reagan, President and General Manager of Reagan Outdoor Advertising, said he was 90% certain his company had sent at least one request for notice to the City. He stated that he was not notified of the Planning Commission meeting and would have been present to participate had he known. He asked if the action being considered by the City was in response to citizen complaints or concerns.

Mayor Cullimore stated that the billboard issue was recently discussed at a Utah League of Cities and Towns meeting. Cities were reminded that if an ordinance was not in place specifically governing the use of electronic billboards and an application was submitted to convert an existing billboard to an electronic one, the city's options would be very limited in regulating that process. The Council felt now was an ideal time to impose a moratorium and address any issues due to the fact that there were no applications in process, and any action would not prejudice an application. Rather clear guidelines could be established before an application is submitted. He explained that the process could be completed in a timely manner and not adversely impact any of the sign companies in the City.

- 2.4 Mr. Topham said it is his understanding that Reagan Outdoor Advertising filed a lawsuit against Murray City asking for a declaratory judgment that Murray is required to accept and approve an application for a new electronic billboard or billboard conversion. He explained that the lawsuit asserts that Murray City's ordinances don't prohibit or provide guidelines, and that filing has probably had an effect on the timing of this process in Cottonwood Heights. He further explained that the intent of the City is to have the ordinance reviewed and get guidelines on the books, so that a process will be in place for electronic billboards and conversions.

Mr. Reagan expressed a desire to be involved in the process.

### 3.0 PUBLIC HEARING

#### 3.1 **Hearing to Receive Input on (a) the Proposed Amended Budget for Cottonwood Heights for the Period of 1 July 2011 through 30 June 2012; and (b) the Proposed Budget for Cottonwood Heights for the Period of 1 July 2012 through 30 June 2013**

- 3.1.1 **MOTION:** Councilman Bracken moved to open the public hearing. The motion was seconded by Councilman Peterson and passed unanimously on a roll call vote.

- 3.1.2 Mayor Cullimore explained that this public hearing is being held as required by state law to receive comment on changes to the City's budget for the period ending June 30, 2012, and for the proposed budget which runs July 1, 2012 through June 30, 2013. The City proposes a budget of approximately \$14 million with approximately 90% of revenue comprised 50% each of property tax and the other half from sales tax.

- 3.1.3 No public comments were given.

- 3.1.3 **MOTION:** Councilman Shelton moved to close the public hearing. The motion was seconded by Councilman Tyler and passed unanimously on a roll call vote.

### 4.0 REPORTS/PRESENTATIONS/PROCLAMATIONS

#### 4.1 **Standing Monthly Reports**

##### **Monthly Financial Report**

- 4.1.1 Finance Director Steve Fawcett presented the monthly financial report for the month of April. The quarter ended with the City in a good financial position and the fiscal year is expected to end positively. Mr. Fawcett is anticipating an increase in the general fund balance over and above what has already been appropriated; noting that a significant portion of the capital projects fund balance was used to construct Mountview Park at a cost of approximately \$2.42 million.

With respect to revenue, Mr. Fawcett said that business license revenue was expected to end roughly 5% below budget; sales tax has been positive for the previous three months; and property tax is reported to be slightly better than in past years.

- 4.1.2 Councilman Bracken questioned the judicial court expenditures.

Mr. Fawcett reported that the court revenue is above budget and will be adjusted before year end for both the expenses and revenue. Court revenue depends on the type of offense and can vary greatly.

- 4.1.3 Mayor Cullimore asked Mr. Fawcett to comment on the letter the City received from the State Auditor's office.

Mr. Fawcett said the Auditor's office monitors the city's annual financial report and budget. State statute does to allow a fund balance of greater than 18% to be accumulated without appropriating enough of the balance to bring the of the fund balance to below 18%. Cottonwood Heights ended fiscal year 2011 with a fund balance of 19.66%. The amount appropriated from that level will bring the fund balance to 16%. The Auditor interprets the statute to mean that the appropriation of fund balance must occur in the same year the city receives it. Since we failed to do that, we ended the year with more fund balance than is allowed and the Auditor sent a letter noting that exception. The City's external auditors made no comment about it being potentially out of compliance. They also indicated that they would not make any comment regarding the discrepancy.

Mayor Cullimore encouraged Mr. Fawcett to make the appropriations necessary prior to the end of the fiscal year to discourage the State Auditor from sending a second letter. Although if we are going to be out of compliance it is better that we are guilty of having too much fund balance than not enough.

### **Unified Fire Report**

- 4.2.1 Assistant Chief Mike Watson presented the statistics for April 2012. He reviewed the April call volume showing Station 110 as number five in total calls and Station 116 as number twelve in total calls. Fire calls were slow for April, but medical calls were very busy. The top medical calls for April were falls, traumatic injuries, and psychiatric calls.

Station 116 closed with 57 Advanced Life Support calls (ALS) resulting in 24 transports; and two Basic Life Support (BLS) calls resulting in two transports. Station 110 closed with 106 ALS resulting in 42 transports; and ten BLS calls resulting in five transports.

Chief Watson reviewed customer service at Stations 116 and 110 and reviewed general safety and campfire safety due to the upcoming holiday weekend.

Mayor Cullimore passed along a message from a family who commended UFA firefighters for their immediate response and ability to effectively do their job. Fire Department personnel were described as courteous, respectful, and very professional.

## **5.0 ACTION ITEMS**

### **5.1 Consideration of Resolution No. 2012-25 Approving an Activity Contract with Buck Wild Mechanical Bulls, LC for 2012 Butlerville Days**

- 5.1.1 Discussion and approval of Resolution No. 2012-25 was postponed to a future meeting.

### **5.2 Consideration of Resolution No. 2012-26 Approving Entry into an Easement Agreement with Cabco Cottonwood, LLC for the Big Cottonwood Canyon Trail**

- 5.2.1 Mayor Cullimore explained that the proposed resolution would approve an Easement Agreement with Cabco Cottonwood, LLC for the Big Cottonwood Canyon Trail. The easement was negotiated at a prior date, but not recorded.
- 5.2.2 **MOTION:** Councilman Peterson moved to adopt Resolution Number 2012-26. The motion was seconded by Councilman Tyler and passed unanimously on a roll call vote.
- 5.3 **Consideration of Resolution No. 2012-27 Approving Employment of Larson & Rosenberger, LLP as Independent Auditor of the City's Financial Records**
- 5.3.1 Mayor Cullimore reported that the proposed resolution is to approve Larson & Rosenberger as the City's independent auditors. The proposed agreement would make it possible to renew the contract for up to four years.
- 5.3.2 **MOTION:** Councilman Tyler moved to adopt Resolution Number 2012-27. The motion was seconded by Councilman Shelton and passed unanimously on a roll call vote.
- 5.4 **Consideration of Ordinance No. 189 Establishing Temporary Land Use Regulations for Conversion to or Erection of Electronic Signs and Commencing Proceedings to Amend Ordinances**
- 5.4.1 Mayor Cullimore explained that various issues recently have arisen regarding whether and to what extent signage should be allowed to be in an electronic format, and that there are issues surrounding their potential impact on vehicular traffic, the aesthetics of the City, the impact on residential neighborhoods, and the need for signage by the business community. The proposed temporary zoning regulation will allow the Council to review the city's ordinances concerning electronic signage and ensure it is up to date and that it appropriately addresses the issues raised by digital signage. Input from the billboard industry and from citizens will be sought. It was noted that this land use regulation requires the finding of a compelling countervailing public interest, which is evident because adoption of the proposed temporary zoning regulation will preserve the City's ability to study the impact of electronic signs, and will allow the City to ensure that its standards for electronic signs are consistent with Utah state law and with best practices. Mayor Cullimore stated that the Council has an obligation to the citizens to study the issue thoroughly.
- 5.4.2 Councilman Bracken and Councilman Peterson agreed that the six-month time will be useful and give both sides the ability to communicate.
- 5.4.3 **MOTION:** Councilman Bracken moved to adopt Ordinance Number 189. The motion was seconded by Councilman Peterson and passed unanimously on a roll call vote.
- 6.0 **CONSENT CALENDAR**
- 6.1 **Approval of May 8, 2012 Minutes**
- 6.1.1 The minutes stood approved.
- 7.0 **ADJOURN BUSINESS MEETING AND RECONVENE WORK SESSION IN ROOM 250**
- 7.1 **MOTION:** Councilman Bracken moved to adjourn and reconvene the work meeting. The motion was seconded by Councilman Shelton and passed unanimously on a roll call vote. The business meeting adjourned at 8:00 p.m.

