

**MINUTES OF THE COTTONWOOD HEIGHTS CITY COUNCIL WORK SESSION
HELD TUESDAY, OCTOBER 6, 2020, AT 5:00 P.M. THE MEETING WAS HELD
ELECTRONICALLY, WITHOUT A PHYSICAL LOCATION DUE TO THE CURRENT
COVID-19 PANDEMIC AND AS AUTHORIZED BY THE GOVERNOR’S EXECUTIVE
ORDER DATED 18 MARCH 2020**

Members Present: Mayor Pro Tempore Scott Bracken, Council Member Christine Mikell, Council Member Tali Bruce, 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/Economic Development Director Michael Johnson, Public Works Director Matt Shipp, Finance and Administrative Services Director S. Scott Jorges, Assistant Police Chief Paul Brenneman, Senior City Planner Andrew Hulka

Excused: Mayor Mike Peterson

1. Welcome – Mayor Pro Tempore, Scott Bracken.

In the absence of Mayor Peterson, Mayor Pro Tempore Scott Bracken called the meeting to order at 5:00 p.m. and welcomed those listening. 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. Review of Business Meeting Agenda – Mayor Pro Tempore, Scott Bracken.

Mayor Pro Tem Bracken reviewed the Business Meeting Agenda.

Community and Economic Development Director, Michael Johnson reported that the public comment agenda item was for consideration of a City-initiated request for a minor technical edit to the “Applicability” Section of the Outdoor Lighting Ordinance (19.77.030). He explained that they will strike out three lines that reference the Code, which is only applicable in the single-family zoning and ensure that it is clear that it will be applicable City-wide.

The next item addressed was the public comment on a zone change along Highland Drive. Mayor Pro Tem Bracken reported that there were comments included in the Council communication prior to the meeting.

Mr. Johnson indicated that a row of homes fronts the frontage road and have been designated in the General Plan as Residential Office (RO) since 2009. There have been three previous rezones for properties in the area. The applicant has indicated that their intent is to keep the home and use it as a bed and breakfast. The Planning Commission reviewed the item, took public comment, and unanimously recommended approval to the City Council. It was reported that changing the use would require Planning Commission approval and another public hearing.

Mr. Johnson clarified that the use must provide enough parking onsite to accommodate the anticipated parking demand. On-street parking spaces do not count toward the total required parking so they have to be able to fit all the parking spaces needed on the property.

Pro Tem Bracken reported that the City Council would be taking action on Ordinance 344 approving an amendment to Code Section 19.77.030 concerning applicability of the City's Outdoor Lighting Ordinance. Ordinance Number 345 would rezone the property located at 6632 South Highland Drive from R-1-8 to Residential Office (RO). If there is significant concern, the matter could be tabled for two weeks.

Finance and Administrative Services Director, Scott Jurges reviewed the Property Surplus Resolution and stated that it includes IT items such as laptops, desktops, projectors, monitors, trees, printers, and a letter folding machine. It also includes three vehicles and one public works equipment item. He confirmed that all items go to the auction house and the funds, less a commission, will be returned to the City.

3. Staff Reports.

a. Budget and Revenue Review - Administrative and Fiscal Services Director, Scott Jurges.

Mr. Jurges reviewed the budget and revenue and stated that the sales taxes generated for the month of July totaled \$659,000, which is \$66,000 ahead of the prior year and the highest July the City has received. He expected that a recommendation to the City Council will alter the sales tax budget to reflect more current projections. He noted that 2020 was approximately 6% ahead of 2019. Mr. Jurges reported that \$53,000 was received from the County Highway Transportation Sales Tax in July, which is \$8,000 ahead of 2020. They have a total budget of \$600,000. Class C Road Funds were received over four periods with \$390,000 received year to date, which is \$27,000 behind 2020 and matched what was received in 2018. It was noted that the budget reflects a slight reduction.

b. Inflationary Tax Increase Discussion - Administrative and Fiscal Services Director, Scott Jurges.

City Manager, Tim Tingey reported that Council Member Mikell recommended that the inflationary tax increase issues be on the agenda. Research was also conducted on what other communities have done.

Mr. Jurges reported that he reviewed taxing information from Salt Lake County from 2011 through 2020 and pulled out any years where an entity would need to go through the Truth in Taxation process. The Truth in Taxation process means that a municipality increased the tax rate in excess of the Certified Tax Rate. A visual depiction was presented. Mr. Jurges stated that most entities are sporadic when increasing taxes. Any time they wish to impose a tax increase, they must go through the process. The current property tax was budgeted at slightly over \$8 million and with a 1% property tax increase, it would equate to \$80,000.

Council Member Bruce asked for clarification regarding Riverton City and their property tax rate. Mr. Jurgens reported that theirs is a special case with a current rate of 0%. They are involved in a Law Enforcement Service Area and created a district where they imposed a tax increase to fund law enforcement in their city. They are also part of the Unified Fire Service Area, which allows for two high cost individual items in their budget that are paid for by entities other than from base Riverton City revenues. Cottonwood Heights' costs flow through their tax rate and any revenues are received through the General Fund. In order to have separate entities, they must prepare a separate Comprehensive Annual Financial Report ("CAFR") and budget for each entity, which is cumbersome, and prohibits any transfer of money to the General Fund. In addition, it can only be used for the purpose for which the Districts were created.

Mayor Pro Tem Bracken understood that Council Member Mikell was asking whether they should provide direction or policy to staff as they prepare next year's budget. He explained that the Council will discuss the issue at the Retreat. Council Member Mikell wanted to understand the big picture and how the needs of the City are pieced together to meet the needs of the residents while considering all economic levels.

Mr. Tingey reported that the Legislature has discussed the possibility of not requiring the Truth in Taxation process for Cost of Living Adjustments ("COLA") and tax increases, but there has been no action. Mayor Pro Tem Bracken explained that as a City, they are charged with providing various services, some by statute and some by choice, and they must strike a balance between funding and services provided.

c. Storm Water Fee Discussion – Public Works Director, Matt Shipp.

Mr. Tingey reviewed the Storm Water Fee and stated that it is a dedicated funding source that does not compete with other budgeted projected projects or services. The City of Holladay and Millcreek City were also going through the same process and Millcreek adopted their Storm Water Fee on July 1, 2020. The fee allows municipalities to adequately manage federal and state mandated regulations as well as infrastructure projects and ongoing operations. The Storm Water Fee Study was completed in February 2020 by Zions Public Finance along with the Capital Facility Needs Assessment conducted by T-O Engineering. There are approximately \$19.2 million worth of projects that have to be addressed based on the Needs Assessment.

Significant effort is needed to get public input and change the way the Council looks at the issue. Once they have identified one option, it will provide the opportunity to begin the public input process. This option is more equitable and contains an established formula that all properties would pay into and is more representative of contributions for services provided. Mr. Tingey explained that they are trying to focus on a comparison with \$1 million available after expenses to facilitate capital maintenance projects and any debt service. Options included the following:

Option 1 – Includes a \$6.00 per Equivalent Residential Unit ("ERU") per month with a 3% annual rate increase. This would generate \$1.5 million but would require a \$600,000 transfer from the General Fund for two years and be reduced to \$300,000 per year thereafter.

Option 2 – Includes a \$9.00 per ERU per month with a 3% annual rate increase. This option would generate \$1.7 million before expenses are covered and requires no annual contributions from the General Fund. The savings would be \$600,000 annually.

Option 3 – Involves a \$7.50 per ERU per month with a 3% annual rate increase and an annual transfer of \$300,000. The savings would be \$300,000 annually.

Option 4 – Includes a \$5.00 per ERU per month and requires a \$200,000 increase in the General Fund contribution.

Mr. Tingey reported that staff met with Susie Becker from Zions Public Finance as well as representatives from the City's Public Works and Finance Departments and recommended Option 3. This option would save \$300,000 in the General Fund and the fee was considered reasonable. Mr. Tingey confirmed that the ERU presented is an average of the homes within the City of Cottonwood Heights. That number was the result of a study by the GIS Analyst and Engineers. He confirmed that commercial numbers are based on impervious surfaces, which is the same as a typical ERU for a home.

Mayor Pro Tem Bracken believed that although multiple entities are tax exempt, implementing a fee based on an ERU would spread the use throughout the City. He preferred the dedicated fund for capital improvements rather than operational items. He and Council Member Mikell serve on the Budget Committee, which recommended Option 3 and provides relief to the General Fund. He believed that Option 4 requires too much from the General Fund and considers a property tax increase.

Council Member Petersen asked how long other cities have been collecting a Storm Water Fee. He found Option 3 to be most favorable and would not impose such an increase at the end of the year. Mr. Tingey stated that Murray City implemented their fee in 2006. Regulatory standards being pushed by the federal government prompted the need to do more. Many cities have done something similar over the last 15 to 20 years. Public Works Director, Matt Shipp understood that the new Phase II permitting has been implemented in other cities in the last 15 to 20 years. The cost to collect the fee would be approximately \$115,000. Mr. Tingey recommended Option 3.

Council Member Mikell asked if Option 4 is where Mayor Peterson suggested starting and making significant improvements over time. Mr. Tingey recognized that the Mayor was not leaning toward the \$5 option associated with Option 4 but wished to explore what that would mean. If Option 4 was chosen, they would be pushing the proposal out 20 years to address \$19.2 million worth of projects. He considered the reduced fee to be unfavorable. Mr. Tingey commented that it would be better to address the projects in more detail over a 20-year period. They will consistently analyze projects to determine needs associated with aging infrastructure. He felt it would be likely that this fee would continue. Future maintenance issues were discussed. Mr. Tingey recommended that if the fee is implemented that they begin on the basis of the fee and collection and then determine whether to look at bonding and interest rates. Option 3 was determined to be the most favorable to the Council.

d. Idling Code Modification – Police Chief Robby Russo.

Police Chief, Robby Russo reported that in 2018 an ordinance was adopted to address idling within Cottonwood Heights City limits. In 2019, the State Legislature modified the State Statute and are proposing to modify the current ordinance to mirror what is currently in State Code. The differences included enforcing idling on private property and drive-thrus. The second change would move the warning period for citations from three to one. The intent of the ordinance was to educate and stress the importance of clean air. Mr. Tingey reported that the matter will be presented to the City Council at the October 20 meeting.

e. Arts Council Proposed Sculpture Project – City Manager, Tim Tingey.

Mr. Tingey stated that Council Member Petersen has served as the Liaison for the Arts Council and they have discussed the possibility of placing a sculpture on the southeast side of City Hall. They are interested in obtaining proposals and qualifications to hire a design artist to develop a tree sculpture. The Arts Council felt that the project could be funded through eligible grants that have already been received \$10,000 to \$14,000. Council Member Petersen reported that the Council has discussed various images and wanted to ensure that it represents the City.

Records Culture and Human Resources Director, Paula Melgar reported that they have included a clause in the Request for Proposals (“RFP”) indicating that they will give preference to any design that is made from sustainable materials. Mayor Pro Tem Bracken was in favor of a sculpture but was concerned about it becoming an attractive nuisance. Council Member Bruce recognized that the Arts Council is working with the Historic Committee to merge concepts and stated that they have something to present to the Council.

4. Review of Calendars and Upcoming Events.

- No events scheduled.

Mr. Tingey reported that the Open House is scheduled for November 12. Information would be provided to the Council in advance regarding the roundabout.

5. 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 was needed.

6. Adjourn City Council Work Session.

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

The Work Session adjourned at 6:38 p.m.

**MINUTES OF THE COTTONWOOD HEIGHTS CITY COUNCIL BUSINESS MEETING
HELD TUESDAY, OCTOBER 6, 2020 AT 7:00 P.M. THE MEETING WAS HELD
ELECTRONICALLY, WITHOUT A PHYSICAL LOCATION DUE TO THE CURRENT
COVID-19 PANDEMIC AND AS AUTHORIZED BY THE GOVERNOR'S EXECUTIVE
ORDER DATED 18 MARCH 2020**

Members Present: Mayor Pro Tempore Scott Bracken, Council Member Christine Mikell, Council Member Tali Bruce, 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/Economic Development Director Michael Johnson, Public Works Director Matt Shipp, Finance and Administrative Services Director S. Scott Jurgens

Excused: Mayor Mike Peterson, Assistant Fire Chief Riley Pilgrim

1.0 WELCOME AND DETERMINATION

Mayor Pro Tempore Scott Bracken called the meeting to order at 7:00 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

Council Member Christine Mikell led the Pledge of Allegiance.

3.0 CITIZEN COMMENTS

Tim Hallbeck commented that if everyone owned electric vehicles, it would be great for the environment. Interim steps would be needed, however, and he suggested dual fuel fleets that run on both gasoline and propane or natural gas. The hybrid and regular gas options are available for all police vehicles that are in use at a cost of \$7,000 per vehicle. He suggested the City try it on several trucks to determine its effectiveness.

Dan Prisbrey stated that he lives near Butler Park and has struggled with the current parking situation. He understood that it is a public street but organizational sports cause extreme issues in the evenings. He considered it a safety issue and stated that there is no access for emergency vehicles.

Natalie Prisbrey stated that the parking lots are not full and the issue is caused by people trying to save time by walking and park on the street. She believed the situation poses a significant safety issue.

Ed Schwartz asked for clarification regarding the September 2020 newsletter and the Council newsletter regarding support for the Police Department. He was concerned about patrons paying for the officers' meals as an expression of support. He questioned that type of behavior.

Tiffany James shared her family's concerns regarding the Mayor, City Manager, Council Members, and other officials not taking action to discourage harassment, targeting, and chronic use of excessive lethal force. She urged the City to take action and believed that taking no action sends a clear message that they condone what is taking place. She claimed that there was no effort on the part of the Mayor to intervene at the previous meeting. Regardless, the matter at hand is not accountability of her son's behavior but of the City leaders to fix a broken police system. She believed that John Hammond was having his sons harass her family and has been trespassing on her property. All of the Council Members, with the exception of Council Member Bruce, were accused of creating a toxic environment. Ms. James urged the City Council to review recent events and her case in Federal Court, drop the charges, fire Chief Russo and any officers involved, and conduct a neutral third-party investigation.

Heather Anderson expressed frustration with the same public comments being repeated over and over and believed there were more pressing issues to be addressed by the City Council. She expressed support for the Police Department and believed that issues should be seen from a more well-rounded perspective.

Debbie Mackintosh reported that Corey Hills Circle is so steep that she was concerned about emergency vehicles being able to access it in the event of an emergency. She asked the Council to see what can be done and thanked the Police Department and Council Member Mikell for her recent article.

Steven Wall stated that the previous public comment failed to address the fact that Council Member Bruce indicated that the first item on her agenda was to address the Police Department issue. Mr. Wall commented that she had no idea of the comparison of funding between the Unified Fire Authority ("UFA") and the Cottonwood Heights Police Department ("CHPD") and had been confronted with the facts that support continuing to fund the CHPD. He was frustrated by Council Member Bruce being in office for three years and not having the information he discovered by just asking. He stated that the facts support maintaining the CHPD.

Kim Stojack stated that she has met with council members and mayors over the years detailing the harassing and intimidation that the Police Department constantly displays. She has experienced it and supports Council Member Bruce who she considers a voice for those who have been ignored. She reported that she met with Mr. Tingey who did not return her call or do his job. She also has a 2010 audio recording of Council Member Bracken discussing a liquor license at the Canyon Centre. She asked when the Police Department is going to be held accountable and contended that they would not be in this position had the City done its job.

Mike Hanson stated that at the conclusion of the previous meeting, Mayor Peterson allowed the Council Members to discuss a petition that was submitted. He felt that Council Member Bruce had disregarded what was presented and he challenged her to schedule a Town Hall Meeting to address

the issues she believes are false. Mr. Hanson reported that he attended a picnic in support of the Police Department recently where there was no opposition.

Larry Turner appreciated the quick four-minute response of the City's first responders in a recent incident involving his wife. He attended the recent picnic and said it was a wonderful experience where people came together in support of the Police Department. He believed that opposition can be positive as long as it is handled properly.

Aidan Lehfelddt-Ehlinger stated that she has reached out to members of the Council and City officials regarding recent attacks on Council Member Bruce. She wanted to see the Police Department held accountable for their actions on August 2 and the harassment and intimidation to stop. She believed the problem was bigger than the police and stated that there are nasty counterparts on the City Council.

4.0 PUBLIC COMMENT – Consideration of a City-Initiated Request for a Minor Technical Edit to the “Applicability” Section of the Outdoor Lighting Ordinance (19.77.030).

Mr. Johnson reported that Assistant Chief, Riley Pilgrim has been deployed to California to help with the wildfires and would not be in attendance.

Mayor Pro Tem Bracken stated that the above item involves consideration of a City-initiated request for a minor technical edit to the “Applicability” section of the Outdoor Lighting Ordinance. Mr. Johnson presented the staff report and stated that the above item involves a technical amendment and correction to an oversight in the Outdoor Lighting Ordinance. He explained that the Applicability section is intended to apply to residential as well as commercial properties. It has always been the intention for the standards to be applied in commercial areas and everywhere. The Planning Commission forwarded a unanimous recommendation of approval.

Mayor Pro Tem Bracken opened the public hearing. There were no public comments. The public hearing was closed.

5.0 PUBLIC COMMENT – Request from Thurmond Dressen (on behalf of Joe Coccigniglio) for a Zoning Map Amendment to Rezone 0.23 Acres of Property at 6632 South Highland Drive from R-1-8 (Residential Single-Family) to RO (Residential Office).

Mayor Pro Tem Bracken reported that the above item involves a request from Thurmond Dressen who resides at 6632 South Highland Drive. Mr. Johnson presented the staff report and stated that the request is for a zone map amendment for .23-acre single-family property located just south of the boundary on Highland Drive. The request is to rezone the property from R-1-8 to Residential Office. The General Plan supports the request and the properties identified have come through the process in the last several years and have been successfully rezoned and redeveloped. Mr. Johnson explained that the subject property was detailed and although the rezone does not guarantee a specific use for the property, the applicant stated in their application that they intend to use the existing residence as a bed and breakfast. If the property is rezoned, the applicant will be allowed

to apply for any use that is permitted in the RO Ordinance. He indicated that every use in the RO zone is conditional other than a single-family residence.

Mr. Johnson illustrated the setbacks and development requirements when adjacent to a single-family residential use. Staff recommended approval based on the previous rezones in the area and the Planning Commission recommendation for approval. He addressed a comment submitted to the Council regarding concern with traffic and impacts on the neighborhood. He explained that a conditional use will allow the Planning Commission to impose conditions to mitigate the potential negative impacts of the use. One of the conditions of approval for nearly every development is that the site be free of all nuisances and Code violations prior to final approval.

Mayor Pro Tem Bracken opened the public hearing.

Mr. Tingey read into the record a comment received from Elizabeth Nelson. Her comments were also provided to the City Council members.

The applicant, Thurmond Dressen, stated that they intend to develop the property into a bed and breakfast or an insurance agency.

Council Member Petersen asked how the businesses are received by the public. Mr. Johnson stated that the first property generated a lot of public interest and there were acknowledgments that the use would allow run-down residences to be improved. He stated that traffic is always of concern as are development impacts such as lighting and fencing. Mayor Pro Tem Bracken believed that much of the RO zone originated from negotiations with neighbors. He challenged Mr. Johnson to hold a meeting with those residents to provide feedback.

There were no further public comments. The public hearing was closed.

6.0 ACTION ITEMS

6.1 Consideration of Ordinance 344 Approving an Amendment to Code Section 19.77.030 Concerning Applicability of the City's Outdoor Lighting Ordinance.

Mayor Pro Tem Bracken stated that the above ordinance approves an amendment to Code Section 19.77.030 concerning the applicability of the City's Outdoor Lighting Ordinance.

MOTION: Council Member Mikell moved to approve Ordinance 344. The motion was seconded by Council Member Bruce. Vote on motion: Council Member Petersen-Aye, Council Member Bruce-Aye, Council Member Mikell-Aye, Mayor Pro Tem Bracken-Aye. The motion passed unanimously.

6.2 Consideration of Ordinance 345 Approving the Rezone of 6632 South Highland Drive from R-1-8 to RO.

Mayor Pro Tem Bracken stated that the above ordinance approves the rezoning of 6632 South Highland Drive from R-1-8 to RO. Council Member Mikell stated that based on the setbacks

shown, it appeared to be similar to the buildings to the south. Mr. Johnson confirmed that they were not similar unless they assemble multiple parcels and the parcels first go through the rezone process.

MOTION: Council Member Bruce moved to approve Ordinance 345. The motion was seconded by Council Member Petersen. Vote on motion: Council Member Petersen-Aye, Council Member Bruce-Aye, Council Member Mikell-Aye, Mayor Pro Tem Bracken-Aye. The motion passed unanimously.

6.3 Consideration of Resolution 2020-48 Declaring Certain Property Surplus.

Mayor Pro Tem Bracken stated that the above resolution declares certain property surplus. Mr. Juges reported that there are two pages of items listed that are predominately older out of date desktops or laptops. There are also power strip surge protectors, tree stands, an older printer and a letter folding machine. There are also three vehicles and an equipment trailer that were utilized by various City departments. He recommended that the items be surplussed. The auction proceeds, minus a small commission, are deposited back into the General Fund.

MOTION: Council Member Petersen moved to approve Resolution 2020-48. The motion was seconded by Council Member Bruce. Vote on motion: Council Member Petersen-Aye, Council Member Bruce-Aye, Council Member Mikell-Aye, Mayor Pro Tem Bracken-Aye. The motion passed unanimously.

7.0 CONSENT CALENDAR

7.1 Approval of the City Council Work Session and Business Meeting Minutes of September 1 and September 15, 2020.

MOTION: Council Member Bruce moved to approve the City Council Work Session and Business Meeting Minutes of September 1 and September 15, 2020. Vote on motion: Council Member Petersen-Aye, Council Member Bruce-Aye, Council Member Mikell-Aye, Mayor Pro Tem Bracken-Aye. The motion passed unanimously.

8.0 ADJOURN CITY COUNCIL BUSINESS MEETING.

MOTION: Council Member Bruce moved to adjourn the City Council Business Meeting. The motion was seconded by Council Member Petersen. The motion passed with the unanimous consent of the Council.

The meeting adjourned at 8:04 p.m.

I hereby certify that the foregoing represents a true, accurate, and complete record of the Cottonwood Heights City Council Business Meeting held Tuesday, October 6, 2020.

Teri Forbes

Teri Forbes
T Forbes Group
Minutes Secretary

Minutes Approved: October 20, 2020