

**MINUTES OF THE COTTONWOOD HEIGHTS CITY COUNCIL WORK SESSION
HELD TUESDAY, FEBRUARY 7, 2023, AT 4:00 P.M. IN THE COTTONWOOD
HEIGHTS CITY COUNCIL WORK ROOM LOCATED AT 2277 EAST BENGAL
BOULEVARD, COTTONWOOD HEIGHTS, UTAH**

Members Present: Mayor Mike Weichers, Council Member Scott Bracken, Council Member Douglas Petersen, Council Member Shawn E. Newell, 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, Administrative and Financial Services Director Scott Jurges, Police Chief Robby Russo, Public Works Director Matt Shipp, IT Manager Matt Ervin

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.

The proposed PDD-2 Text Amendment for the Northern Gravel Pit would first be discussed. A public hearing was to be held during the Business Meeting.

The Legislative Items included consideration of Ordinance 393 approving an amendment to the 2022/2023 budget. Administrative and Financial Services Director, Scott Jurges, reported on one change that was made since the matter was reviewed three weeks ago. He referenced page two and stated that the Bond for the Hillside Plaza was previously proposed at \$14,160,000. It needed to be increased slightly to cover the building costs as well as the cost of involving a title company in the transaction. The increased amount shown in the budget adjustment was \$14,300,000.

The second Action Item involved consideration of Resolution 2023-08 adopting amended and restated Internal Policies for the Cottonwood Heights City Council. The matter was discussed during the City Council Retreat. City Manager, Tim Tingey, reported that grammatical changes were made as well as modifications to the IT equipment and the Travel Reimbursement Policy. The proposed changes were discussed previously. Staff recommended approval with the suggested changes.

3. STAFF REPORTS.

a. Election Options Discussion – City Manager, Tim Tingey.

Mayor Weichers reported that Council Member Birrell distributed an article for the Council review regarding a current House Bill. He pointed out that a decision would not be made tonight on

whether to pursue Ranked-Choice Voting. The City has been waiting for pricing. The understanding from the County was that they had underestimated the costs and will come back with a better cost estimate for what a Ranked-Choice Voting format would cover. The packet included a cost breakdown. The cost was estimated at \$15,709, which is the County's cost. The County then has to use the Ranked-Choice Voting software. They intend to charge based on how many cities in Salt Lake County participate. When the numbers were received, Mr. Tingey and staff were asked to reach out to other cities to see if they plan to participate. Cities that participated in the last cycle were as follows:

- Taylorsville – Do not plan to participate this year;
- Holladay – Do not plan to participate this year;
- Draper – Do not plan to participate this year;
- Sandy – Do not plan to participate this year;
- Herriman – Do not plan to participate this year;
- West Valley City – Do not plan to participate this year;
- Millcreek – Plan to participate this year but were not aware of the County's price change;
- Salt Lake City – Plans to participate this year; and
- South Salt Lake City – Undecided.

The cost to Salt Lake City was discussed with respect to the number of cities that participate. The cost will vary depending on the number of cities that participate. Cottonwood Heights paid \$8,537 in 2021 to participate in Ranked-Choice Voting. In the event Millcreek City does not participate and Salt Lake City does, the cost to Cottonwood Heights would be \$32,000. It was clarified that there is a software charge in addition to the County charge.

Mayor Weichers reported that the narrative in the last cycle was that Ranked-Choice Voting was less expensive. In actuality, it will cost more. The previous cost was based on the estimated pricing of equipment and time based on population. It was noted that there are 23 municipalities in the County.

Council Member Birrell commented that if there are three cities including Cottonwood Heights, Salt Lake City, and South Salt Lake or Millcreek, they will be looking at a total cost of \$27,761 compared to the cost of no Ranked-Choice Voting for the Primary and General Elections at \$24,168. She commented that the approximate additional cost to choose Ranked-Choice Voting could be \$3,000 depending on the number of cities that participate. Mayor Weichers noted that a House Bill was being put forward that would prevent cities from pursuing Ranked-Choice Voting. It was held up in Committee this week and was on hold status. With that legislation pending, he did not think it would be worthwhile to pursue it not knowing whether it will be an option. April 28 is the deadline to make a decision. The Legislative Session will end in mid-March.

Records Culture and Human Resources Director, Paula Melgar, reported that the filing dates for regular elections are June 1 through 7 and Ranked-Choice Voting is August 8 through 15. Procedural issues were discussed. Council Member Bracken commented that there is a lot of misinformation circulating regarding Ranked-Choice Voting. A group that was active in Sandy

caused some issues. On the national scale, many are questioning election integrity. Regardless of the counting method, he stated that during the last election, in Cottonwood Heights 78 to 82 percent of the ballots cast were unknown in terms of whether extra votes were cast or how many they ranked. His thought on cost was that both methods are close as long as Cottonwood Heights is not the only city doing it. He did not consider the cost difference to be significant. He asked for the costs from the previous years and found that the cost of the 2017/2018 Mayoral Election was close to \$40,000, which is significantly more than they were quoted. The cost of the District 1 and District 2 elections for 2019 was just under \$21,000 and \$15,400 in 2015. He was cautious about the estimates from the Clerk. It was noted that two cities cannot participate due to software constraints.

Many questions were raised when Ranked-Choice Voting was introduced. Far more than in previous years with traditional voting. The comment was made that there are positive aspects to Ranked-Choice Voting including having more people be involved. The problem is that with this system not everyone casts more than one vote. A candidate that is eliminated early is not participating in any part of the process. Council Member Bracken pointed out that they do not know on 80% of the ballots if that is the case. It is difficult to make that kind of deduction based on so much that is unknown. For example, in the last Mayoral election, 6,000 to 6,500 ballots were placed for first or second place. After the first round of voting, you can see how many ballots drop out. For fifth place, there were 300 who moved on, and 45 dropped off. The second time around, 55 more dropped off. A survey was conducted on the subject and the self-reported numbers showed that the average was 3.7.

Council Member Birrell remarked that one aspect of Ranked-Choice Voting that is very positive is that they know that campaigns tend to run cleaner and friendlier and candidates realize that they need to work across the aisle. She commented that Ranked-Choice Voting fosters goodwill. Council Member Bracken stated that the survey that was conducted by Y2K showed that 61 to 63 percent of voters did not notice a difference. Council Member Birrell stated that surveys have also shown that Ranked-Choice Voting was very positively received. The vast majority when surveyed post-election said that they did not find Ranked-Choice Voting to be confusing. She wanted to understand how the Council feels about HB-171. She suggested that the City's Lobbyists lobby against the State Legislature dictating to municipalities whether they can choose Ranked-Choice Voting or not. She thought that decision should be left to individual cities.

Community and Economic Development Director, Michael Johnson, commented that the Utah League of Cities and Towns ("ULCT") is always advocating for cities to have control. They are not expending a lot of political capital on this issue, but their preference is to allow cities to have a choice. They have been very active in lobbying for that. It was noted that of those present at a recent meeting on the matter, 80% of those that supported Ranked-Choice Voting had ties or worked for Ranked-Choice Voting. That was considered disingenuous. It was noted that Ranked-Choice Voting received \$10 million to start. The founder also spoke at the previous meeting. It was acknowledged as being a very complex issue.

Council Member Birrell pointed out that the purpose of a pilot program is to gain data. Since they are only one year into what was conceived originally to run through 2026, it is premature to see

the State Legislature eliminate it when they were starting to gather data. She urged the Council to instruct the City's Lobbyists to be vocal that Cottonwood Heights opposes HB-171.

Council Member Newell remarked that Ranked-Choice Voting also allows individuals who may not have the same connections on the Committee to express themselves and run for public office. They should at least be able to be part of the process. In looking at the numbers, there are variables and missing information that needs to be addressed to get a clear picture. That won't happen easily.

Council Member Bracken understood that there is a lot of distrust and accusations regarding transparency that have to be balanced against the overall trust in the election process itself. They do not want there to be a lack of confidence in the system. He was not prepared to make a definitive decision. He suggested they wait and see if the bill dies before taking action. He commented that the way they programmed the tabulation software was lacking because it would not do a two-person race. The comment was made that the data that they cannot see is protected.

Mayor Weichers was not in favor of Ranked-Choice Voting and stated that the primary process narrows down the candidates so that there are two clear-cut candidates.

b. Five-Year Road Maintenance Plan – Public Works Director/City Engineer, Matt Shipp.

Mr. Johnson appreciated the expertise of the City's Engineers. He went out with City Engineer, Matt Shipp and Senior Civil Engineer, Adam Ginsberg, and reviewed some of the roads they have been evaluating and putting on the Five-Year Plan. Since the Retreat, they were asked to scale down at least some of their recommendations in the first part of the Five-Year Plan to be more in line with the funding they have had historically. The City Council can decide if they want to do more than that. Mr. Shipp reported that they are at the end of their first original Five-Year Plan. They approached the previous Council a few years ago with a first initial approach and have been working this year to get ready for the Retreat. He explained that this is the direction they are going based on information they have been given.

Mr. Ginsberg distributed maps of the previous plan and the recommendations. He reported that in 2018, the City Council enacted a Five-Year Maintenance Plan for all local roads in the City. The goals of those plans were to provide treatment to as many roads as possible and stabilize the existing pavement conditions and slow deterioration. It was a big investment and provided a lot of benefit to City roads. They are in the 5th year of the Pavement Plan and there are still projects that are to be completed this spring that will conclude the initial Five-Year Plan. The proposed plan will run from 2023 to 2028. The proposed goals differ from the initial plan. Some neighborhoods were removed from the original plan where it was not appropriate to provide maintenance. This plan attempts to address the neighborhoods that were removed from the previous plan and continue to provide City-wide road maintenance.

An overview was provided of the types of roadway improvements that are available including maintenance and reconstruction. The PCI shows the condition of a road over time. Maintenance is done early in a road's life to prevent it from falling into a lower condition that would require a

much larger investment. Typical maintenance includes slurry, crack, and chip sealing. The main tools for reconstruction include the removal of the asphalt by roto milling and putting new material down. Complete reconstruction would involve total removal of the asphalt and removing or rehabilitating the subgrade that the road sits on. The material can be reused, and cement added. Another option was to rebuild the road from scratch.

Mr. Ginsberg reported that the map displayed showed the completed Five-Year Plan that began in 2018 that will conclude this fiscal year. The areas shown in blue were roads that were slurry sealed. The roads in red were roads that were chip sealed and the black is roads that were either overlaid or reconstructed completely. In the last five years, the completed slurry seal includes 12,130,000 square feet or approximately 60% of the entire City. They have also done chip seal on several collector roads, which equates to 2,100,000 square feet. They did a millet overlay on the areas in black, which represented 4.5% of the City. During this same time period, there was an additional 2,000,000 square feet of roadway improvements completed that were outside of the Five-Year Plan. Those included Fort Union Boulevard, 2700 East, 2300 East, and Highland Drive from Bengal Boulevard to Creek Road. Most of that work was completed based on funding the City received. Mr. Ginsberg reported that about 85% of City roads were improved in the last five years. The areas shown in green were part of the original Five-Year Plan but were removed because the surface treatment was not appropriate due to the condition of the road.

Mr. Ginsberg next addressed the areas that were excluded from the Five-Year Plan. They included Prospector and Town Drives, both of which were moved to Fiscal Year 23/24. The proposal for the first year showed reconstruction of both as well as maintenance of other roads. They were also being sure to take care of the main roads. The City was committed to \$2.8 million as the upper limit. Maintenance will include the roadway, concrete, and Americans with Disabilities (“ADA”) ramps. Staff ensured that the roads are maintaining their condition. A lot of slurry sealing was done, and staff was confident that it will hold up in most cases. Going forward, they would like to focus on areas where more significant investment is needed. With regard to ramps, they are required to be changed when reconstruction is required. Those that are maintained can remain status quo.

The preliminary costs on Prospector Drive were presented and include curb and gutter, waterways, and drive approaches. It was noted that the curb and gutter are estimated off of the total project square footage. Year 2 shows Pine View Drive, Fort Union Boulevard, and Highland Drive with a projected cost of \$2.8 million. Years 3 to 5 were described in terms of reconstruction. A large area was shown on the map that was entirely removed from the slurry seal two years ago. That area is a significant investment with a lot of asphalt. As the area is improved, it has been broken up into the next three years of the plan. Lower Siesta Drive is scheduled for a mill and overlay in 2027. Mr. Ginsberg explained that the issue is projecting five years out when the climate for cost could increase or stabilize. A five-year summary was displayed. The only project shown as a reconstruction would be Highland Drive from Bengal Boulevard to Fort Union Boulevard and will tie in with the intersection project.

Mr. Ginsberg summarized the plan and stated that they have moved the focus to include more neighborhood reconstruction to address roads that have low pavement conditions and include ADA requirements, curb, and gutter. Estimated costs were based on the Utah Department of

Transportation (“UDOT”) recommended inflation projection and utilized on pre-construction estimates. The plan will be reviewed annually, and adjustments will be made accordingly. The average rate of increase from 2003 to 2021 was 6.8% and is driven by labor costs.

c. **Utah Department of Transportation (“UDOT”) Transportation Alternative Plans (“TAP”) – Public Works Director/City Engineer, Matt Shipp.**

Mr. Shipp reported that staff received notification that the Transportation Alternative Plans Application must be submitted by March 1, 2023. Projects were listed for the Council’s consideration and discussion.

Mr. Ginsberg presented the UDOT Transportation Alternative Program (“TAP”) and stated that as part of the program, UDOT receives a portion annually that is converted to State funds to be distributed to the cities. This grant will provide up to \$300,000 in a 60/40 split with \$200,000 to be paid by the City. Eligible projects included bike facilities, trails, sidewalks, safe routes to schools, and other qualifying paths. Only one application may be selected from each municipality. Maps of potential TAP projects were reviewed. Staff was asking for input on which project they would like to submit.

They first considered would be the west side of 1700 East and be considered a Safe Routes to School Project. The Council previously approved up to \$395,000 for construction of the project, which has been designed and is moving forward. Property acquisition issues were discussed.

The 1300 East High-Intensity Activated Crosswalk (“HAWK”) signal will provide a safer option for crossing the commercial district. Staff applied for this project several years earlier with an acceptable result and were bringing it back for an additional review. This project will have an estimated cost of \$350,000.

The Creek Road Project consisting of sidewalk, curb, gutter, and bicycle lane was considered. The previous City Council identified this location as a priority when Ivory Homes constructed Watson Hollow where the sidewalk terminated at their property. The plan was to bring the sidewalk into the road shoulder and improve the safety of the bicycle lane at a cost of \$450,000. This would include retaining wall construction and potential property acquisition. The road has vertical curve issues that would also need to be addressed along with a second area to the north with a proposed four-foot sidewalk and property acquisition. Council Member Birrell considered this a priority and recommended keeping the road narrow to ensure the safety of pedestrians and bicyclists.

Mayor Weichers confirmed that the consensus of the Council was to submit an application for the 1700 East Project with the Creek Road Project being a second priority followed by the Creek Road Project.

d. **Doverhill Park Discussion – Community and Economic Development Director, Michael Johnson.**

Mr. Johnson provided an update on the Doverhill Park submittal that has been through Planning Commission discussion with the Parks, Trails, and Open Space Committee (“PTOS”) and The

Architectural Review Commission (“ARC”). This is the subdivision proposal that came to Staff after the completion of the fault studies by Ivory Homes that identified fault lines running through the middle of the site. A 13-lot development was presented with a public park parcel bifurcating the residential units on both sides. Access was identified. This is the Preliminary Plat in a PUD and is administrative in nature. The Planning Commission is the Land Use Authority for the formal subdivision approval. The project went before the Planning Commission on January 4, 2023, for a public hearing and received unanimous approval. It then went before the PTOS for review and recommendation followed by the ARC who approved the design and issued a Certificate of Design Compliance with conditions.

A layout representing the conceptual park design was displayed. Mr. Johnson explained that the intent was for it to be a passive park with pedestrian circulation. Ivory Development will construct the park with the design to be approved by the City Council through a Development Agreement. The cost will be factored into Ivory’s cost of purchasing the land. The City will pay the amount as intended for the park space and at the end of the project, the park will be completely built out along with the homes on the site. The next step for Ivory Homes is to develop construction-grade plans for all aspects of the site that will then go through the City’s ordinance review.

The four lots that received a variation from the normal standard were reviewed. Mr. Johnson reported that the lots comply and are larger than the minimum required. Lots 105, 106, 107, and 108 do not have any special exceptions. The site grading profile was described. The direction provided by the ARC specified that Ivory Development must keep the grading fill to the absolute minimum to meet the drainage requirements. Anything beyond the bare minimum need will count against their height. The ARC conditions were identified as follows:

- Lots 105-109 should be graded with the minimum amount of fill;
- Retaining walls should be designed with planting beds between the levels;
- Access along street B should be extended to improve pedestrian connectivity to the park;
- Minimize the crowding between homes on lots 110, 111, and 112 by articulating buildings;
- Animate the park by closing the walking loop internally within the park;
- Augment the playground with more amenities for young children, including swings and “tot lot” equipment;
- Reduce neighborhood bifurcation by eliminating dedicated parking spaces, in favor of on-street parking instead;
- Minimize the slope of the retention basin to keep it as shallow as possible;
- Add seating and shade trees around the playground, which provide direct shade to the equipment;
- Maintain lighting to the pavilion, if feasible;
- Include 1-2 pet waste stations along the walking loop; and
- Utilize low-water species that are also pollinator-friendly in landscaping.

Mr. Johnson reported that the next step is negotiation between the buyer and seller to ensure that the price reduction for the park is realized. The full construction plans should be submitted by Ivory Homes and a Development Agreement approved by the City Council to establish the location of the park and parcel purchased.

e. **PDD-2 Text Amendment – North Gravel Pit – Community and Economic Development Director, Michael Johnson.**

Mr. Johnson provided an overview of the Planned Development District (“PDD-2”) text amendment and stated that it was approved by the Planning Commission and City Council in 2021. The PDD allows for the creation of a site-specific ordinance as it only applies to the northern 20 acres of the gravel pit. The initial site scoping identified numerous hazards on the site and the initial approval included requirements that each phase go through additional scoping as part of the final plan preparation. Geological studies were completed near the footprint of each building. The building reduction was proposed to avoid a fault setback by reducing the number of units from 325 to 300 and relocation of the pool amenity.

Council Member Birrell expressed concern with the potential for a large earthquake in the area and was opposed to the high density that was previously approved by the City Council.

The Ordinance specifies that material changes to the Ordinance or Development Plan arising from a submittal and discovery of unanticipated geotechnical, geologic, or other site hazards shall require an amendment to the Ordinance following the full PDD process. Mr. Johnson explained that the developer’s request states that the amendment is for the purpose of a change resulting in a decrease of less than 10% of the unit count density. Building height, building massing, or building footprint is not considered a material change. Limiting a material change to a maximum reduction of 10% limits the scope and impact of the allowed changes that may be made without going through the full process. Public amenities cannot be reduced under this provision, and it allows for minor and reasonable flexibility that arises from building design and engineering. The Planning Commission unanimously recommended approval with the following recommendations:

- Any proposed reduction is measured from the originally codified development plan (cannot continually request reductions that exceed 10% from the original plan).
- The maximum reduction of 10% applies to each building individually (cannot reduce any one building by more than 10% utilizing comprehensive site measurements).
- Grammatical clarification to the proposed language to ensure all (‘... ten percent (10%) of the following.
- Eliminate ‘building massing,’ as it is a vague term that is difficult to quantify.

Discussion of the above item will continue.

f. **Sensitive Lands Evaluation and Development Standards (“SLEDS”) Ordinance Update (continued from 1-17-2023 – Community and Economic Development Director, Michael Johnson.**

Mr. Johnson led the Sensitive Lands Evaluation and Development Standards (“SLEDS”) Ordinance update. He reported that the Riparian Protection Standards are already included as a listed hazard in the SLEDS Ordinance but the chapter that is supposed to contain the standards does not exist. Standard practices for riparian management from other western ordinances were

reviewed as well as best practices from regulatory agencies. The main concept is that development activity is more strictly regulated closer to the top of the bank and becomes less strict when moving away. He stated that the most restrictive requirements apply mainly to new development, substantial redevelopment, or grading activity. The proposed ordinance will ensure new development is done safely and find a balance between allowing existing uses and homes to maintain what they have.

The SLEDS Ordinance Table of Uses was reviewed. Mr. Johnson reported that there are different setbacks according to which zone a property is located. The table identifies 20 different land use types and specifies whether the use is allowed, allowed with regulations, allowed with notes, or not allowed. New construction will have strict regulations if proposing to build close to the top of the bank. He emphasized that the majority are allowable uses or have minimum requirements. A restriction on fertilizer, pesticides, or herbicides within 50 feet is a sticking point and is at the Council's discretion. Mr. Johnson stated that the language could be listed as a suggestion and the distance from shore could be adjusted.

Legal non-conforming structures were discussed. Mr. Johnson stated that if a structure is 15 feet from the top of a bank under this Ordinance, it would be considered a legal but non-conforming structure. The process for additions includes a request to the City's Appeals Hearing Officer with the submittal of an application. The following three additional regulations were proposed:

1. No portion of a new footprint should get closer to the bank and expansion should be away from the bank.
2. The new structure does not require further armoring of the stream bank.
3. The existing structure does not have a history of flooding.

Council Member Birrell reported that a resident complained about seven storm drains flowing directly and untreated into Little Cottonwood Creek and struggled with the restriction of fertilizer use.

Mayor Weichers commended Mr. Johnson and Staff for their efforts. He asked the Council to consider direction when contemplating this Ordinance as they are essentially telling existing property owners that their property rights are changing and are being told what they can do on their property. The homeowner owns property to the middle of the creek, which flows to the Jordan River and on to the Great Salt Lake. He noted that it does not go into the City's drinking water.

Council Member Bracken was sympathetic to the residents' concern but agreed that the argument was valid regarding changes made to a zone or ordinance.

Council Member Newell was comfortable with the grandfathering clauses and expressed concern with property rights issues and determining which to take away and which to allow. He felt that progress was being made by eliminating items that may negatively impact residents. Additional

discussion was suggested to ensure that they are not impeding property rights to the point that residents will push back.

Council Member Petersen lives near the creek and has witnessed the work and stewardship of individual homeowners when there has been flooding. He felt that residents were fearful that they will lose their rights with proposed restrictions since 50 feet may include an entire backyard.

Council Member Birrell was opposed to imposing restrictions that are overly onerous but suggested they continue to modify and compromise while protecting the riparian areas. She appreciated Staff's efforts in meeting the residents' needs and making the verbiage modification.

Council Member Bracken looked forward to the upcoming Town Hall Meeting and hoped that a positive discussion would allow the matter to move forward. Mr. Johnson took note of the City Council's concerns and would continue to refine the language pertaining to new construction. Maintenance items would become recommendations or suggestions going forward.

4. REVIEW OF CALENDARS AND UPCOMING EVENTS.

- a. **The Cottonwood Heights Children's Choir Free Registration for Grades 3rd – 6th – Rehearsals Start February 15, 2023. For More Information Visit chcityarts.com or contact aeatchel@ch.utah.gov.**
- b. **Starting February 16 at 9:00 a.m. and Every Thursday thereafter Until March 2 – Legislative Work Sessions.**
- c. **February 24 the Arts Council Presents "Sweetheart Paint Night" Starting at 6:30 p.m. at City Hall. The Cost is \$7.00 – Must Preregister/Limited Seating.**
- d. **March 2 at 6:30 p.m. – Youth City Council Dinner with the Mayor and City Council.**
- e. **March 8 – General Plan Open House from 5:30 p.m. until 7:30 p.m. at City Hall.**
- f. **March 17 and 18 – Cottonwood Heights Arts Council *Guys and Dolls* Musical Auditions at City Hall.**
- g. **April 8 – City Easter Egg Hunt at Butler Park 10:00 a.m.**
- h. **July 27 through 29 – Cottonwood Heights Butlerville Days (Volunteers and Sponsors Needed. For more information, visit Butlervilledays.com or call Ann Eatchel at 801-550-8225).**

5. CLOSED MEETING TO DISCUSS PROPERTY ACQUISITION.

MOTION: Council Member Bracken moved to close the Open Session and go into a Closed Meeting. Council Member Newell seconded the motion. The motion passed with the unanimous consent of the Council.

The City Council was in a Closed Meeting from 6:34 pm. to 6:50 p.m.

6. ADJOURN CITY COUNCIL WORK SESSION.

MOTION: Council Member Bracken moved to ADJOURN the City Council 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 6:50 p.m.

**MINUTES OF THE COTTONWOOD HEIGHTS CITY COUNCIL BUSINESS MEETING
HELD TUESDAY, FEBRUARY 7, 2023, AT 7:00 P.M. IN THE COTTONWOOD
HEIGHTS CITY COUNCIL WORK ROOM LOCATED AT 2277 EAST BENGAL
BOULEVARD, COTTONWOOD HEIGHTS, UTAH**

Members Present: Mayor Mike Weichers, Council Member Scott Bracken, Council Member Douglas Petersen, Council Member Shawn E. Newell, 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, Administrative and Financial Services Director Scott Jurgens, Police Chief Robby Russo, Public Works Director Matt Shipp, IT Manager Matt Ervin

1.0 WELCOME.

Mayor Weichers called the meeting to order at 7:03 p.m. and welcomed those present.

2.0 PLEDGE OF ALLEGIANCE.

The Pledge was led by Records, Culture, and Human Resources Director, Paula Melgar.

3.0 CITIZEN COMMENTS

Diane Poulsen commented on Ranked-Choice Voting and commented that it might work in other cities but does not work in Cottonwood Heights. Many were confused as to how it is going to work, and she personally felt that her vote did not count in the last election. Ranked-Choice Voting is meant to be bi-partisan until it becomes partisan. She thought it was bad for the candidates and the City. She stated that the system confuses things and results in a less effective system. Ranked-Choice Voting was never meant to be a short-cut, but she considered it a short-out because it did not work well. If a candidate is not running with the best interest of the citizens in mind, they should not be running. She commented that it is a not good fit in Cottonwood Heights.

David Johnson lives on Cavalier Drive in District 2. He has been a cyclist in Utah for many years and does not care to ride on chip-sealed roads. How the City cares for roads is important to him. He appreciated the effort and work that goes into taking care of the roads, which makes it much more pleasant for him to ride on than in other places. He understood the cost efficiencies of chip sealing and taking care of roads. He asked that extra effort be paid to using finer grade aggregate other than a straight chip seal.

Brian Murdock a District 2 resident, reported that last September the City had a layer of tar and gravel applied to a few roads including Danish Road and 3000 East. This treatment is called chip seal and is sold as a low-cost, maintenance solution for roads. It was his opinion that it does more harm than good. It leaves a gravel mess on the roads, road shoulders, gutters, and sidewalks for months or years after it has been applied. People argue that that is not the case but anyone who

travels down Danish Road now or four months after the work is done can see how much gravel remains. Mr. Murdock documented this on a website called cottonwoodheightsroads.com. Aside from the gravel mess, the chip seal also takes a smooth road and makes it much rougher. This leads to increased tire wear, increased noise, reduced gas mileage, and more severe injury to anyone who falls on it. The last time 2700 East was chip sealed, his son and a friend suffered accidents where they slid on the gravel and were severely injured. Mr. Murdock brought the issue up in September and a couple of City Council Members responded that they cannot afford to do anything other than chip seal. He asked City Engineer, Matt Shipp, to prepare a more detailed cost comparison showing different maintenance options in addition to a chip seal being done on a road. That led Mr. Murdock to believe that they could simply eliminate chip seal and pursue other options. He urged the City Council to look into it further. He started a petition that now has 402 signatures from those opposed to chip seal.

Mike Hanson commented on Ranked-Choice Voting and stated that he reached out to Council Member Newell. He attended the hearing on HB-171 and ultimately commented during the hearing. He took notes during the deliberation and stated that he attended because he ran as a candidate under both methods. He understood the methodology behind Ranked-Choice Voting. His issue was that it is more complicated, which is concerning with respect to voting. People are critical of the voting and tabulation process. They are looking at the method and trying to determine the benefit it offers to the City. As a candidate, he spent more money on Ranked-Choice Voting even though it was a shorter election period. It seemed that citizens have had plenty of time to comment and he spent the majority of his campaign teaching the method, but many were still hesitant to learn. It was a trial with the purpose being to collect data. However, all of the data cannot be collected because votes are protected. In his mind, there was no way to fully collect the data. Mr. Hanson's opinion was that it ran its course in the City and he did not disagree with the method. He did not like that the House Bill has taken away local control. Local control allows citizens to reach out to the City Council. He wanted to see politics removed from the voting method and put voting back in that agrees with the citizens who are voting. While it is a great process, he did not support it on the municipal level.

Mark Johnson, a Siesta Drive resident, addressed the Riparian portion of the SLEDS Ordinance. He stated that it could potentially have a very dramatic impact on his family and his neighbors in a negative way. He purchased his home 25 years ago before Cottonwood Heights was incorporated. At that time, if they did not put 20% down, they were required to pay for mortgage insurance. They also had to purchase flood insurance. What devalued their property more than anything else was if they had to sell it and the new owner could not build the home of their choice on the property. His understanding was that the title to their home would be legally encumbered due to various environmental regulations. Mr. Johnson stated he is one of the older homes in the neighborhood. He was concerned about the potential of his rights to be encumbered upon. Property rights issues were discussed.

Mr. Johnson commented that in the case of a taking, the State must pay just compensation in exchange for the property and no person shall be deprived of his or her property without due process of law. Utah Code specifies that eminent domain applies in several instances including reservoirs, canals, aqueducts, ditches, or pipes for conducting water or sewage including to or from a development for the use of inhabitants of any county, city, or town or the draining of any county,

city, or town and that the raising of the banks of streams, removing obstructions from streams, or widening or deepening, or straightening the channels. He felt that they were looking at eminent domain for those who would be significantly impacted. Mr. Johnson stated that people have been buying property in the area for 50 years and he took out a second mortgage on his home to start a business. To now think about property values decreasing considerably because the next owner may not have the flexibility to do what they want with it would have a negative impact on his family and others on his street. Mr. Johnson stated that in talking with his neighbors, very few know about it but when they are informed, they are very concerned. He felt there were a lot of good intentions, but he felt that the ordinance was fundamentally misguided. He asked that the City Council do away with the ordinance.

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

4.0 PUBLIC HEARING

4.1 PDD-2 Text Amendment – North Gravel Pit – Introduction by Community and Economic Development Director, Michael Johnson.

Community and Economic Development Director, Michael Johnson, provided background on the proposed text amendment and stated that it came from an outside applicant and is an update to the PDD-2 Ordinance. It involves the site-specific ordinance that was approved and entitles the northern 20-acre gravel pit parcel. It went through the full public process a few years earlier and approved a mixed-use development consisting of apartments, future condominiums, and retail mixed-use buildings. The ordinance required site scoping, geological hazard studies, and geotechnical engineering work to analyze the various hazards on the site. Some of that was done initially and requirements were built in to provide that as each building is designed, site-specific studies had to be done. The developer has begun to do that. It was discovered that one of the anticipated fault lines is located at a slightly different angle than originally anticipated. The result was that it cut through the corner of one of the buildings that was originally approved. This resulted in a reduction in footprint size and a loss of about 25 units in the building. It also required the relocation of a pool amenity.

Mr. Johnson explained that the matter was before the Council because the ordinance that entitled the use specifies that material changes to the ordinance based on hazard studies or any other analysis require a full amendment to the Planned Development District ("PDD") area. This would require the matter to go back to the Planning Commission, City Council, and neighborhood meetings. The term "material changes" is not defined in the ordinance or elsewhere in City Code so the applicant made a request to modify the text to include clarification that for the purposes of this section, a change resulting in a decrease of less than 10% of the unit count, density, building height, massing, or footprint is not considered material. Staff's finding was that there are accurate material changes not defined anywhere that they would normally look for that term in City Code. Limiting a material change to a maximum reduction of 10% limits the scope and impact of anything it will affect. An increase in intensity would still need to go through the full public process and only apply to unit count, density, and height. It would not apply to public spaces, trails, or courtyards. Even a significant reduction, such as a complete loss of a building, would also need to go through the full public process.

Mr. Johnson explained that the proposed amendment would provide minor and reasonable flexibility that arises in the typical building, design, and engineering process. The Planning Commission held a public hearing in mid-January and unanimously recommended approval with the four conditions set forth in the staff report. No public comments were received by the Planning Commission. Once a public hearing is held tonight, the matter would be scheduled for action at the next meeting.

Mayor Weichers opened the public hearing. There were no public comments. The public hearing was closed.

5.0 ACTION ITEMS

5.1 Consideration of Ordinance 393 Approving an Amendment to the 2022-2023 Budget.

Mayor Weichers reported that the above item was discussed during the Work Session.

MOTION: Council Member Newell moved to APPROVE Ordinance 393, Approving an Amendment to the 2022-2023 Budget. 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-Aye, Mayor Mike Weichers-Aye. The motion passed unanimously.

5.2 Consideration of Resolution 2023-08 Adopting Amended and Restated Internal Policies for the Cottonwood Heights City Council.

Mayor Weichers reported that the above item was discussed during the Work Session.

Council Member Birrell commented that the proposed improvements make the City Council more effective and efficient and expressed her support.

MOTION: Council Member Birrell moved to APPROVE Resolution 2028-08, Adopting an Amended and Restated Internal Policies for the Cottonwood Heights City Council. 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.

6.0 CONSENT CALENDAR

6.1 Approval of the City Council Work Session and Business Meeting Minutes of January 3, 2023; the Minutes for the City Council Work Session and Business Meeting and the CDRA Meeting of January 17, 2023; and the Minutes of the CDRA Meeting of January 26, 2023.

MOTION: Council Member Petersen moved to APPROVE the Consent Calendar. The motion

was seconded by Council Member Bracken. The motion passed with the unanimous consent of the Council.

7.0 ADJOURN CITY COUNCIL BUSINESS MEETING.

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

The City Council Meeting adjourned at 7:29 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, February 7, 2023.

Teri Forbes

Teri Forbes
T Forbes Group
Minutes Secretary

Minutes Approved: February 21, 2023