

**MINUTES OF THE COTTONWOOD HEIGHTS CITY COUNCIL WORK SESSION  
HELD TUESDAY, JULY 5, 2022, AT 4:00 P.M. IN THE COTTONWOOD HEIGHTS CITY  
COUNCIL WORK ROOM LOCATED AT 2277 EAST BENGAL BOULEVARD**

**Members Present:** Mayor Mike Weichers, Council Member Douglas Petersen, Council Member Scott Bracken, Council Member Shawn E. Newell (via Zoom), Council Member Ellen Birrell

**Staff Present:** City Manager Tim Tingey, City Attorney Shane Topham, Records Culture and Human Resources Director Paula Melgar, Community and Economic Development Director Michael Johnson, Finance and Administrative Services Director Scott Jurgens, Police Chief Robby Russo, Assistant Fire Chief Riley Pilgrim, IT Manager Matt Ervin

**Excused:** Public Works Director Matt Shipp

**1. WELCOME – Mayor Weichers.**

Mayor Mike Weichers called the meeting to order at 4:00 p.m. and welcomed those present.

**2. REVIEW OF BUSINESS MEETING AGENDA – Mayor Mike Weichers.**

The Business Meeting Agenda items were reviewed and discussed.

Mayor Weichers noted that the meeting would begin with the Pledge of Allegiance, which would be led by Council Member Petersen. There would also be a citizen comment period as well as a public comment period to address the Fort Union rezone request for 3526 East Fort Union Boulevard. Community and Economic Development Director, Michael Johnson explained that he would share a brief introduction about the Fort Union rezone during the Business Meeting.

Mayor Weichers reported that there were several action items on the Business Meeting Agenda. For instance, the City Council would consider either Ordinance 385-A or Ordinance 385-D. He noted that discussion and vote were specifically related to the rezone. Council Member Bracken pointed out that the setbacks changed with the Residential Office with Zoning Conditions (“RO-ZC”) Zone. He believed the current proposal was to remove non-residential uses there. Mr. Johnson clarified that the zoning conditions would eliminate any potential use that was not residential. Single-family, two-family dwellings, and home occupations would be allowed uses. This would increase the setbacks. The reason there was no General Plan amendment was because the Land Use Designation was RO, so an amendment would not be necessary in the area.

Council Member Petersen asked about the side setbacks. Mr. Johnson noted that there needed to be 10 feet on the side. However, when adjacent to single-family, the setbacks need to be 25 feet on the side and 30 feet in the rear. The massing would remain the same in terms of the building heights, but the setbacks were very different with the new rezone proposal.

Council Member Bracken reported that a rezone application was previously submitted for R2 and denied by the Council. One of the reasons for the denial was the fact that the City Council was

involved in the General Plan update process. He wondered if there were other findings for the denial at that time. City Manager, Tim Tingey noted that the findings related to the General Plan, massing, and setbacks. Council Member Bracken wanted to make sure the latest Council decision was congruent with the previous findings. Council Member Birrell noted that the constituents in District 4 wanted the area along Fort Union Boulevard, east of 2700 East, to remain as a Residential Single-Family (“R-1-8”) Zone.

Mr. Tingey read the findings from the previous City Council denial, which were as follows:

1. The land use change indicated that the eastern portion of Fort Union Boulevard was a transitional area and did not have the same character as the lower western portion.
2. The City was in the process of updating the General Plan and was considering whether it would be expedient to change the zoning.
3. The dramatic growth and development warranted caution in making land use changes.

Council Member Bracken noted that the General Plan amendment process was previously initiated by citizens. The City Council looked at the area thoroughly at that time. Mr. Johnson noted that it had been mixed-use and most of it was changed to single-family residential, low-density residential, and some remained residential office. The properties that remained residential office were those that were not corner lots and did not have neighborhood access. Those properties fronted exclusively onto Fort Union Boulevard.

Mayor Weichers believed the hurdle with this application was the fact that the City is in the middle of the General Plan update. He was hesitant to approve the rezone since the General Plan process was still underway. Mayor Weichers noted that the General Plan did have residential office as a future use. However, since the City Council was in the process of updating the General Plan, it may be best to deny the rezone until the General Plan update was complete. Discussions were had about the public comments received so far. Mayor Weichers pointed out that there would be a public comment period during the Business Meeting. He suggested that all of the comments be heard at that time and there be additional discussions about whether to approve or deny.

Council Member Birrell wondered if the 0.85-acre lot could be subdivided if it remained R-1-8. Mr. Johnson explained that a subdivision with less than 10 lots does not require a public hearing. It was procedural as long as the lots meet the standards of the zone. In this case, it was R-1-8. Mayor Weichers noted that the Council could move forward with the public comment period and then table the item to a future City Council Meeting, if necessary. Council Member Bracken wanted to hear the public comments before making a decision.

The next item on the Business Meeting Agenda was consideration of Resolution 2022-33 – Approving Entry into the Third Amendment to an Independent Contractor Agreement with Greg Curtis d/b/a Curtis Consulting. Mayor Weichers explained that Mr. Curtis is the lobbyist that worked with the State Legislature to protect the interests of the City. The City relied heavily on

him for funding and grant opportunities as well as Legislative items. Mr. Tingey reported that the contract amount was \$30,000. For Resolution 2022-34 – Approving Entry into the Third Amendment to an Independent Contractor Agreement with Evviva Consulting, Inc. d/b/a Capitol Hill Advisors, the amount was \$36,000. Both played important but differing roles.

Council Member Petersen wondered if the City had looked into the return on investment as it related to lobbyists. He knew the City received a lot back for those services but wondered how much it amounted to overall. Mr. Tingey explained that it was difficult to determine a number based on the day-to-day Legislative items. However, in terms of funding, the City was able to receive millions for projects over the last several years. Council Member Petersen considered the Lobbyists to be a wonderful investment in the City. Mayor Weichers noted that while the Utah League of Cities and Towns (“ULCT”) could be relied on, these Lobbyists are specifically looking out for the interests of Cottonwood Heights.

The next item was consideration of Resolution 2022-35 – Approving Appointments to the Planning Commission. Mr. Tingey reported that the packet included information about the Resolution, the districts, and the current term expirations. There were several Planning Commission reappointments with two new members. The two new appointments included Sean Steinman from District 4 and Mike Shelton from District 1 (at large). The Code specifies that there needs to be a fairly equal amount of representation from each district. With these appointments, there would be two from District 4, two from District 3, two from District 2, and one from District 1. The City was seeking another individual to represent District 1. The desire was to choose individuals who are residents with a broad interest in the community. Mr. Tingey felt that both individuals were qualified for the positions and recommended approval of the appointments.

Council Member Birrell noted that Mike Shelton lives in District 1. She wondered if he should take the District 1 Planning Commission seat so the at-large position would become the available position. That way, those within the City who did not reside in District 1 but had an interest in serving on the Planning Commission, could apply. Mr. Tingey explained that this could be done but clarified that there were restrictions related to the number of Planning Commission Members that could be from each district. The current at-large members included Districts 2,3, and 4 with Mr. Shelton being proposed from District 1 (at large).

The Council further discussed the eligibility requirements for the Planning Commission. Council Member Bracken noted that there is no one in the District 1 spot currently. He believed Mr. Shelton should fill that position rather than be District 1 (at large). The language included in the Resolution may need to be adjusted accordingly. Council Member Birrell asked about Planning Commission alternate members. It was noted that an alternate is available if a regular member is absent or unable to attend a meeting. There was one alternate on the Commission.

Mayor Weichers wondered if an adjustment needed to be made to the Resolution before the City Council voted on the item. It was clarified that Mr. Shelton could remain as a District 1 (at large) appointment, but then a District 1 appointment would still be needed in the future. Council Member Bracken pointed out that the Resolution should list Jonathan Ebbeler as an alternate.

The next item on the Business Meeting Agenda was Resolution 2022-36 – Approving Entry into the First Amendment to a Consulting Agreement with GeoStrata Engineering and Geosciences, LLC. Mr. Johnson reported that Timothy Thompson from GeoStrata was available to answer questions. GeoStrata is the geologic engineering and geotechnical engineering consulting firm that the City utilizes. Their services are most commonly used for technical reviews when development projects are submitted within sensitive land areas of the City. In those instances, GeoStrata comes in as a third-party contracted consultant to review the types of geotechnical engineering studies that are needed, such as fault studies or a slope stability analysis. Mr. Johnson explained that GeoStrata has been contracting with the City since 2013. The amendment would not change their role as that third-party expert consultant, but it would update the fee schedule. Staff recommended approval of the amendment to the contract.

With regard to fees, the Sensitive Lands Ordinance includes a requirement that the developer or landowner pay the associated fees for work that required an expert review. Mr. Johnson reported that much of the fees are recovered unless there is a City-initiated project. Mayor Weichers noted that the City was looking at Sensitive Lands Evaluation and Development Standards (“SLEDS”) Ordinance changes. As a result, it was important for the Council to be educated on the services, fees, and standards. He met with Mr. Thompson recently and a lot of useful information was shared. Council Member Bracken was supportive of the work done by GeoStrata.

Council Member Petersen noted that Cottonwood Heights is located against the mountains. He wondered if any of the GeoStrata information was surprising. For instance, what was seen at the gravel pit. Mr. Thompson had not seen anything in recent reviews that he found surprising. Most of the developments along the bench dealt with similar issues. The reviews were fairly typical for this area. Many developers hire companies to conduct studies but do not often see what the fault features look like when they are encountered in a trench. Seeing something in the field rather than simply on a report could be surprising for a developer or landowner.

The last agenda item was Resolution 2022-37 – Initiating Review of Compensation for the City’s Elected and Appointed Officers and Providing a Public Hearing Concerning Any Proposed Modifications to Such Compensation. Mr. Tingey explained that during the budget process, market studies were examined that related to Council and Mayor compensation. Through a Resolution, the City Council needed to express the intent to amend both the statutory and elected officer compensations. There would need to be a public hearing date set as well, which would likely take place on July 19, 2022. He noted that the item was last discussed in 2013. It had been nine years without an update and was overdue.

### **3. STAFF REPORTS.**

#### **a. SLEDS Ordinance Update – Community and Economic Development Director, Michael Johnson.**

Mr. Johnson reported that the City was in the process of preparing a City-initiated update and amendment to the SLEDS Ordinance. The Ordinance was over 100 pages long and highly technical. As a result, the presentations and discussions would take place over several City Council meetings. The update was still being considered by the Planning Commission and would come to

the Council formally over the next several months. Mr. Johnson explained that there was a desire to start the discussions about the SLEDS Ordinance update beforehand. This would make it easier to understand the full amendments for formal consideration.

The discussions would focus on the current SLEDS Ordinance and next steps. In the future, there would be discussions about the proposed amendments and the rationale for those amendments. Mr. Johnson noted that the Planning Commission had been focused on the SLEDS Ordinance since January 2022 and the conversations were ongoing. There was a lot to consider, so it made sense to start with an overview of the SLEDS Ordinance at a City Council level.

Mr. Johnson explained that the SLEDS Ordinance was originally developed by the City in place of the Salt Lake County Foothills and Canyons Overlay Zone (“FCOZ”). FCOZ regulates development in the foothill areas up and down the eastern bench of Salt Lake County. Cottonwood Heights expanded it because the SLEDS Ordinance was not just a canyons overlay. It covers different types of sensitive land hazards that could be present anywhere that was under development in the City. The SLEDS Ordinance was very technical and imposed special design, engineering, and development standards for properties located in areas that were prone to various hazards. Mr. Johnson noted that multiple creeks run through the City. This created groundwater and potential flooding hazards. There were also mountains nearby and steep slopes. He reported that there were risks that the SLEDS Ordinance tried to mitigate and account for as much as possible. Mr. Johnson informed the Council that the regulations were designed to:

- Ensure that development in sensitive areas was done in a way that protected the health, safety, and welfare of the community;
- Ensure that any negative impacts associated with the potential hazards were mitigated; and
- Preserve environmental quality and natural features, and adequately accommodate access to public lands in a way that ensured minimal natural disturbance.

Mr. Johnson reported that the SLEDS Ordinance was used throughout various stages of every development project. For instance, during the entitlement phase, a rezone, conditional use entitlement, building permit phase, and construction process. There was a technical and professional rationale to explain why certain areas were considered sensitive lands. Mr. Johnson explained that Utah Geological Survey (“UGS”) data was used to identify where potential fault hazards may be located. Alternatively, the Federal Emergency Management Agency (“FEMA”) data was used to identify where flooding issues may occur. Radar imaging could also be used to determine where a steep slope hazard was. A combination of various resources was used to identify and outline potential hazard areas in the City.

The SLEDS Ordinance is technical and wide-ranging. It regulates development and requires the study and mitigation of many different hazards. The Development Review Committee (“DRC”) administers the requirements of the chapter. Mr. Johnson reported that the DRC consists of Staff representatives from City Planning, Public Works, Engineering, Building, and Fire. Other experts are utilized as needed. For instance, the City Attorney, Geologic Hazards Specialists, and so on. Mr. Johnson noted that the current SLEDS Ordinance established general development standards for sensitive lands, which included slope disturbance limits, impervious surface requirements, as

well as grading, drainage and erosion control standards, cut and fill regulations, vegetation and revegetation requirements, fire protection and access standards, standards for hillside trails, architectural design requirements, and minimum qualifications for any professionals used to conduct outside reviews. The SLEDS Ordinance also established the procedure for how hazards were identified, reviewed, and the processes to follow.

Mr. Johnson noted that there is an Appendix to the SLEDS Ordinance that included a detailed set of requirements for each hazard. There was information about how to identify the hazards, how to study the hazards, and what the study needed to show. Additionally, there was information about the limitations for development related to each type of hazard. He overviewed some of the hazards, such as surface fault rupture hazards, slope stability hazards, liquefaction, debris flow hazards, and rockfall hazards. Mr. Johnson also made note of groundwater source protection, riparian corridor and watershed protection, and checking sites for high groundwater and flooding. Two overlays were shown to the Council. The pink overlay showed what was currently in the SLEDS Ordinance and the blue overlay was what was proposed in the amendment. The Sensitive Lands Overlay area was becoming larger. This was due to better outside data.

Council Member Birrell asked how the City prioritized the different hazards. Mr. Johnson stated that every hazard is prioritized the same way. They were all included in the SLEDS Ordinance, which the City would administer. Generally, a permit application is received, and the City Engineer reviews the permit. The City Engineer would flag properties with potential hazards and determine a path forward. Council Member Birrell asked about existing hazards that were not related to new development. Mr. Johnson explained that the SLEDS Ordinance was initiated when development applications were received. If there was a concern that a requirement in the Ordinance was not being met, Staff could look into issues or violations.

Mr. Johnson explained that the technical update for the SLEDS Ordinance was underway. This was directed by the previous City Council a few years ago. It took a lot of time because the work was quite technical. He reported that the item had been in front of the Planning Commission since January 2022. The last time the SLEDS Ordinance was updated was in 2015. There were new best practices and new expert resources that were being incorporated into the Ordinance. During the Planning Commission process so far, numerous changes had been made. These would be outlined in detail at future City Council Meetings. The SLEDS Ordinance had been discussed with many experts from UGS, various universities, geologic experts, FEMA, and the U.S. Forest Service. GeoStrata had also been instrumental in making recommendations.

In the next few months, the Planning Commission would make a recommendation to the City Council. At that time, the amended SLEDS Ordinance would come to the Council for formal consideration. There would be a public comment session and as many Work Sessions or discussions as the Council needed to feel comfortable with the material. Mr. Johnson felt that the amendments would improve the SLEDS Ordinance and ensure that the information was up to date.

**b. GeoStrata Agreement – Public Works Director, Matt Shipp.**

The above item was not discussed further.

**c. Ranked Choice Voting Discussion – Mayor Weichers and City Council.**

Mayor Weichers reported that at a previous City Council Meeting, proponents for and against Ranked Choice Voting addressed the Council. He asked that the Council further discuss Ranked Choice Voting and consider if it was something the City wanted to use for the next election cycle. Council Member Petersen had spoken to a lot of residents and there had been some confusion about how the Ranked Choice Voting system worked. Many also found it difficult to keep track of that many candidates. Residents were busy and this type of voting system requires a certain amount of research. There was only a 40% voter turnout to begin with and it was difficult to encourage residents to look into a number of different candidates. A lot of the feedback he heard was that residents were confused about the process and how to cast their vote appropriately.

Council Member Bracken believed that education was essential. The number of candidates did not necessarily change with the Ranked Choice Voting system. He wished that there had been a better response from the County Clerk so there was data to show what happened specifically in Cottonwood Heights. Council Member Petersen noted that the data had been requested. He wondered why it had not been received by the County Clerk. Council Member Bracken explained that the Utah County Clerk found a way to anonymize the information so that data could be shared. However, the Salt Lake County Clerk was unwilling to do so. It was difficult to say what had happened in Cottonwood Heights specifically, but the nationwide results showed that voters, in general, understood Ranked Choice Voting and wanted to use it again. There was discussion regarding mail-in voting in the City. Mail-in voting was utilized to improve voter turnout. Council Member Bracken reported that voter turnout had improved overall.

Council Member Birrell reported that she received feedback about Ranked Choice Voting from constituents in District 4 and around Cottonwood Heights. Many that she had spoken to found Ranked Choice Voting intriguing and liked that there were several candidates to investigate. She noted that it is always difficult to find information beyond what was in the candidate brochure and thought it was beneficial that the League of Women Voters of Utah held a candidate forum. It would have been beneficial if that information had been broadcast better to the Cottonwood Heights residents. Council Member Birrell liked the idea that Ranked Choice Voting made it more accessible for people to run for City Office. Voters who did not know all of the candidates could simply not vote for every single person on the Ranked Choice Voting ballot.

Council Member Petersen noted that some residents did not know that they did not need to vote for every single candidate. Council Member Birrell believed that was a communication issue. She felt it was important to continue sharing information with residents. It would be beneficial to find ways to improve communication so there was less confusion if Ranked Choice Voting was used again in the future. She was in favor of continuing with Ranked Choice Voting.

Council Member Newell noted that Ranked Choice Voting was received favorably on a national level. It was a mechanism that was designed to improve voter turnout and reduce the cost of holding a primary. Primaries were still utilized in non-partisan races in most municipalities. As far as learning about the candidates, it was the responsibility of the candidate to share information with residents. It was also the responsibility of the voters to do the research. For Cottonwood Heights, training was offered twice so people could learn about Ranked Choice Voting. That

responsibility fell to the residents to do the research and understand the process. Council Member Newell believed additional education was needed. Additionally, residents need to understand their responsibility as voters.

Mayor Weichers explained that in Sandy City nine people were running for Mayor. It was not realistic for residents to research that many candidates. One of the things he learned was that there could be Ranked Choice Voting in a primary and the candidates could then be narrowed down to two. He believed that a Ranked Choice Voting primary followed by a general election would be worthwhile. This would make the process more inclusive but still alleviate some of the confusion that residents feel during the voting process. It was noted that residents would still need to research the candidates for the primary election. Mayor Weichers confirmed this but explained that it could address the voters who chose to only vote for one candidate. Council Member Bracken believed that voters who chose only one candidate tended to be a minority. Most people voted regardless of whether they knew the candidates.

Council Member Bracken thought there were benefits to Ranked Choice Voting. He was not in support of Ranked Choice Voting in partisan elections. It worked for non-partisan elections. Mayor Weichers explained that the Council does not have to make a decision about Ranked Choice Voting at the current meeting, but it was worthwhile to discuss.

**d. Community Fiber Optics Discussion – Mayor Weichers and City Council.**

Mayor Weichers reported that Comcast representatives would be present at the next City Council Meeting, which differs from a fiber-to-fiber provider. The City wanted to hear about Comcast and allow them to present. He felt it was also important to start discussing some of the fiber-related options. The City had heard from UTOPIA and Google Fiber. In one model, the City needed to offer guarantees if certain quotas are not met. In another model, the streets would be impacted. He was disappointed in CenturyLink because they did not have answers to many of his questions and fiber would not be brought to every home in the City.

Mayor Weichers stated that the previous City Council was close to signing a contract with Google Fiber. One of the reasons the City backed off had to do with road concerns. He asked if it would be possible to engage Google Fiber and find out whether there could be better guarantees about patching and road work. Mayor Weichers did not see UTOPIA as a great option for the City. If the road issues could be worked out with Google Fiber, that may be worthwhile.

Council Member Petersen noted that originally, Google Fiber stated that the trenching would be three to four inches but now Google Fiber was saying eight to 12 inches. It was important to have guarantees about road maintenance. Council Member Bracken believed the real cost to Google Fiber had to do with maintaining the infrastructure. He had privacy concerns with Google. One of the benefits of UTOPIA was that there are certain privacy restrictions in place. Mayor Weichers felt that was important to consider.

Council Member Newell questioned why the Council was looking for one specific provider when there were already a number of other providers in the City. Additionally, if the Council was considering future technology, he had spoken to some people at AT&T, and they were looking at

modern-less internet capabilities. Other companies were also looking for new technology that would not require a fiber cable. If the Council preferred to move forward with fiber, he wanted to understand why the City needed to choose one company to handle those needs.

Mayor Weichers noted that faster and more secure internet in the City was a priority. Many residents want fiber in their homes. He explained that CenturyLink has a completely different model. They went through over the air rights-of-way and were not interested in reaching the entire City. If the Council chose CenturyLink, it would need to be done with the understanding that not all residents would have the option to have fiber run to their homes. UTOPIA and Google Fiber needed permission from the City Council to use the right-of-way to lay the fiber under the roads. One of the reasons that he struggled with UTOPIA was because there was a long-term commitment. The future technology mentioned by Council Member Newell could change things in the next five to 10 years. That was the reason the Google Fiber option made the most sense.

Council Member Birrell asked how many residents were interested in having fiber. She wondered if that would be revealed in the Y2 Analytics survey. It was important to consider whether every home in the City needs access to fiber. Council Member Bracken explained that he had received countless comments, requests, and demands for fiber. It was becoming more of an expectation for fiber to be an option.

Mayor Weichers pointed out that more residents were working from home. He believed that would continue to grow as time goes on. As a result, more households would need to have reliable and fast internet coverage during the day. Council Member Petersen noted that one of the most common comments he received from constituents related to the need for fiber in the City. While there were new technologies on the horizon, he believed they were too far out at the current time. Council Member Newell noted that there needed to be a balance between the decisions made now and what would be available in the future. He could not see the City entering a 20-year agreement and agreed that there would be more residents working from home. Service needed to be provided to all residents in a way that was effective, but also considered the future.

Mayor Weichers reported that Cottonwood Heights is one of three municipalities in Salt Lake County that does not have UTOPIA or Google Fiber. Every other municipality has a fiber option built out or a fiber option that is in the process of being installed. The City had put this off for a long time and it was important to make a decision and move forward. Council Member Birrell liked the idea of reaching out to Google Fiber to negotiate some additional terms. Mr. Tingey explained that previously the City had done everything possible to protect its interests, and Google Fiber had not been receptive. However, it was worthwhile to try again.

#### **4. REVIEW OF CALENDARS AND UPCOMING EVENTS.**

- a. **Planning Commission Meetings will be on July 6 at City Hall Starting at 5:00 p.m.**
- b. **City Council Meetings will be on July 19 at City Hall Starting at 4:00 p.m.**
- c. **City Hall will be Closed in Observation of Pioneer Day on July 25.**
- d. **Cottonwood Heights Butlerville Days – July 28-30, 2022 (Volunteers and Sponsors Needed. For more information visit [Butlervilledays.com](http://Butlervilledays.com))**

- e. Movie in the Park: *Sing 2* will be on July 29 at Butler Park Starting at 9:00 p.m.
- f. City Council Meetings will be on August 2 at City Hall Starting at 4:00 p.m.
- g. Movie in the Park: *Spiderman: No Way Home* will be on August 12 at Butler Park Starting at 9:00 p.m.
- h. City Council Meetings will be on August 16 at City Hall Starting at 4:00 p.m.
- i. Future City Council Meetings will be held on September 6 and 20, October 4, and 18, November 1 and 15, and December 6 and 20, 2022, at City Hall Starting at 4:00 p.m. Unless Otherwise Noticed.

The calendar items and upcoming events were reviewed. Mayor Weichers noted that some tragic events had taken place at parades recently. He reached out to Staff to review the policies and procedures for parades. Some additional policies would be created and communicated to anyone in the Cottonwood Heights parades. This would ensure that safety measures are followed.

**5. POSSIBLE CLOSED MEETING TO DISCUSS LITIGATION, PROPERTY ACQUISITION, AND/OR THE CHARACTER AND PROFESSIONAL COMPETENCE OR PHYSICAL OR MENTAL HEALTH OF AN INDIVIDUAL.**

**MOTION:** Council Member Bracken moved to Close the Work Session and move into a Closed Meeting to discuss litigation, property acquisition, and/or the character and professional competence or physical or mental health of an individual. The motion was seconded by Council Member Birrell. The motion passed with the unanimous consent of the Council.

The City Council went into a Closed Meeting at approximately 5:49 p.m.

**6. ADJOURN CITY COUNCIL WORK SESSION.**

**MOTION:** Council Member Birrell moved to ADJOURN. The motion was seconded by Council Member Petersen. The motion passed with the unanimous consent of the Council.

The Work Session adjourned at 5:49 p.m.

**MINUTES OF THE COTTONWOOD HEIGHTS CITY COUNCIL BUSINESS MEETING  
HELD TUESDAY, JULY 5, 2022, AT 6:30 P.M. IN THE COTTONWOOD HEIGHTS CITY  
COUNCIL CHAMBERS LOCATED AT 2277 EAST BENGAL BOULEVARD**

**Members Present:** Mayor Mike Weichers, Council Member Douglas Petersen, Council Member Scott Bracken, Council Member Shawn E. Newell (via Zoom), Council Member Ellen Birrell

**Staff Present:** City Manager Tim Tingey, City Attorney Shane Topham, Records Culture and Human Resources Director Paula Melgar, Community and Economic Development Director Michael Johnson, Finance and Administrative Services Director Scott Jorges, Police Chief Robby Russo, Assistant Fire Chief Riley Pilgrim, IT Manager Matt Ervin

**Excused:** Public Works Director Matt Shipp

**1.0 WELCOME – Mayor Weichers.**

Mayor Mike Weichers called the meeting to order at 6:34 p.m. and welcomed those present.

**2.0 PLEDGE OF ALLEGIANCE.**

The Pledge was led by Council Member Douglas Petersen.

**3.0 CITIZEN COMMENTS**

*Randy Whitehead* stated that the Citizens Committee was still very engaged but wants to be able to provide input in a more formal manner. There were ideas about what could be developed in Hillside Plaza. Mr. Whitehead wanted to understand how the Citizens Committee could become more involved in a formal way moving forward. He asked that Staff reach out to him about that and thanked the Council for listening to citizens. Council Member Birrell noted that there was an available spot for District 1 on the Planning Commission. If any of the Citizens Committee Members live in District 1, it may be worthwhile applying for the position.

*Mary Ellen Johnson* gave her address as 3489 East Macintosh Lane and shared comments about the property on 3526 Fort Union Boulevard. She asked that the City Council not vote in favor of the rezone because she was concerned about the possibility of ski rentals in the area. 90 residents signed a petition to state that they were against the rezone. There needed to be a sense of community and the ski rentals would not make that possible.

*Peggy Clark* gave her address as 3479 Macintosh Lane. She was also opposed to the 3526 Fort Union Boulevard rezoning. However, she would share comments during that portion of the meeting.

*Runar Boman* shared comments related to the community fiber optics that were being considered for Cottonwood Heights. He moved to the City five years ago. When he was moving out of Salt

Lake City, Google Fiber was being installed. It has been there ever since. He understood that a decision had not been made in Cottonwood Heights, but it was time to provide this service in the community. Mr. Boman noted that he had not had a positive experience with CenturyLink in the past and did not support it in the City. He noted that UTOPIA is a government entity, but he was concerned about unknown vendors providing service to the residents. There were a lot of unknowns with UTOPIA, and he was not in support of that option. Mr. Boman had heard that Google Fiber was reliable, fast, and more affordable than some other options. He suggested that Cottonwood Heights speak to other cities with Google Fiber to find out more about the service.

*Nancy Hardy* wanted to better understand the vacant commercial spaces in Cottonwood Heights. Some of the commercial spaces had been vacant for a very long time. She wondered if the City kept track of the square footage of vacant space or the durations. It may be beneficial to account for the amount of vacant commercial spaces before approving more commercial development. Ms. Hardy also wondered if the City had considered a Commercial Vacancy Tax or Retail Vacancy Tax for properties that were left vacant for more than six months. That may be an incentive for owners to lease their properties and could also result in additional City revenue. Mayor Weichers believed occupancy was tracked and could be looked into.

*Mike Hansen* noted that there is no easy solution when it comes to fiber. He has a business that just had fiber installed in Millcreek. He did not feel that the contractor Google Fiber had used was good. Mr. Hansen was concerned about the roads in Cottonwood Heights. The micro-trenching down the sides of the roads could lead to future degradation issues. It was important to consider how Google Fiber would address the roads. Mr. Hansen reiterated that the installation he has seen elsewhere has been less than desirable. Council Member Birrell asked for specific examples within Millcreek. Mr. Hansen reported that the fiber installation on the roads around State Street and 4500 South was done carelessly. There were trip hazards everywhere. He noted that Google Fiber was contracting the installation work to others.

Mr. Hansen was surprised to see that Cottonwood Heights settled a \$4 million lawsuit. He appreciated the statement from the Mayor and the Council that they did not agree with the Utah Local Governments Trust's decision. As a citizen, he wanted to understand if there would be an opportunity to see the details of the decision. It was a lot of money for the City to lose when no details were being shared. He suggested that this be part of a future Work Session.

*Deborah Case* expressed concern about the Planning Commission appointments. The appointments were made by the City Manager and subject to the approval of the City Council. She felt there should be a direct consensus vote from the citizens of Cottonwood Heights. However, the Planning Commission appointments rely on the wisdom of the appointed and elected officials. Mike Shelton was currently being considered for a three-year term on the Planning Commission. He was a former Council Member from District 1. Ms. Case ran against him for the Council in 2019 due to the high number of citizens who were not in favor of his policies. She did not support his policies regarding building, growth, and planning for the City. Many other citizens felt the same way. The Planning Commission needs someone who is in tune with the future of Cottonwood Heights and the needs of the City. Ms. Case asked that the Council consider whether this was the correct appointment.

There were no further comments. The citizen comment period was closed.

#### **4.0 PUBLIC COMMENTS**

##### **4.1 Fort Union Rezone – 3526 East Fort Union Boulevard – *Community and Economic Development Director, Michael Johnson.***

Community and Economic Development Director, Michael Johnson reported that there was a requested rezone for property located at 3526 East Fort Union Boulevard. The property was previously before the City Council for a slightly different rezone request and a General Plan Land Use Map amendment. Both were denied by the Council at that time. The applicant, Adam Nash, had since submitted a new application for a different zoning classification. It was a request to rezone the property from Residential Single-Family (“R-1-8”) to Residential Office with Zoning Conditions (“RO-ZC”). The property is just under one acre in size and is located on the south side of Fort Union Boulevard on the eastern portion of the corridor.

The current land use designation from the General Plan is Residential Office (“RO”), which is why there was no General Plan land use amendment in front of the Council. The current rezone request complies with the General Plan land use designation. Mr. Johnson explained that the proposal was for RO-ZC. There would be a voluntary condition imposed by the applicant to prohibit any use allowed in RO zoning, with the exception of residential. The only uses that could be considered were single-family dwellings as a permitted use and two-family dwellings or home occupations as conditional uses. Conditional uses would require Planning Commission approval. The commercial and office uses normally allowed in the RO Zone would not be allowed under the proposal.

Mr. Johnson shared an image that highlighted the difference between the RO setbacks and the setbacks proposed in the previous application. Under the previous proposal, there was a minimum setback of five feet from the property line to the west. The new setbacks under RO would be 25 feet. This change meant there would be a much more substantial setback from the adjacent property to the west. To the south, the previous rear yard setback was 20 feet, but under RO, it would be increased to 30 feet. The allowed building height would not change between the current zoning and the proposed zone. Mr. Johnson reported that the maximum height is 35 feet. He added that the minimum setback in the current R-1-8 Zone is eight feet from the nearest western property and 20 feet from the south.

Staff used the currently adopted General Plan as a tool when considering rezone requests. Mr. Johnson noted that the General Plan complied with the request and the zoning conditions imposed would restrict a lot of the uses that would create problematic impacts. Staff recommended approval of the rezone to the Planning Commission. The Planning Commission held a public hearing and considered the application on June 1, 2022. At that meeting, the Commission unanimously forwarded a recommendation of approval to the City Council. Mr. Johnson explained that there were two Ordinances in front of the City Council. One was an Ordinance for approval, and one was an Ordinance for denial. The motion would be for approval or denial of the rezone. He clarified that the Council would take a vote on either one of the Ordinances, but not both.

Mayor Weichers opened the public hearing.

*Robbie McFarland* gave her address as 7161 Reindeer Drive. She was supportive of single-family homes because they would maintain the character of the neighborhood. Ms. McFarland did not want to see twin homes there. There were many issues related to twin homes, such as parking.

*Peggy Clark* gave her address as 3479 Macintosh Lane and explained that she lives down the street from the subject property. She asked that the Council be cautious about rezoning. The area is close to the ski resorts, and many want to rezone for higher density housing to have ski rentals. Ms. Clark wanted to see the area remain single-family. Once one property is rezoned, it would likely snowball, and other developers will come in to rezone nearby properties.

*Cynthia Blair* thanked the City Council for listening to the residents. She appreciated that the builder had offered to provide larger setbacks. That might be the best offer in terms of setbacks, but she noted that there were 90 signatures on a petition in opposition to the rezone. The desire was to keep the property zoned single-family residential. Ms. Blair had spoken to many others in the neighborhood and with the exception of one couple, everyone felt strongly that the neighborhood should remain single-family residential. Many had moved into the area because other areas in the City were becoming overbuilt. The single-family residential designation was valuable. Ms. Blair encouraged the City Council to vote against the rezone.

There were no further comments. The public comment period was closed.

## 5.0 ACTION ITEMS

- 5.1 Consideration of Ordinance 385-A - Approving the Rezone of 0.85 Acres of Real Property Located at 3526 East Fort Union Boulevard from R-1-8 (Residential Single Family) to RO-ZC (Residential Office with Zoning Conditions) and Amending the Zoning Map. (This Ordinance will Approve Rezoning the Referenced Parcel of Realty from R-1-8 to RO-ZC and will Amend the Zoning Map Accordingly.)

OR

Consideration of Ordinance 385-D - Denying the Rezone of 0.85 Acres of Real Property Located at 3526 East Fort Union Boulevard from R-1-8 (Residential Single Family) to RO-ZC (Residential Office with Zoning Conditions). (This Ordinance will Deny Rezoning the Referenced Parcel of Realty from R-1-8 to RO-ZC.)

Mayor Weichers explained that the Council would either vote on Ordinance 385-A or Ordinance 385-D. Alternatively, the City Council could table the item to receive additional information. Council Member Bracken noted that he was on the City Council during the citizen-initiated General Plan process a few years ago. He felt that process was thorough and well thought out. As a result, whenever there is a rezone that complies with the General Plan, he traditionally was supportive. However, when the initial rezone request and General Plan amendment went in front

of the Council, he voted against it, since the City was in the process of updating the General Plan at that time. The new rezone request was an improvement from what was originally proposed but it may be beneficial to wait until the General Plan update is complete before considering a rezone.

Council Member Petersen felt it was important to seriously consider the comments shared by citizens. The residents in the area wanted to maintain the harmony and sense of community in their neighborhood. He appreciated the increased setbacks and improvements that had been made to the rezone request but was not currently in support of the application. Council Member Birrell understood that in 2019 there was a General Plan update based on a desire to move away from mixed-use along certain portions of Fort Union Boulevard. That was a good start, but she wanted to remind those present that the City is in the process of another General Plan update. The vision she had for the City was that east of 2700 East remain single-family. She wanted to create a main street area from 1700 East to 2700 East. It would be appropriate to have higher density, mixed-use, and additional walkability there. Since the General Plan process is currently underway, she did not feel it was an appropriate time to approve rezones. She was in favor of tabling the decision to a later date rather than deny the application.

**MOTION:** Council Member Petersen moved to APPROVE Ordinance 385-D - Denying the Rezone of 0.85 acres of real property located at 3526 East Fort Union Boulevard from R-1-8 (Residential Single-Family) to RO-ZC (Residential Office with Zoning Conditions). The motion was seconded by Council Member Newell. Vote on motion: Council Member Petersen-Aye, Council Member Bracken-Aye, Council Member Newell-Aye, Council Member Birrell-Aye, Mayor Mike Weichers-Aye. The motion passed unanimously.

**5.2 Consideration of Resolution 2022-33 - Approving Entry into the Third Amendment to an Independent Contractor Agreement with Greg Curtis d/b/a Curtis Consulting. (This Resolution will Approve the City's Entry into an Amendment with the City's Current Contract for Lobbyist Services with this Provider. The Purpose of the Amendment is to Extend the Term of the Current Contract through 30 June 2024).**

Mayor Weichers reported that the above item was discussed during the Work Session. It related to an Independent Contractor Agreement with Greg Curtis.

**MOTION:** Council Member Petersen moved to APPROVE Resolution 2022-33 – Approving Entry into the Third Amendment to an Independent Contractor Agreement with Greg Curtis d/b/a Curtis Consulting. The motion was seconded by Council Member Birrell. Vote on motion: Council Member Petersen-Aye, Council Member Bracken-Aye, Council Member Newell-Aye, Council Member Birrell-Aye, Mayor Mike Weichers-Aye. The motion passed unanimously.

**5.3 Consideration of Resolution 2022-34 - Approving Entry into the Third Amendment to an Independent Contractor Agreement with Evviva Consulting, Inc. d/b/a Capitol Hill Advisors. (This Resolution will Approve the City's Entry into an Amendment with the City's Current Contract for Lobbyist Services with this Provider. The Purpose of the Amendment is to Extend the Term of the Current Contract through 30 June 2024).**

Mayor Weichers reported that the above item was discussed during the Work Session. It related to an Independent Contractor Agreement with Evviva Consulting, Inc.

**MOTION:** Council Member Newell moved to APPROVE Resolution 2022-34 – Approving Entry into the Third Amendment to an Independent Contractor Agreement with Evviva Consulting, Inc. d/b/a Capitol Hill Advisors. The motion was seconded by Council Member Bracken. Vote on motion: Council Member Petersen-Aye, Council Member Bracken-Aye, Council Member Newell-Aye, Council Member Birrell-Aye, Mayor Mike Weichers-Aye. The motion passed unanimously.

**5.4 Consideration of Resolution 2022-35 - Approving Appointments to the Planning Commission. (This Resolution will Approve the Appointments of Sean Steinman and Mike Shelton to the City's Planning Commission).**

Mayor Weichers reported that the above item relates to appointments to the Planning Commission. City Manager, Tim Tingey noted that based on the Work Session discussions, there were needed clarifications. He proposed that the resolution state that Mike Shelton fulfill the term for District 1 and Jonathan Ebbeler serve as an Alternate. It was important to note that there could only be two individuals per district. That included a regular member and at-large member. With the appointments, there would be six individuals on the Commission. One more appointment would need to take place from someone in District 1 or District 2.

Mr. Tingey proposed that Mr. Shelton represent District 1 and Sean Steinman represent District 4. He disagreed with the comments shared during the Citizen Comment period about Mr. Shelton. The Code specifies that it is important to have individuals who serve broad community interests. He noted that Mr. Shelton has served the community, understands State and local laws regarding land use, and knows how to focus on broad community interests. Mr. Tingey believed he would be a valuable member of the Planning Commission moving forward. He had also met with Mr. Steinman and felt he had an impressive background. Mr. Steinman is a business owner in the community, a resident, and has development interests. Mr. Tingey recommended the appointments of both Messrs. Shelton and Steinman and the amended Resolution.

Mr. Shelton noted that the work the Planning Commission did was important for the community. The Planning Commission needs to represent the community in a broad way. A variety of perspectives were beneficial. He had shown a willingness to represent the community through his work and appreciated the comments shared by Ms. Case earlier in the meeting. Council Member Bracken spent eight years working directly with Mr. Shelton. While they did not always agree on matters, he found Mr. Shelton to be willing to listen to all perspectives.

Council Member Birrell respected Mr. Shelton for his previous years of service. However, it was a fact that in 2017, over 4,100 residents signed a referendum because they were extremely displeased with the densification of an apartment complex that was being considered by the City at that time. That fell within District 1 and was largely under the oversight of Mr. Shelton. Additionally, the Canyon Center was another project that brought a lot of consternation to surrounding residents. That project also fell under the guidance of Mr. Shelton. As a result, she was unable to support the appointment of Mr. Shelton to the Planning Commission. She was not certain he would positively benefit the community.

Council Member Birrell suggested that the vote be delayed so the City website could be updated. Information could be shared so residents know about the Planning Commission positions. Council Member Birrell did not feel there had not been enough time for the City Council to consider the current Planning Commission applicants. She was not prepared to vote.

**MOTION:** Council Member Birrell moved to CONTINUE Resolution 2022-35 – Approving Appointments to the Planning Commission. The motion failed for lack of a second.

**MOTION:** Council Member Bracken moved to APPROVE Resolution 2022-35 – Approving Appointments to the Planning Commission, as amended. The motion was seconded by Council Member Petersen. Vote on motion: Council Member Petersen-Aye; Council Member Bracken-Aye, Council Member Newell-Aye, Council Member Birrell-Nay, Mayor Mike Weichers-Aye. The motion passed 4-to-1.

**5.5 Consideration of Resolution 2022-36 Approving Entry into the First Amendment to a Consulting Agreement with GeoStrata Engineering & Geosciences, LLC. (This Resolution will Approve the City's Entry into an Amendment to the City's Current Contract for Geologic and Geotechnical Consulting Services with this Provider. The Purposes of the Amendment Include Changing the City's Designees and the Payment Schedule under the Current Contract).**

Mayor Weichers reported that the above item was discussed during the Work Session. It related to a Consulting Agreement with GeoStrata Engineering and Geosciences, LLC.

**MOTION:** Council Member Newell moved to APPROVE Resolution 2022-36 – Approving Entry into the First Amendment to a Consulting Agreement with GeoStrata Engineering & Geosciences, LLC. The motion was seconded by Council Member Bracken. Vote on motion: Council Member Petersen-Aye, Council Member Bracken-Aye, Council Member Newell-Aye, Council Member Birrell-Aye, Mayor Mike Weichers-Aye. The motion passed unanimously.

**5.6 Consideration of Resolution 2022-37 Initiating Review of Compensation for the City's Elected and Appointed Officers and Providing for a Public Hearing Concerning Any Proposed Modifications to Such Compensation. (By this Resolution the Council will Initiate Its Review of Compensation for the City's Elected and Appointed Officers and Provide for a Public Hearing Concerning Any Proposed Changes to Such Compensation, All Pursuant to Utah Code Ann. §10-3-818).**

Mr. Tingey noted that the review of compensation had been discussed during the budget process. Staff looked at the market as it relates to the compensation of elected officers and statutory officers. The Resolution would express the intent to consider amending the compensation of the elected and statutory officers and order a public hearing. Mr. Tingey reported that the public hearing would be set for July 19, 2022. Council Member Bracken pointed out that it had been nine years since the compensation ordinance had been updated.

**MOTION:** Council Member Bracken moved to APPROVE Resolution 2022-37 – Initiating Review of Compensation for the City’s Elected and Appointed Officers and Providing for a Public Hearing Concerning Any Proposed Modifications to Such Compensation, with a Public Hearing on July 19, 2022. The motion was seconded by Council Member Newell. Vote on motion: Council Member Petersen-Aye; Council Member Bracken-Aye, Council Member Newell-Aye, Council Member Birrell-Aye, and Mayor Mike Weichers-Aye. The motion passed unanimously.

**6.0 CONSENT CALENDAR**

**6.1 Approval of the City Council Work Session and Business Meeting Minutes for June 21, 2022, and the Special Work Session Minutes for June 22, 2022.**

**MOTION:** Council Member Newell moved to APPROVE the City Council Work Session and Business Meeting Minutes from June 21, 2022, and the Special Work Session Minutes for June 22, 2022. The motion was seconded by Council Member Birrell. The motion passed with the unanimous consent of the Council.

**7.0 ADJOURN CITY COUNCIL BUSINESS MEETING.**

**MOTION:** Council Member Petersen moved to ADJOURN. The motion was seconded by Council Member Birrell. The motion passed with the unanimous consent of the Council.

The City Council Meeting adjourned at 7:35 p.m.

*I hereby certify that the foregoing represents a true, accurate, and complete record of the Cottonwood Heights City Council Work Session and Business Meeting held Tuesday, July 5, 2022.*

Teri Forbes

Teri Forbes  
T Forbes Group  
Minutes Secretary

Minutes Approved: July 19, 2022