

MINUTES OF THE CITY COUNCIL MEETING HELD DECEMBER 13, 2005, AT 7:00 P.M.,
IN THE COTTONWOOD HEIGHTS CITY COUNCIL CHAMBER

MEMBERS PRESENT: Mayor Kelvyn Cullimore, Councilman Don Antczak, Councilman Scott Bracken, Councilman Bruce Jones, Councilman Gordon Thomas

STAFF PRESENT: city Attorney Shane Topham, City Treasurer Gary Harmer, Director of Finance David Muir, Community Development Director Kevin Smith, City Engineer Brad Gilson, City Recorder Linda Dunlavy

OTHERS PRESENT: Mike Watson, Robby Russo, Geri Douglas, Ron Fullmer, Ted Neff, John Lovoto, Paul Brenneman, Scott Mickelsen, Corbett Ford, Jeri Harwell

1.0 WELCOME/PLEDGE

1.1 Mayor Cullimore opened the meeting at 7:00 p.m. and welcomed those in attendance.

1.2 The Pledge of Allegiance was led by Councilman Jones.

REPORTS/PRESENTATION

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3.1 Presentation of FY05 Independent Audit Report

3.1.1 Geri Douglas, Larsen & Company reviewed the Independent Auditors Report and Basic Financial Statements. She noted that the financial statements are the responsibility of City management and it is the responsibility of the auditor to express an opinion on the financial statements in accordance with generally accepted auditing standards. She stated that the financial statements present fairly in all material respects, the financial position of Cottonwood Heights.

Ms. Douglas reviewed the Management Letter and Report which is a requirement of Government Auditing Standards. The Independent Auditor's Report on Compliance and Internal Control over Financial Reporting disclosed no material weaknesses or reportable conditions. It was the Auditor's opinion that Cottonwood Heights did comply in all material respects with the State Legal Compliance issues.

The management letter included the following three findings: (1) "*Utah Code Title 11, Chapter 36* requires that before imposing an impact fee, the local political subdivision shall prepare a capital facilities plan". She explained that the City is collecting impact fees at the same level Salt Lake County did prior to the City's incorporation and has not prepared a capital facilities plan." She stated that the City adopted the County Storm Water Management Plan, including sections of the County Capital Facilities Plan as it

pertains to Cottonwood Heights and that the City is currently in the process of adopting its own Capital Facilities Plan and Storm Water Plan.

(2) “*Utah Code Section 58-56-9(4)* requires building permit fee surcharges be calculated, reported, and remitted quarterly to the Division of Occupational and Professional Licensing within 30 days of the last day of the quarter”. Reports for the 1st and 2nd quarter of 2005 were filed late (reports were dated August 16, 2005.) She explained that the requirement was overlooked during the early months of the City’s incorporation and were filed timely after the 2nd quarter.

(3) “*Utah Code 10-6* dictates that a municipality shall not incur expenditures or encumbrances in excess of the total appropriation for any department or fund. State law requires budget integrity in the General Fund at the department level”. The overspend was in the amount of \$767 and was the result of the reclassification of a loan from an operating lease to a capital lease after year end and after final budget adjustments.

2.0 PUBLIC HEARINGS

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2.1 Proposed Amended Budget for the Period of 1 July 2005 through 30 June 2006

2.1.1 City Treasurer Gary Harmer explained that this public hearing is the chance for citizens to give input on the proposed amended budget. The amendment will increase the budget from \$9 million to \$12,769,000.

2.1.2 Mayor Cullimore explained that the primary motivation for the budget amendment is the finalization of terms with Salt Lake County. The City was successful in negotiating a law enforcement contract between Salt Lake County and Cottonwood Heights. With approval of that contract comes the release of \$3 million from Salt Lake County that has not been included in the City’s budget. \$2.5 million has been earmarked for acquisition of one or both of the elementary schools that were closed to preserve the open space.

2.1.3 Mayor Cullimore opened the public hearing.

2.1.3 Ted Neff, asked about the City’s bond rating.

Mr. Harmer explained that when a rating agency rates bonds, they rate specific issues and since the City has not had a bond issue, they do not have a rating.

2.14 Mayor Cullimore closed the public hearing.

2.2 **Proposed Adoption of a Capital Facilities Plan for**

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- 2.2.1 Community Development Director Kevin Smith explained that the transportation capital facilities plan outlines improvements to roads, bridges, street lighting, sidewalks, and signalization and helps the City understand what needs to be done. It is a budgeting tool and allows the City establish impact fees. The plan is proposed to be adopted on December 27th.

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- 2.2.2 Mayor Cullimore opened the public hearing for the proposed Capital Facilities Plan.

- 2.2.3 Ron Fullmer, asked what the City is planning on doing to Park Centre Drive and Fort Union Blvd.

City Engineer Brad Gilson said that the City is looking at several options, including the realignment of the entire intersection in order to increase the stacking distance for people making left hand turns so that the conflict into 1495 East is minimized.

Mr. Fullmer suggested that signalization be added and the canal covered.

- 2.2.4 Ted Neff, representing the Cottonwood Slopes Neighborhood Watch area, said they have discussed the issue of sidewalks and street lighting and would like to see them added to this area which is north of Brighton High School. He explained that the neighborhood is 30-40 years old, most of the roads are on an incline and do not have sidewalks, and lighting is poor in the area. He requested that this neighborhood be put on a priority list for street lighting and sidewalks. He said that because of the mature trees, the light from the tall street lights does not reach the ground and suggested the City use a shorter light as neighborhood lights.

- 2.2.5 Mayor Cullimore explained that the Capital Facilities Plan identifies roads in need of repair and location of sidewalks, but does not give a recommendation on what the policy should be relative to sidewalks and street lighting. The City Council must look at all of the proposed capital improvements and establish policies on how costs are born on sidewalks and streetlights.

Mr. Neff said that there are three areas of the City that do not have street lighting including Cottonwood Slopes. He stated that most of the people in the area are on fixed incomes and it may be difficult for them to afford the costs. He noted that the people who attend the Neighborhood Watch meetings would be willing to participate, but that does not include the retired people.

- 2.2.6 Ron Fullmer suggested the City look at a City-wide district for street lighting and other infrastructure needs.

2.2.7 Mayor Cullimore closed the public hearing.

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3.2 Sheriff's Report – Detective Ford

3.2.1 Captain Scott Mickelsen reviewed the proposed designs of prototype cars for the Unified Police District and received input from the City Council.

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3.2.2 Detective Corbett Ford reviewed the statistics for the month of October. They responded to 1035 calls for service which resulted in 685 cases being generated. There were ten assaults, 25 family offenses, one robbery, two sexual assaults and one sex offense. There was also one arson, 16 burglaries, and 48 cases of vandalism, and graffiti calls are down by 50 percent. Detective Fords maps and information will be placed on the City's website.

4.0 CITIZEN COMMENTS

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4.1 Ron Fullmer, expressed appreciation to the Mayor and Council for the openness in their deliberations and meetings and making the City a success. He congratulated the City for the accomplishments he has seen so far including solving the 'Brighton Bump' problem.

4.2 Peggy Holt, said that at the southwest corner of Blue Jay and Kings Hill, a neighbor has erected a 45-50-foot ham radio tower. She explained that the neighbors were never approached about the tower and do not know if any permits were received. Ms. Holt said she called the FCC and was told that the FCC gives a permit to operate a ham radio tower, but a permit to erect the tower would come from local authorities. She asked the Council if the City has a zoning ordinance regulating towers and if so, if the resident obtained a permit. She said that he has also erected a shed in the back yard.

Community Development Director Kevin Smith stated that the City has not issued a permit for anything on the subject property. The City needs to set policies and make sure they are not preempted by federal law. He said that the City has not addressed how they will handle ham radio towers.

City Attorney Shane Topham said that the tower is viewed as a structure under the City's zoning code and in the residential area the maximum height of a structure is 35 feet. He explained that there is a limited preemption of local law by the federal government in the area of radio towers. In 1985 the FCC passed a regulation stating that local governmental entities cannot prohibit the towers, but can regulate the tower to provide for the right of

public health, safety, and welfare. He said that the City needs to look at whether the tower has to be erected the way it has been, or if there is another way to erect the tower, and whether the individual is an FCC licensee.

Mrs. Holt questioned who is liable if the tower falls.

Mr. Topham said that if the tower falls, the owner is liable to persons who have been damaged.

Mr. Smith will check with Jody Hilton to see if there is a building permit requirement to construct a tower to meet building code requirements.

- 4.3 Mayor Cullimore recognized Edy Wright, and thanked her for her work on Golden Hills Park. The County withdrew the funding for the final phase of the park, and thanks to Mrs. Wright's persistence the funding was reinstated.

5.0 ACTION ITEMS

5.1 **Consideration of Resolution No. 2005-68 Amending the Budget for the Period of 1 July 2005 Through 30 June 2006**

- 5.1.1 **MOTION:** Councilman Anczak moved to approve Resolution No. 2005-68 amending the budget for the period of July 1, 2005 through June 30, 2006. The motion was seconded by Councilman Thomas and passed unanimously on a roll call vote.

5.2 **Consideration of Ordinance No. 32 Adopting a Capital Facilities Plan for Cottonwood Heights**

- 5.2.1 Ordinance no. 32 was continued to the December 27th meeting.

5.3 **Consideration of Ordinance No. 30 Amending Title 8 of the Cottonwood Heights Code of Ordinances Relating to Animals**

- 5.3.1 Ordinance No. 30 was continued to the December 27th meeting.

5.4 **Consideration of Ordinance No. 33 Amending Title 5 of the Cottonwood Heights Code of Ordinances Relating to Business License Fees**

- 5.4.1 Mayor Cullimore reviewed the changes to Title 5. The home occupation license fee was reduced to \$100 with revenue over \$1,500 and to \$50 with revenue under \$1,500; the \$10 fee per unit apartment was eliminated; and the per employee fee was modified to include all employees at \$6.00 per employee.

5.4.2 Councilman Jones expressed concern that home businesses that have people coming to the home prove to be enforcement issues, and are costly to the City. He stated that he will wait until the City has done a study to reflect the true cost of that type of business.

5.4.3 **MOTION:** Councilman Antczak moved to approve Ordinance No. 33 amending Title 5 of the City Code relating to Business License fees. The motion was seconded by Councilman Bracken and passed unanimously on a roll call vote.

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5.5 **Consideration of Resolution No. 2005-69 approving revisions to the Law Enforcement Contract with Salt Lake County**

5.5.1 Mayor Cullimore stated that this contract was approved by the County today with minor changes.

5.5.2 **MOTION:** Councilman Thomas moved to approve Resolution No. 2005-69 approving revisions to the law enforcement contract with Salt Lake County. The motion was seconded by Councilman Bracken and passed unanimously on a roll call vote.

5.3 **Continuation of Ordinance No. 30 Relating to Animals**

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5.3.1 City Attorney Shane Topham reviewed the changes made to Title 8 following the last City Council meeting. He explained that when Section 8.12.140 "Domestic Fowl and Livestock" was last discussed the proposal was made that the number of fowl not be regulated. He proposed that there be a threshold cap of 25 fowl and allow those interested in keeping more to apply for an additional permit from the City, pay a small additional fee, and have appropriate inspections from the health department. The fee for the additional permit would be \$10 per year. Regarding large animals, Mr. Topham explained that they can only be kept in the rural residential zones within the City. A proposal was made that residents be allowed to keep large animals on their lots in areas outside of the current rural residential zones if it is a continuing use and to make it a legal, nonconforming use. Other issues include how the City will enforce the ordinances and whether a 'notice of violation' should be used. The changes to the ordinance contemplate that cats will be licensed within the City.

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5.3.2 Ron Larabee expressed concern about the numbers of fowl allowed. He said that after homing pigeons are done exercising they are kept inside a building. He stated that he has approximately 85 pigeons, but periodically increases to a maximum of 150 pigeons.

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- 5.3.3 Councilman Jones said that the idea of fees is to cover the costs of the City and there may not be any additional cost between ten birds and a hundred birds. The City should aim at the fairness of trying to recoup its costs.

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- 5.3.4 Mayor Cullimore said the only issues remaining are how the City wants to handle this type of situation where there are several owners who are breeders or racers and what to do with the large animals in areas outside of rural residential zones who currently have large animals.

Mr. Topham said that the issue of whether large animals can be kept on particular pieces of property will be a function of the zoning code. He said that if there is a desire to expand the number of zones in which large animals can be kept, or to view the current use of lots for keeping of large animals outside of the permitted zones, it will require an amendment to the zoning code.

Mr. Smith said that if large animals are traditionally located on property where zoning has been changed, they can continue to have them.

- 5.3.5 Mr. Topham said that one way to approach the problem is that if complaints are received on large animals outside of the rural residential zone, it can be reviewed.

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- 5.3.6 Mayor Cullimore said that he believes there should be a registration fee for the homing pigeons. There is not a history of violations at this time, and if there were to be complaints, the City could revisit the issues.

- 5.3.7 Further discussion was held on the amendments to Title 8 and it was determined that 25 or fewer birds would have no fee, and over 25 birds would have an annual fee, as well as compliance with the Health Department; and that large animals that existed legally under the County zone, would become a legal nonconforming use under the City's zones.

The new draft of the Ordinance will be placed on the December 27, 2005 agenda.

6.0 CONSENT CALENDAR

6.1 Approval of November 8 & 22, 2005 Minutes

- 6.1.1 The minutes of November 8 & 22, 2005 were approved as submitted.

7.0 **ADJOURNMENT**

- 7.1 Councilman Antczak moved to adjourn to the work session. The motion was seconded by Councilman Bracken and passed unanimously on a voice vote. The business meeting adjourned at 9:35 p.m.