

MINUTES OF THE CITY COUNCIL MEETING HELD SEPTEMBER 23, 2008, AT 7:00 P.M. IN  
THE COTTONWOOD HEIGHTS CITY COUNCIL CHAMBER.

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

STAFF PRESENT: City Manager Liane Stillman, City Attorney Shane Topham, Police Chief Robby Russo, Planning Director Michael Black, Public Information Specialist Bob Warnick, Assistant Chief Paul Brenneman, Finance Director David Muir, Associate Planner Greg Platt

OTHERS PRESENT: Mike Watson, Beverly and Larry Jensen, Don Machin, Ron Fullmer, Rebecca Palmer, Maria Villisona, Stephanie Archibald, Lynn Feveryear, Jan Nielsen, Ken Nielsen, Barbara Evans, Tom tippets, Dave Loader, Richard Randolph, Garry Whitaker, Ken Carlson, Mike Falk, Robert Recte, Verl Buxton, Jim Stojack, Kim Stojack, JoAnn Merrill, Alona Holm, Anna and Lonnie Steinif, Sandra Smith, Mark Duffin, Rob Taylor, Josh Linker, George and Pearl Garff, Sharon Shey, Joann Price, Erin Hallenburg, Pam Hallenburg, Eldon DeHaan.

**1.0 WELCOME/ACKNOWLEDGEMENTS**

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 Bracken.

**2.0 CITIZEN COMMENTS**

2.1 No comments were received.

**3.0 ACTION ITEMS**

**3.1 Public Comment and Consideration of City Center Concept Plan**

3.1.1 Mayor Cullimore stated that an open house was held today to receive input on the City Center Concept Plan. The Concept Plan is being presented in order to receive public comment well in advance of any formal consideration. The City does not own the property where the plan is being proposed at this time, but will have the first option to purchase the property once it is surplus. One of the items that came from scoping meetings held shortly after Cottonwood Heights incorporated was that one of the schools would make a great location for a city hall. The City may be years away from acquiring the property, but felt it would be advantageous to put the concept out for public comment.

3.1.2 Planning Director Mike Black stated that the City was soliciting public comment on all aspects of the proposed concept plan. He reviewed the proposed concept plan noting that enhancements to the public space would include passive and active areas for youth and adults, as well as increased areas for soccer fields. Mr. Black noted that the footprint of the existing school is approximately 80,000 square feet and a city hall would require a foot print of approximately 10,000 square feet. Ancillary uses could raise the square footage to 45,000 square feet and would yield increased green space.

3.1.3 Assistant Police Chief Brenneman addressed the issue of safety surrounding a police station. He stated that he contacted the SLC police department because they recently constructed a substation in the Glendale area. The crime in that area has lessened and there is not an increase in crime around any police station. This station would front onto Bengal Blvd., not through the subdivision.

3.1.4 Mayor Cullimore opened the public comment period.

3.1.5 Don Machin said that with the recreation center close to this proposed development, the County should be responsible to own and pay for it, or the rest of the residents should be included and assessed.

Councilman Antczak explained that the Cottonwood Heights Recreation Center came about because the County did not provide recreation services to the City at that time.

3.1.6 Verl Buxton suggested that the City look at building the City Center higher than two stories and increasing green space.

3.1.7 Phil Wagers stated that the proposed site is a perfect location for a city center and having the police presence would be great.

3.1.8 Mayor Cullimore closed the comment period.

3.2 **Consideration of Ordinance No. 121 Amending and Restating Chapter 19.76  
“Supplementary and Qualifying Regulations”**

3.2.1 Planning Director Mike Black stated that the Planning Commission recommended approval of the proposed ordinance.

3.2.2 **MOTION:** Councilman Antczak moved to approve Ordinance No. 121. The motion was seconded by Councilman Bracken.

3.2.3 Councilman Thomas questioned the fence issue as it relates to swimming pool safety.

3.2.4 City Attorney Shane Topham explained that the regulations on swimming pools, including fencing, have been removed from the International Building Code, and the trend among cities is to leave the issue of liability for having a swimming pool and failing to secure it, to the individual home owner. The insurance industry is aware of the liability issues and will require modifications be made to properties if needed to better assure safety and minimize liability exposure.

3.2.5 **VOTE:** The motion passed unanimously on a roll call vote.

**3.3 Public Comment and Consideration of Ordinance No. 122 Rezoning 10.89 Acres of Real Property Located at 7350 South Wasatch Blvd. From Regional Commercial to Mixed Use and Amending the Zoning Map (A/K/A Wasatch Gates)**

- 3.3.1 Mayor Cullimore stated that the Planning Commission held a public hearing on the proposed zone change and made a recommendation to the City Council. The Council is having an additional comment period prior to voting on this issue.
- 3.3.2 Associate Planner Greg Platt explained that the applicant is requesting a zone change from Regional Commercial to Mixed Use on the property formerly known as the Canyon Racquet Club. Staff reviewed the application and found that the existing zoning for the property is Regional Commercial and the permitted and conditional uses for the zone are considered to be an intensive type of land use including large retail stores, vehicle sales, gas stations, and liquor stores. Mixed Use would allow for many similar commercial uses but would decrease the intensity of land use possibilities, including eliminating the possibilities for vehicle sales, gas stations and liquor stores. The underlying General Plan designation for the property is Mixed Use. The proximity of the property to a residential neighborhood creates a situation where a transition would be desirable and under current zoning, the only buffer the City can require would be landscaping and fencing. Changing the zone to mixed use would allow the creation of a usage buffer. The Planning Commission voted 7-0 to recommend approval of the zone change from CR to MU.
- 3.3.3 Mayor Cullimore opened the public comment period.
- 3.3.4 Jan Nielsen, 3613 Winesap Road, spoke in opposition to the proposed zone change. The Mixed Use designation would allow hotels, which was denied by Salt Lake County many years ago. She believes that traffic would be a problem for the neighborhood and that a hotel would not be a proper use. She stated that the residents were persuaded that they would have a voice in government decisions if incorporation took place.
- 3.3.5 Nathan Brown said that no one at the Planning Commission spoke in favor of the proposed zone change except the developer. He said that no one wants a strip mall, liquor store or car dealership on the property and does not believe that is what the applicant would do. He recommended not changing the zoning on the property.
- 3.3.6 Phil Wagers spoke in opposition to the proposed zone change. He explained that the traffic on Racquet Club Drive is already bad and any rear entrance or exit from a hotel will change an entire neighborhood.
- 3.3.7 Sharon Shey told the Council that she votes in every election and if they decide to approve the zone change she wants them to be aware. Ms. Shey said that traffic is hazardous on Wasatch Blvd. due to the Porcupine Grill and the 7-11. She wants to keep Cottonwood Heights a bedroom community.
- 3.3.8 Ken Nielsen, said that people are fed up with government because there is no common sense. He said that there will be more congestion and a bigger tax base, but the City will be spending more money to pay for the problems that a hotel will bring. He asked the Council to have some common sense and wisdom and think about what is being created.

- 3.3.9 Alona Holm built her home in 1971 and she felt that having a local government would be beneficial to the residents because they would be listened to. The proposed hotels have been voted down twice by the County. She believes that if the City allows this change, it will destroy lives and families.
- 3.3.10 Verl Buxton said a major issue in this area is traffic control and if the City allows traffic to enter Racquet Club Drive it will destroy that neighborhood. He does not think the hotel will bother people, but the traffic will. He suggested that additional lanes be added and the City make sure that Wasatch Blvd. is used, not Racquet Club Drive. He said a person has a right to develop his property, but the City has to solve these types of issues.
- 3.3.11 Eldon DeHaan agreed with Mr. Buxton's comments noting that traffic is a large reason he is opposed to the proposed change. Mr. DeHaan is a retired corrections officer and believes that commercial areas harbor more break-ins, burglaries and violent crimes especially if there is a hotel.
- 3.3.12 JoAnn Merrill said that she cannot understand why the ambiance of this area is not being preserved and maintained. She voiced opposition to the zone change and to having hotels.
- 3.3.13 Mark Duffin said that several years ago he was involved in a dispute on a proposed office building near the Porcupine Grill. The neighborhood fought the office building and the conclusion was that this area was to remain primarily residential. He suggested the Council look at that record because it mirrors this situation.
- 3.3.14 Staff noted that the zoning on this property has been commercial for over thirty years.
- 3.3.15 George Garff said that he likes the idea of new homes coming into this area because of the pride of ownership. Hotels have a transient population and had pollution to the area. He agrees that Racquet Club Drive is dangerous because of all the parking on the road and adding traffic is unconscionable.
- 3.3.16 Dale Chalmers, said if the hotels were taken out of the Mixed Use zone as a use, it would solve the problem.
- 3.3.17 Elaine Randolph expressed concern with having a hotel in this area. Three years ago she was asked to support incorporation and now the residents want the city's support and want to have them take what is said into consideration.
- 3.3.18 Josh Linker said that people come from all over the country to ski and there is a problem with traffic, parking and facilities in this area. He said that the entire corner needs to be dealt with so that a mixed use or commercial development will work. The city needs facilities for the people that are visiting Cottonwood Heights.
- 3.3.19 Lynn Feveryear agreed with many of the comments made and commented that if there were to be access granted to the residential areas on McIntosh or Winesap it would be a disaster to the neighborhood. He expressed support for the zone change and for the development, but asked that the traffic issues be taken care of so that the residential areas are not burdened.
- 3.3.20 Mayor Cullimore closed the public comment period.

3.3.21 Councilman Jones said that because of its delicate location, this property needs very detailed planning at the conditional use/site plan. He explained that the City cannot ignore the fact that for decades the property has been zoned commercial. Access to the west and planning to eliminate the existing problem of traffic and danger in the ingress and egress needs to be dealt with when this property is considered for a site plan. The parking problem has long been an issue in this area and whatever is done should include a plan to alleviate the parking and make it a better situation. One thing that should be considered is a CDA that would permit infrastructure to be constructed that would make the acceptability of what ever commercial use or other use better suited to the neighborhood. Parking, intensity of the use, planning of the corner and the access to the property are key and critical factors in planning the property.

3.3.22 Councilman Bracken asked if a zone change affects the City's liability as a city.

City Attorney Shane Topham said the City has a responsibility to exhibit due care and not be negligent in whatever land use decisions it makes.

Councilman Bracken asked Staff if they saw a specific promise that hotels would never go on this property.

Greg said he did not see any indication of a promise that hotels would not go in this area, but saw an application for a hotel that was never approved.

3.3.23 Councilman Bracken said that currently in the CR zone single-family residential, multi-family residential would not be allowed.

Mr. Black said no residential would be allowed.

Councilman Bracken said that mixed use is the only zone we currently have hotels as a conditional use.

Mr. Black said that there are other uses akin to hotels such as bed and breakfasts and short-term rentals.

Mr. Topham said the city endeavors to find a place for most of the common uses of businesses in the city. The city is required to provide a place even for businesses that most would not like to have such as sexually oriented businesses. If the city did not provide a place for hotels the door would be open for someone to come in and ask for a place to be made in the city for them.

3.3.24 Councilman Antczak said he has watched the community grow and the people sitting in the meeting have destroyed some of the things he used to enjoy such as the orchards. He said that the entire corner needs to be redone so that there is enough parking and the congestion is lessened.

3.3.25 Councilman Jones said that the devil is in the details of this planning. The responsibility the Council has is broader than what the citizens have and he has to consider what might be on that property now. This would be viewed as a down zone and less intense than a commercial use.

3.3.26 **MOTION:** Councilman Jones moved that Ordinance No. 122 be approved because the intensity and the dissatisfaction of the neighborhood would be worse with a commercial use. The motion was seconded by Councilman Antczak.

3.3.27 Mayor Cullimore said many have come to express opinions, and regardless of what is decided there will be some that believe the Council did not listen, that they were a government that was not responsive to the people. He stated the Council is sensitive to the concerns of the residents and have held additional hearings to receive input. He reminded those in attendance that there was another project on Wasatch Blvd, that was opposed by the residents and the City had little leverage. They worked hard to find a solution and were able to secure money from the county trust fund to purchase the property and turn it into a park-like place instead of having three office buildings. He explained the property has been zoned commercial for decades and the Council is trying to decide the appropriate zoning, not the site plan, and not the traffic issues. Many of the factors discussed tonight are dealt with at conditional use hearing and at the site planning level. If there are either geotechnical or traffic problems that cannot be dealt with, they are stuck with the Mixed Use zoning. Many have expressed a desire to keep the property residential, but if it is left Regional Commercial it is not going to be residential, because that is not allowed. The Mixed Use zone presents an opportunity to involve more residential and create a much better site plan. Some residents do not feel hotels are appropriate, but if the City is diligent at the conditional use permit level to make sure the issues are addressed, and hold firm to the geotechnical and the traffic requirements, many problems can be mitigated and the city has a much better development.

3.3.28 **VOTE:** The motion passed unanimously of a roll call vote.

Max Burdick, candidate for Salt Lake County Council District #6 seat presented his platform to the City Council.

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

##### 4.1 **Financial Report – David Muir**

4.1.1 Finance Director David Muir reviewed the monthly financial statement noting that interest is now booked, billings are complete for road cut permits, and the bank reconciliations are all current. Mr. Muir said he has been doing a reconciliation with Sprint and Qwest on the new service and has found irregularities on how they are taxing the city. He believes that there is at least \$100,000 per year that is not being collected.

#### 5.0 **CONSENT CALENDAR**

##### 5.1 **Approval of September 9, 2008 City Council Minutes**

5.1.1 The minutes were approved as submitted.

#### 6.0 **ADJOURN BUSINESS MEETING AND CONVENE WORK SESSION TO ROOM 250**

6.1 Councilman Jones moved to adjourn the business meeting and reconvene the work session. The motion was seconded by Councilman Antczak and passed unanimously on a voice vote. The business meeting adjourned at 9:13 p.m.