

MINUTES OF THE COTTONWOOD HEIGHTS CITY COUNCIL SPECIAL BUSINESS MEETING TO CONDUCT INTERVIEWS TO FILL THE DISTRICT 1 COUNCIL SEAT VACANCY, HELD TUESDAY, MAY 16, 2023, AT 4:00 P.M. IN THE COTTONWOOD HEIGHTS CITY COUNCIL CHAMBERS LOCATED AT 2277 EAST BENGAL BOULEVARD, COTTONWOOD HEIGHTS, UTAH

Members Present: Mayor Mike Weichers, *District 1 (Vacant)*, Council Member Scott Bracken, Council Member Shawn E. Newell, Council Member Ellen Birrell

Staff Present: City Manager Tim Tingey, Records, Culture, and Human Resources Director Paula Melgar, Human Resources Manager/Deputy City Recorder Maria Devereux, Community and Economic Development Director Michael Johnson, Police Chief Robby Russo, Administrative and Financial Services Director Scott Jurges, IT Manager Matt Ervin, Public Works Director/City Engineer Matt Shipp, City Attorney, Shane Topham

Candidates: Ira Boyer, James Farley (via Zoom), Jennifer Cottam, Michael Smith, MacKenzie Lipps, Jesse Curtis, Matt Holton

1. WELCOME – Mayor Weichers.

Mayor Mike Weichers called the meeting to order at 4:02 p.m. and welcomed those present. He explained that it was a Cottonwood Heights City Council Special Business Meeting.

2. ADDITIONAL DISTRICT 1 CANDIDATE INTERVIEWS, if needed.

Mayor Weichers reported that all of the candidates were interviewed the day before.

3. CITY COUNCIL DISCUSSION OF DISTRICT 1 COUNCIL SEAT VACANCY.

Mayor Weichers reported that the City Council was overwhelmed by the number of qualified applicants. The interview process went well and Council Members were able to learn more about the different candidates. He explained that a name would be read aloud and Council Members would share thoughts about that candidate based on the previous interviews that had taken place.

Cami Hostetler was discussed. Mayor Weichers was impressed with her for many reasons. Generationally, she would bring a different voice than what was currently on the Council. He liked that she wants to be a voice for the people, get to know the community, be a leader, and empower others. Council Member Birrell noted that Ms. Hostetler manages a childcare center. She was impressed with her innovation and work ethic. It was important that the City Council represent the voting population. She felt it would be advantageous for Cottonwood Heights to have someone of a different generation participating on the Council. Council Member Newell enjoyed the fact that Ms. Hostetler focuses on communicating directly. That is critical for anyone who serves on the City Council. Council Member Bracken also appreciated her communication style and focus on local business.

The Council discussed *Ira Boyer*. Mayor Weichers complimented Mr. Boyer as he has been attending City Council Meetings for a long time. He is consistently engaged in the community, which is important. Council Member Birrell thought he was impressive and thanked Mr. Boyer. Council Member Bracken praised those who come and listen to meetings. That knowledge will make the transition to the City Council easier.

Susan Ryser was discussed. Mayor Weichers highlighted her experience as she was involved in the beginnings of the Planning Commission and the incorporation of the City. She put a lot into making the community of Cottonwood Heights what it is. Council Member Bracken also praised her experience and the institutional knowledge she will bring to the Council. Council Member Newell thought her understanding of the limitations of the City was critical and noted that she shared many insightful comments. She had a lot of knowledge to share.

The next candidate, *Catherine Burns* was discussed. Mayor Weichers loved the response to a question posed by Council Member Birrell. Ms. Burns was someone who takes air quality and environmental issues seriously. He believed she would be an advocate on the Council for environmental issues that are important to the entire community. Council Member Birrell praised the background Ms. Burns has. She is a problem solver who takes action to make sure things get done. Council Member Bracken was also impressed with how she took action in her own life and her own home to make a difference and benefit the environment.

Mayor Weichers commented that the Council also had the opportunity to speak to *Mark Lentz*. Mayor Weichers was impressed with Mr. Lentz for a few different reasons. He praised his ability to listen and provide thoughtful answers. Council Member Newell liked that he shared complete answers. Additionally, as a fairly new resident, he could bring different insights to the Council. He recalled a comment made about the balance between growth and character, which was insightful. Council Member Birrell explained that an effective City Council needs to have diverse perspectives. As a result, she valued the perspectives of people who have not lived in Cottonwood Heights for a long time. Those people often can look at issues with fresh eyes.

Jesse Curtis was discussed. Mayor Weichers loved that he had an educational background. His responses to the questions were solid and he liked the fact that Mr. Curtis wanted to examine facts and listen to residents. Council Member Bracken met Mr. Curtis a few years ago when he was running for Senate. He liked his educational background as well. Council Member Newell liked the idea that an educator was willing to be educated about different issues. That showed that there was a desire to focus on the pros and cons as well as possible outcomes. Council Member Birrell reported that when this process began, she received a phone call from Mr. Curtis. She had high regard for people who are willing to reach out and be vulnerable. Based on that, his background, and his interview, she felt he would bring a wonderful perspective to the Council.

The Council next discussed *Heather Anderson*. Mayor Weichers disclosed that he had a previous personal relationship with Ms. Anderson. He believed she would be an outstanding member of the City Council. She has a lot of love for Cottonwood Heights. Council Member Bracken noted that he had spoken to Ms. Anderson a few times over the last few years. She was instrumental in organizing public support for the Police Department in the past. He knew that her heart was in the right place and that she would be dedicated to the community. Council Member Birrell reported

that Ms. Anderson reached out to her directly. She had a lot of what it would take to be a great City Council Member and she appreciated her enthusiasm and dedication.

Michael Smith was discussed. Mayor Weichers wrote down quite a few notes about Dr. Smith and believed that he would bring a lot of life experience to the Council. He was currently serving on the Planning Commission. The appointment was supported by the City Council because there was a great deal of confidence in his work. He has an excellent background as a doctor and Psychiatrist. Mr. Smith has also worked out at the county jail. Mayor Weichers believed he would be an outstanding addition to the City Council. Council Member Newell echoed those comments. He felt that Dr. Smith had done an excellent job expressing his positions and explaining how he would navigate the Council work. Council Member Bracken explained that he had been supportive of his appointment to the Planning Commission and felt he would also make a good member of the City Council. Dr. Smith was one of the standout applicants. He acknowledged that it would be difficult to narrow down the City Council candidates to one.

The Council discussed *Matt Holton*. Mayor Weichers disclosed that he had a previous personal relationship with Mr. Holton. He was happy that Mr. Holton discussed his Korean heritage during the interview process. Comments were shared about inclusion, which is extremely important for the City Council. His background was impressive and he would also bring a different generational experience. Council Member Newell thought his experience in the area of civics was phenomenal. Additionally, his understanding of generational shifts was useful. Council Member Bracken referenced his written comments, which specifically called out “all life-stage housing,” which was something that had been discussed a lot recently. Cottonwood Heights needs to be a place where younger families can live as well. Something that stood out to him during the interview process was a comment made about inclusion and feeling at home.

James Farley was discussed. Mayor Weichers was very impressed with Mr. Farley because of his background and experience. He also believed he had the potential to do a lot of wonderful things within the City. Mr. Farley expressed himself well and answered the questions thoroughly. Council Member Bracken liked the fact that Mr. Farley wanted to get involved in the community.

Mayor Weichers noted that *Jennifer Cottam* was also interviewed. She is extremely likable, which is an important attribute. It is important that community members feel comfortable approaching Council Members to discuss issues. In addition, her background is diverse and she has a focus on environmental issues. Ms. Cottam would be a wonderful advocate for the environment and active transportation. Council Member Newell noted that Ms. Cottam discussed relational engagement. That is important because a Council Member needs to engage with members of the community as well as other Council Members. Serving on the City Council is about relationships and the community. He appreciated that statement.

Council Member Birrell stated that Ms. Cottam has demonstrated her willingness to serve the community. Many people know her through the Cottonwood Heights Recreation Center. She is extremely accomplished, has a Master's Degree in Hazardous Waste Management, and has acted as a Consultant. Ms. Cottam can reach people from every walk of life. Council Member Birrell pointed out that Ms. Cottam would also bring greater balance to the current City Council. She reviewed additional details about her work background and referenced her interest in active

transportation. There is an organization called Women In Leadership, which started approximately eight years ago when Zions Bank and Intermountain Healthcare stepped forward to be sponsors of a program that would bring more women into the political scene and the executive business level. Ms. Cottam was invited on scholarship last summer to participate in a six-month program. She had also been observing City Council Meetings regularly for several months.

MacKenzie Lipps was discussed. Mayor Weichers noted that Mr. Lipps is a CPA, which would be beneficial for the Council. The allocation of funds was something that Mayor Weichers felt was a sacred responsibility. Understanding how numbers related to the overall budget was important. He also liked that Mr. Lipps referenced mitigating risk during the interview process. Council Member Birrell thought Mr. Lipps made strong comments. He had a balanced viewpoint and a theoretical way of looking at things. Council Member Newell noted that he mentioned the importance of having respect and understanding for differing perspectives. He also liked that risk mitigation had been mentioned during the interview process.

The final candidate for consideration was *Boyd Tuttle*. Mayor Weichers enjoyed listening to Mr. Tuttle. He made note of his incredible background and the different places that he had lived. Mr. Tuttle has a sincere love for Cottonwood Heights and shared ideas that would bring people together. Council Member Bracken noted that his question to Mr. Tuttle pertained to interactions with Staff. With that question, he was looking to see whether there was an understanding of what the role of an elected official involves. Mr. Tuttle provided a wonderful response to that question.

Mayor Weichers thanked all of the candidates. By State Statute, when an elected official is lost, the City Council is in charge of appointing someone new. He noted that it was a difficult decision because there were a lot of wonderful and qualified candidates. City Manager, Tim Tingey reiterated that the process is defined in State Code. It is not something the City goes through very often, but when it happens, there is a lot of behind-the-scenes work to ensure that there is a fair process. He appreciated the input from the City Council, Staff, and the expertise of City Attorney, Shane Topham. Mr. Tingey explained that he would review the ballot, voting, and the swearing-in process that would now take place. He noted that there is a tie-breaking process that needs to be considered as well.

4. VOTING ON DISTRICT 1 COUNCIL SEAT VACANCY.

Mr. Tingey reported that a ballot was created that would be distributed to each Council Member. There would be four votes in total. Each Council Member would vote for one person. The order on the ballot was based on the Master Ballot Position List, identified by the Lieutenant Governor's Office. There is a random selection process to identify the order that individuals, based on their last names, which need to be placed on the ballot. The names on the ballot were based on that order. Mr. Tingey asked that when Council Members submit their ballots, they should be folded twice. The ballot will be placed in a box where the City Recorder and Assistant City Recorder will tabulate the votes. The votes would be announced during the meeting. If one candidate receives three votes from the Council, that candidate would automatically be selected to fill the vacancy.

Information was shared about potential tie-breaking scenarios. Mr. Tingey noted that there had been changes during the last Legislative Session about the tie-breaking processes. There may be scenarios where a tie needs to be broken through a coin toss after the first round of voting. An image of the coin was shown. The person who is “heads” would be the first person in line on the Master Ballot Position List and “tails” would be the second person. Mr. Tingey explained how the scenarios may occur if there was not a majority in the first round. There were three scenarios:

- The first scenario was if two votes are going to one candidate and one vote going to two additional candidates. If that occurs, the candidates that tied for second place (with one vote each) would be reduced to one by a coin toss conducted by the City Recorder. A second Council vote would occur between the candidate that received two votes in the initial vote and the candidate that won the coin toss.
- If there was a scenario where there was a 1-1-1-1 vote (four individuals receive one vote), there would be a coin toss process. The four individuals would be grouped into two different groups, which would be based on the Master Ballot Position List. The first two would be in the first coin toss and the second two would be in the second coin toss. Once the winners of those two coin tosses were determined, there would be another vote.
- If there was a scenario where there was a 2-2 vote during the first round of the process, the final tie-breaking process would take place. If the second voting process took place and there was a 2-2, there would be a tie-breaking process as well. If the second Council vote (or the first Council vote if there was a 2-2 tie) did not have a candidate that received the majority of the vote from the City Council, the Mayor could vote to break the tie.

Mr. Topham reported that on May 3, 2023, a new bill went into effect, which was House Bill (“H.B.”) 73. It was enacted during the last session of the Legislature. The purpose of that bill was to amend Utah Code Section 20a-1-5-10. It was part of the Election Code and had to do with filling mid-term vacancies in municipal offices. The process has changed between when the City started looking into the matter and when the new bill went into effect. There were changes to the way the selection process occurred, noticing, and the solicitation of applications. Mr. Topham read from subsection five, which stated that: “In a municipality operating under the six-member Council form of government, or the Council-Manager form of government defined in subsection 10-3b-103 (7) if the voting members of the City Council reach a tie vote on a matter of filling a vacancy, the Mayor may vote to break the tie.” Mr. Topham explained that he looked at many different resources and believed that the sponsor of the bill did not understand the ramifications of lumping a Council-Manager form of government with a six-member Council form of government. That being said, the language in the State Statute was clear and there was only one interpretation.

Mr. Tingey noted that once an individual is selected, there would be a swearing-in at 7:00 p.m. The ballots and the Master Ballot Position List were distributed to Council Members. All of the Council Members cast their ballots, which were counted by the City Recorder. There were three votes for Mr. Holton and one vote for Ms. Cottam. Since there were three votes for one candidate, no tie-breaker was needed. Mr. Holton would fill the position on the City Council. Mayor Weichers thanked all of the candidates and congratulated Mr. Holton.

5. REVIEW OF BUSINESS MEETING AGENDA – Mayor Mike Weichers.

The Business Meeting Agenda items were reviewed and discussed. Mayor Weichers reported that the meeting would begin with the Pledge of Allegiance and then the new Council Member would be sworn in. There would also be City Council Reports and a Citizen Comment Period. There were two Public Hearings on the agenda. The first was an Amendment to the Fiscal Year 2022-2023 Budget and the second was related to a Proposed Telecom Tax. Finance and Administrative Services Director, Scott Jurges shared information about the Telecom Tax. He explained that it is a tax that is available for municipalities in the State of Utah to charge. It is a percentage tax on the telephone portion of a telephone bill. It would not include the data portion of the bill, but only the telephone portion of the bill. This was a Franchise Tax that was initially authorized by the State of Utah on July 1, 2004. The rate was 3.5% of the telephone portion of the bill.

Within Salt Lake County, the only cities currently not charging the tax were Cottonwood Heights and Millcreek. All other incorporated municipalities were charging it. It would be charged on cell phones and business phones that are registered within the City. Mr. Jurges explained that the telecom providers collect the tax after which it would be remitted back through the State Tax Commission and come back to the City if it was authorized. To be authorized, it must be done at the beginning of a quarter (January 1, April 1, July 1, or October 1) and the City has to notify the State Tax Commission one quarter prior to starting the collection. It was anticipated that the City would receive approximately \$300,000 annually from the tax, but the exact number of telephones registered within the City was currently unknown.

Mr. Tingey explained that the Telecom Tax discussions began during the City Council Retreat in January. There was discussion about it during past Work Sessions. However, the agenda item was important because there would be a public hearing on the Telecom Tax. He clarified that a decision would not be made on the Telecom Tax at this meeting.

Mayor Weichers reported that there were three Action Items on the Business Meeting Agenda. The first was Consideration of Resolution 2023-25 – Designating Areas Closed to the Discharge of Fireworks due to Hazardous Environmental Conditions. He explained that this was done annually in conjunction with the Unified Fire Authority (“UFA”). Mr. Tingey explained that there had been collaboration with UFA to look at the different areas. Over the years, the areas where fireworks discharge was not allowed had been expanded. The expansion was slightly larger this year and the map would be reviewed during the Business Meeting. The purpose was to protect areas where there are vulnerabilities related to vegetation. He noted that there were some limitations under State Law and the entire City could not be excluded from fireworks.

The next Action Item on the Business Meeting Agenda was Consideration of Resolution 2023-26 – Approving an Agreement Concerning Historic Resources. Mr. Tingey explained that this was an agreement with Korral Broschinsky. That individual was qualified to do a reconnaissance-level survey of historic areas in the City. This person would evaluate homes and determine whether they met the qualifications or standards for historic structures. There could then be work with the Historic Committee to determine whether those structures should be included in a historic designation. He noted that there were some advantages to that, such as Federal tax credits when improvements were made and the recognition of the building as a historic structure. Council

Member Birrell explained that she serves as the Liaison to the Historic Committee. Two members of the Historic Committee had done the majority of the legwork to obtain the grant funds.

The final Action Item on the Business Meeting agenda was the Consideration of Resolution 2023-27 – Approving an Amendment to the City Manager’s Employment Agreement. Mr. Tingey explained that he has taught two classes at the University of Utah for a number of years. There had been a request from the university to see if he would be interested in teaching a third class each year. However, his contract with the City states that he is allowed to teach two classes. He asked that it be modified to allow the third class to be taught. Mr. Tingey clarified that this is a hobby and something that he enjoys. The teaching is done in the evenings or on weekends and will not interfere with his position as a City Manager. Mayor Weichers noted that the last item on the Business Meeting agenda was the Consent Calendar.

6. STAFF REPORTS.

a. Proposed FY 2023-2024 Budget Discussion – City Manager, Tim Tingey and Administrative and Financial Services Director, Scott Jorges.

Mr. Jorges reviewed the Proposed Fiscal Year 2023-2024 Budget with the Council. He explained that the Tentative Budget was the same as the one presented at the last City Council Meeting. However, there were a few items that were discussed during the last meeting that would be incorporated into the budget that was ultimately adopted. This included:

- Interest project increases in various funds (\$370,000 total increase):
 - General Fund: \$250,000 increase from \$50,000 to \$300,000;
 - Community Development and Renewal Agency (“CDRA”) Fund: \$25,000 increase from \$10,000 to \$35,000;
 - Stormwater Fund: \$20,000 increase from \$0 to \$20,000;
 - Capital Projects Fund: \$75,000 increase from \$25,000 to \$100,000.
- Sustainability Projects:
 - Mountview Park Pollinator Planting Expansion (\$30,000);
 - Community Tree Planting and Sale Event (\$11,000 in new expense and revenue).

Mr. Jorges reviewed the decisions that needed to be finalized, which included the following:

- Property Tax final revenue and tax rate (from the State Tax Commission in June);
- Cost-of-Living Adjustment (“COLA”) changes from the current inclusion of 5.5%. There has been communication by the Mayor and Council Members to reduce the COLA to 3.5%. Each 1% shift is about \$100,000. City Council will need to finalize direction on the matter;
- City Attorney final increase (tied to the COLA above);
- Liability Insurance increase;
- Spillman Police records server solution;
- UFA final contract pricing.

Mr. Tingey acknowledged that there needed to be additional discussions about the COLA. If the Council was interested, City Staff did research on what other cities were proposing. He worried about Cottonwood Heights falling behind other cities since most other cities are having a COLA of 4% or higher. He offered to send out updated information to the Council. Council Member Birrell noted that she and Council Member Peterson are Compensation and Benefits Committee Members. She wondered if Mr. Holton would serve with her in that capacity now. Mr. Tingey explained that once the Tentative Budget is presented, there were no Committee Meetings because everything had been brought forward to the full Council.

b. FY 2022-2023 Budget Adjustment Discussion – City Manager, Tim Tingey and Administrative and Financial Services Director, Scott Jurges.

Mr. Jurges reported that the Fiscal Year 2022-2023 Budget Adjustment discussion related to adjustments to the current year budget. That budget would end on June 30, 2023. He reviewed the various adjustments and started with the General Fund. Some money was transferred into the Capital Projects Fund, which was earnest money for the Hillside Plaza purchase. \$200,000 had been put there, but it could now come back into the General Fund because that project was financed through the CDRA Fund with a bond and a grant. As for the Zoo, Arts, and Parks (“ZAP”) grant funding, \$15,000 had been received. There were several Police Department items listed, which included the sale of cell phones to offset phone costs, an overtime B Jackson construction reimbursement, a State of Utah Asset Forfeiture grant, a Bullet Proof Vests grant, and a DUI Enforcement Grant from the State of Utah Division of Public Safety. Also in the General Fund section, there was the sale of Public Works light-duty vehicles listed. In the General Fund, there was a total reduction of \$173,975 in expenses and an increase of \$109,025 in revenues. The total net reduction in funds needed in the General Fund was \$283,000.

The Capital Projects Fund was reviewed. Mr. Jurges reported that with the roundabout, there were some overages. \$72,420 was remaining which was not able to be covered by other sources of revenue. That would come from the existing Fund Balance in the Capital Projects Fund. Additional monies did not need to be transferred in for that. The second item listed was related to roundabout funding from the Canyons School District. It would cover repairs and other items the school requested, which totaled \$14,920. Those two items would allow the City to close that project out and finish it within the current fiscal year. Council Member Bracken noted that the vast majority of the funding for the roundabout came through a few different grants. He wondered if the amounts listed were amounts the City came up with. This was confirmed. Council Member Bracken asked for a short report on what the roundabout cost.

The next item under the Capital Projects Fund section was the transfer back of the money from the General Fund and the reduction of the expenditure that was initially provided as a placeholder. Mr. Jurges reported that there was a reduction total of \$112,660 in expenses and a reduction of \$185,080 in revenues for a total net increase of \$72,420, which would be for the roundabout. In the CDRA Fund, some expenses and revenue needed to be recognized for the Hillside Plaza operating expenses. It would be slightly less than \$150,000 recognized.

c. **Spring Runoff Preparations – Public Works Director/City Engineer, Matt Shipp and Police Assistant Chief, Paul Brenneman.**

Public Works Director and City Engineer, Matt Shipp shared information about the spring runoff preparations. There were certain canyons that the City watches including Big Cottonwood Canyon, Ferguson Canyon, Deaf Smith, Little Willow, and Little Cottonwood Creek. He shared the latest water data and noted that there was an estimated 63.5 inches of snow water. The data could all be found on the Salt Lake County Watershed Streamflow and Precipitation website. Mr. Shipp did not know what would happen with the runoff. However, it was possible to look at comparison data. 2011 was comparable to the current conditions. He reported that in 2011 at this time, there were 72 inches of water. No flooding occurred in 2011, but it was a comparison that could be used for the current conditions. The temperatures in that year were also comparable.

As of 2:45 p.m. that day, Little Cottonwood Creek was discharging at 340 cubic feet per second (“CFS”) and Big Cottonwood was discharging at 310 CFS. Mr. Jorges reviewed the charts. The red lines were the estimates for the flood stage. The flows would need to reach those levels before there were flooding concerns. Another chart the City looked at was a temperature forecast. It was available on the Salt Lake County Watershed Streamflow and Precipitation website for review. There were some peaks shown around May 24, 2023, but that could change. The data would continue to be monitored and tracked. It indicated what the City needed to prepare for.

Mr. Shipp explained that twice a day City Staff goes to at least 49 crossings in the City. This includes creeks and irrigation ditches. Checks were done for flow, debris, and clogs. All of that is tracked twice a day each day. A member of Staff was assigned to a group of crossings so that person knows what the crossings look like every day. There were also checks done on weekends. In the evenings, Police Officers check certain hot spots as well while on patrol. There had not been any issues so far but there would continue to be monitoring. Mr. Shipp shared information about sandbags. He noted that throughout the City, approximately 23,000 bags had been staged at churches. There were also 10,000 sandbags sitting in the yard for fast deployment. Mr. Shipp reported that there were weekly meetings with City Staff to discuss emergency planning as well as weekly meetings with Salt Lake County Flood Control. Staff was ready to respond to issues.

Mayor Weichers thanked City Staff for all of their work. He reported that he attended a meeting earlier in the day with Clint Mecham from Salt Lake County Flood Control. There was a lot of optimism about the current conditions. The 10-day forecast was positive. There would be temperatures in the high 70s and low 80s, then back into the 50s at night. That was ideal. Council Member Birrell expressed appreciation on behalf of the residents of District 4. It was helpful for residents to see the amount of work the City has done. She also wanted to thank Staff for responding quickly when a District 4 resident pointed out that one of the stop signs was being covered by a tree. The branches were removed within one day and the sign is now clear.

Mr. Tingey noted that this had not been a normal Work Session. As a result, the list of calendar events had not been shared. He reported that it was National Police Week and recently there had been the National Peace Officers Memorial Day. Staff wanted to recognize the Police Department for all of the work done in Cottonwood Heights. There would be a meal for the Police Officers sometime in the next week, which he had spoken to the Police Chief about.

7. **ADJOURN CITY COUNCIL SPECIAL BUSINESS MEETING.**

MOTION: Council Member Bracken moved to ADJOURN the Cottonwood Heights City Council Special Business Meeting. The motion was seconded by Council Member Newell. The motion passed with the unanimous consent of the Council.

The Work Session adjourned at 5:50 p.m.

**MINUTES OF THE COTTONWOOD HEIGHTS CITY COUNCIL BUSINESS MEETING
HELD TUESDAY, MAY 16, 2023, AT 7:00 P.M. IN THE COTTONWOOD HEIGHTS
CITY COUNCIL CHAMBERS, LOCATED AT 2277 EAST BENGAL BOULEVARD,
COTTONWOOD HEIGHTS, UTAH**

Members Present: Mayor Mike Weichers, Council Member Matt Holton, Council Member Scott Bracken, 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, Human Resources Manager/Deputy City Recorder Maria Devereux, Community and Economic Development Director Michael Johnson, Police Chief Robby Russo, Administrative and Financial Services Director Scott Jurges, IT Manager Matt Ervin, Public Works Director/City Engineer Matt Shipp, Unified Fire Authority (“UFA”) Assistant Chief Riley Pilgrim

1.0 WELCOME

Mayor Mike Weichers called the meeting to order at 7:00 p.m. and welcomed those present.

2.0 PLEDGE OF ALLEGIANCE

The Pledge was led by Council Member Birrell.

3.0 SWEARING-IN OF NEW DISTRICT COUNCIL MEMBER

3.1 City Recorder will Administer the Oath of Office to the New District 1 Council Member.

Mayor Weichers reported that Matt Holton was selected as the New District 1 Council Member. Records, Culture, and Human Resources Director, Paula Melgar, administered the Oath of Office. Council Member Holton was welcomed to the Cottonwood Heights City Council. Council Member Holton thanked the City and shared comments about Douglas Peterson. He had gotten to know Council Member Peterson over the last year and he became a good friend. Council Member Holton hoped to make him proud. He also acknowledged the other Council Member candidates. Council Member Holton introduced the members of his family present to the Council.

4.0 CITY COUNCIL COMMITTEE REPORTS

4.1 Committee Reports by Council Member Scott Bracken.

Council Member Bracken shared updates with the Council. He explained that this had been a difficult month, due to the loss of Council Member Peterson. Council Member Bracken shared information about the Youth City Council. There is a new group where a new Mayor and Officers had been elected. He clarified that the process had already begun so those positions were in place

before the end of the school year. That meant that the Youth City Council Members would be available to assist with Butlerville Days and other summer events. He praised the new group of students and explained that the Council focused on educational activities and acts of service.

Council Member Bracken discussed Wasatch Front Waste and Recycling. The Container Reservation Program had begun but had not made it to Cottonwood Heights yet. He reported that it was possible to have a green waste trailer delivered for a nominal fee for a few days. Council Member Bracken noted that he was also on the CH2 Committee, which involves the Board Members and Staff of the Recreation Center. The intention was to stay coordinated. Last year, grants were received for playground equipment and there would be another grant application. Mr. Tingey explained that the grant application would be discussed during the next Work Session.

4.2 Committee Reports by Council Member Shawn Newell.

Council Member Newell reported that he recently had knee surgery so he was unable to attend some of the Committee Meetings that he normally does. This included the Arts Council. However, he wanted to share thoughts about the budget information that would be discussed later in the meeting. He serves on the Budget Committee with City Manager, Tim Tingey, Council Member Bracken, and Administrative and Financial Services Director, Scott Jurges. Based on the budget numbers, it was clear that the City is solvent. This had to do with the management of the budget. He thanked all of the departments for their hard work and praised City Staff for being so cohesive. Council Member Newell also serves on the Emergency Preparedness Committee. Everyone involved made it possible to be aware of potential issues within the community. It was empowering to see people working hard to make the community safer. Council Member Newell explained that he also worked on the Legislative Committee.

4.3 Committee Reports by Council Member Ellen Birrell.

Council Member Birrell stated that the loss of Council Member Peterson has been difficult. She offered condolences to his friends and family. She took the opportunity to welcome Council Member Holton to the District 1 position. Council Member Birrell reported that she continues to focus on the Association of Municipal Councils (“AMC”). Council Members from each of the incorporated cities around Salt Lake County meet once a month to discuss topics that are challenging to incorporated cities within the County. That yielded interesting information. Council Member Birrell noted that the Historic Committee was doing a lot of work. There will be walking tours in the summer and other things associated with Butlerville Days.

Council Member Birrell had also been focused on a new federal program called Safe Systems For All (“SS4A”), which is dedicated to walkability and safer mobility for all people and user groups. There would be future grants available and there was an opportunity still available in the current year. She would discuss that with her fellow Council Members in the future. There had been meetings with entities such as the Utah Transportation Commission. It was important to focus on better active transportation and transit in Cottonwood Heights and in the County as a whole. She was also working with the Parks, Trails, and Open Space Committee Chair. Soon, the Council would be considering a subcommittee that would focus on active transportation.

4.4 Committee Reports by Mayor Mike Weichers.

Mayor Weichers acknowledged that it had been a difficult month. Council Member Peterson was a good friend and an excellent colleague. Everyone loved Council Member Peterson and misses him. He thanked everyone for their kindness and outreach during this time.

Mayor Weichers shared information about flooding. He explained that there had been discussions about recent data during the Special Business Meeting. So far, everything was looking good. The City felt solid about the level of preparation that had been done. All the City could do was mitigate as much risk as possible. He felt confident about the amount of education that had been provided and the ongoing work to monitor the situation. The Public Works employees were thanked.

The Hillside Plaza was discussed. Mayor Weichers reported that the City was moving forward with that and looking forward to choosing a partner for the design in the next week or so. That partner will gather ideas and make it possible to move ahead on the project design. He noted that a committee of residents would be formed to assist with the Hillside Plaza project. There would be residents from every district on the committee so there is broad representation.

5.0 CITIZEN COMMENTS

Mayor Weichers opened the citizen comment period.

Mr. Tingey reported that a comment was submitted prior to the City Council Meeting from *Audrey Pines*. That comment was forwarded to the City Council Members. The comment related to the District 1 seat. He acknowledged that the comment was part of the record.

Mike Hanson shared comments about Council Member Peterson and noted that he was grateful for the Citizens Academy. It is important to understand what Police Officers do on a day-to-day basis. It is an amazing program that he encouraged others to participate in. Mr. Hanson was amazed at the way the City handled the passing of Council Member Peterson. Everything that was done was an incredible tribute to him and he was grateful that the City respects its elected officials so much. He expressed his gratitude for the actions taken by the City.

Rich Jensen gave his address as 2788 Falcon Way. He explained that he does not have an issue with the Police Department but he and his wife witnessed something troubling. They witnessed an incident at Olympus High School where an officer kicked out children. Police Chief, Robby Russo, interrupted to state that the case was currently in litigation. Mr. Jensen was a defendant in that case. As a result, he did not believe this was a proper forum. Mr. Jensen noted that it seemed that the Police Department wants to prevent people from speaking about issues in the City. City Attorney, Shane Topham, stated that Mr. Jensen was entitled to speak for his allotted three minutes. Mr. Jensen explained that he and his wife witnessed someone kicking out children from the school. It was all on video. He went to speak to the Police Chief, but the Chief told him that he was wrong for asking questions about the matter. This needed to be looked into further because speaking out had resulted in a very frustrating process.

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

6.0 PUBLIC HEARING

6.1 Amendment of FY 2022-2023 Budget – Introduction by Finance and Administrative Services Director, Scott Jurges.

Mr. Jurges presented the Fiscal Year 2022-2023 Budget amendments. Periodically throughout the year, the budget was amended for a variety of reasons. There are different funds in the City and the amendments were organized by each fund for clarity. He reviewed the various adjustments and started with the General Fund. Some money had been transferred into the Capital Projects Fund, which was earnest money for the Hillside Plaza purchase. \$200,000 had been put there but it could now come back into the General Fund because that project was financed through the CDRA Fund through both a bond and a grant. There was a reduction in expenses shown.

As for the Zoo, Arts, and Parks (“ZAP”) grant funding, \$15,000 had been received. There were several Police Department items listed, which included the sale of cell phones to offset phone costs, an overtime B Jackson Construction reimbursement, a State of Utah Asset Forfeiture grant, a Bullet Proof Vests grant, and a DUI Enforcement grant from the State of Utah Division of Public Safety. Also in the General Fund section, there was the sale of Public Works light-duty vehicles. In the General Fund, there was a total reduction of \$173,975 in expenses and an increase of \$109,025 in revenues. The total net reduction in funds needed in the General Fund was \$283,000.

The Capital Projects Fund was reviewed. Mr. Jurges reported that with the roundabout, there were some overages. \$72,420 was remaining which was not able to be covered by other sources of revenue. That would come from the existing Fund Balance in the Capital Projects Fund. Additional monies did not need to be transferred in for that. The second item listed was related to roundabout funding from the Canyons School District. It would cover some repairs and other items that the school requested, which was \$14,920. Those two items would allow the City to close that project out and finish it within the current fiscal year. The next item under the Capital Projects Fund section was the transfer back of the money from the General Fund and the reduction of the expenditure that was initially there as a placeholder. There was a reduction total of \$112,660 in expenses and a reduction of \$185,080 in revenues for a total net increase of \$72,420 for the roundabout. In the CDRA Fund, some expenses and revenue needed to be recognized for the Hillside Plaza operating expenses. It would be slightly less than \$150,000 recognized.

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

7.0 PUBLIC COMMENTS

7.1 Proposed Telecom Tax – Introduction by Finance and Administrative Services Director, Scott Jurges.

Mr. Jurges shared information about a proposed Telecom Tax. He explained that it is a tax that is available to municipalities in the State of Utah to charge. It is a percentage tax on the telephone portion of a telephone bill. It would not include the data portion of the bill, but only the telephone portion. This is a Franchise Tax that was initially authorized by the State of Utah on July 1, 2004.

The maximum rate is 3.5% of the telephone portion of the bill. He noted that the Telecom Tax is something that had been considered since Cottonwood Heights was incorporated. To date, the City had not implemented the Telecom Tax. Within Salt Lake County, the only cities currently not charging the tax were Cottonwood Heights and Millcreek. Throughout the State, there are over 150 cities that currently charge the Telecom Tax. He clarified that it is not possible to charge the tax in townships or unincorporated areas.

If the Telecom Tax moves forward in Cottonwood Heights, it was estimated that approximately \$300,000 would be received annually. However, the exact number was difficult to determine as there was no data available. To collect the tax, the City needs to adopt an ordinance that outlines the tax rate that would be charged and the stated date the ordinance would be effective. It must be authorized at the beginning of a quarter (January 1, April 1, July 1, or October 1) and the City had to enter into a Local Agreement with the State Tax Commission. All of that needs to be submitted to the State Tax Commission 90 days prior to the beginning of the collection start date. The earliest the City can collect currently is October 1. The State Tax Commission charges a minimal fee for the costs associated with the collection. Currently, that is approximately 0.65% but could be as much as 1.5%. Mr. Jurges shared an example scenario.

Council Member Birrell noted that there are roughly 12,000 households in Cottonwood Heights. Dividing the estimated \$300,000 amount by the 12,000 households, the average is \$25. That was a few dollars per month. Almost everyone owns a phone these days and she was concerned about how the Telecom Tax would impact those on fixed incomes. Telephones are essential, so if the Telecom Tax is approved, she wanted to make sure the amount collected per person was low. A lot of her constituents had expressed concerns about finances and she felt it might be better to focus taxes on luxury items rather than everyday essential items. However, she understood that there were limitations to that from a City perspective because the City deals with the infrastructure. Council Member Birrell reiterated her reservations about establishing a Telecom Tax. Mr. Jurges pointed out that the amount taxed would not be on the full phone bill. Only the telephone portion would be eligible for the tax. There would not be a tax on additional items like data usage.

Council Member Bracken reported that the Telecom Tax has been discussed many times in the past. The primary sources of income for the City are property and sales taxes. There was some control over property taxes, but there are limitations. As for sales taxes, there is not a lot of control over that. Other money the City received came from grants and funds. There was not a lot of flexibility. He pointed out that there were taxes on essential items already.

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

8.0 ACTION ITEMS

8.1 Consideration of Resolution 2023-25 Designating Areas Closed to the Discharge of Fireworks Due to Hazardous Environmental Conditions. (State Law Authorizes a City, in Consultation with its Fire Authority, to Produce a Map Each Year Designating Areas in the City Where Fireworks Should be Prohibited Due to Hazardous Environmental Conditions. By this Resolution, the Council will Approve Such a Map for 2023).

Unified Fire Authority (“UFA”) Assistant Chief, Riley Pilgrim, joined the meeting electronically to share information about locations where fireworks will not be permitted. In 2021, there were fairly broad fireworks restrictions. That had been a collaborative effort throughout the County. In 2022, that was pulled back and different cities returned to their previous restrictions. He shared a map with those present. The map outlined the proposed restriction areas. Assistant Chief Pilgrim has worked with Staff to clean up areas on the map that are adjacent to open spaces or do not have clear delineations on where the restrictions were. All areas shown in red would have fireworks restrictions placed on the area. The biggest change was the piece off of Fort Union. He also pointed out the area south of Brighton High School and explained that the hillside was proposed to be restricted. There was a clear restriction area. He referenced Siesta Drive. The area going west had been restricted because there was a large open space that had a lot of vegetation. There were a few residents who expressed concerns about that area last year. He noted that there were only a few changes made from last year, which included the piece on Milne Lane, off of Nantucket Drive, and the portion off of 3000 East and Fort Union Boulevard.

Mayor Weichers asked about the date restrictions. Assistant Chief Pilgrim explained that the fireworks maps need to be submitted during May. He could submit the map to Salt Lake County the following day. As of June 1, the areas would be established and the restrictions would be in place. He offered to look into the dates it was applicable and the hours so that was clear for residents. The map would essentially be in place for the year unless a change was made in between. Council Member Birrell explained that constituents were happy to see the fireworks restriction areas expanded last year. She believed there would be a lot of support.

MOTION: Council Member Birrell moved to APPROVE Resolution 2023-25 – Designating Areas Closed to the Discharge of Fireworks Due to Hazardous Environmental Conditions. The motion was seconded by Council Member Bracken. Vote on Motion: Council Member Bracken-Aye, Council Member Holton-Aye, Council Member Newell-Aye, Council Member Birrell-Aye, Mayor Weichers-Aye. The motion passed unanimously.

8.2 Consideration of Resolution 2023-26 Approving an Agreement Concerning Historic Resources. (This Resolution will Approve an Agreement Whereunder Korral Broschinsky will Provide a Standard Reconnaissance Level Survey of Five Historic Subdivisions and Approximately 898 Historic Buildings Within City Boundaries Utilizing Funding Provided by a State Grant).

Mayor Weichers reported that the above resolution was discussed during the Special Business Meeting. Council Member Bracken expressed appreciation for the work done by the Historic

Commission.

MOTION: Council Member Bracken moved to APPROVE Resolution 2023-26 – Approving an Agreement Concerning Historic Resources. The motion was seconded by Council Member Birrell. Vote on Motion: Council Member Bracken-Aye, Council Member Holton-Aye, Council Member Newell-Aye, Council Member Birrell-Aye, Mayor Weichers-Aye. The motion passed unanimously.

8.3 Consideration of Resolution 2023-27 Approving an Amendment to the City Manager’s Employment Agreement. (By this Resolution, the Council will Approve the City’s Entry into an Amendment to the City Manager’s Employment Agreement, Authorizing the Manager [Who Holds a Doctorate in Political Science/Public Administration] to Teach up to Three Evening or Weekend (Rather than the Current Authorization for up to Two) Classes in the University of Utah’s Master of Public Administration Program During a Year and Making Other Changes).

Mayor Weichers reported that the above resolution was discussed during the Special Business Meeting. Council Members expressed their support for Mr. Tingey since he provides education to others.

MOTION: Council Member Newell moved to APPROVE Resolution 2023-27 – Approving an Amendment to the City Manager’s Employment Agreement. The motion was seconded by Council Member Holton. Vote on Motion: Council Member Bracken-Aye, Council Member Holton-Aye, Council Member Newell-Aye, Council Member Birrell-Aye, Mayor Weichers-Aye. The motion passed unanimously.

9.0 CONSENT CALENDAR

9.1 Approval of the Minutes of the City Council Work Session and Business Meeting of May 2, 2023.

Council Member Birrell reported that she had not had a chance to review the Meeting Minutes from the City Council Work Session and Business Meeting on May 2, 2023. She asked if it would be possible to postpone the Consent Calendar vote so she could review them.

MOTION: Council Member Birrell moved to TABLE the Consent Calendar to the next City Council Business Meeting. The motion was seconded by Council Member Bracken. The motion passed with the unanimous consent of the Council.

10.0 ADJOURN CITY COUNCIL BUSINESS MEETING.

MOTION: Council Member Bracken 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 7:57 p.m.

I hereby certify that the foregoing represents a true, accurate, and complete record of the Cottonwood Heights Special City Council Business Meeting and Regular Business Meeting held Tuesday, May 16, 2023.

Teri Forbes

Teri Forbes
T Forbes Group
Minutes Secretary

Minutes Approved: June 6, 2023