

MINUTES OF THE COTTONWOOD HEIGHTS CITY COUNCIL MEETING HELD TUESDAY, AUGUST 26, 2014, AT 7:00 P.M. IN THE COTTONWOOD HEIGHTS CITY COUNCIL CHAMBERS

**Members Present:** Mayor Kelvyn Cullimore, Councilman Mike Shelton, Councilman Scott Bracken, Councilman Tee Tyler, Councilman Mike Peterson

**Staff Present:** City Manager John Park, Deputy City Manager Linda Dunlavy, Public Relations Specialist Stephanie Archibald, Community and Economic Development Director Brian Berndt, Assistant Fire Chief Mike Watson, Public Works Director Mike Allen, Police Chief Robby Russo, City Attorney Shane Topham

**Others Present:** Gary McGee, Jill McGee, Susan Despain, Gray Smith, Cynthia Smith, Tim Sullivan, Kaye Skola, Mick Skola, Jessica Hansen, Josh Hansen, Elyse Nydegger, Robert Glenn, Hilary Madrigal, Ken McCallister, Debbie Scott, Ben Brown, Sheryl McCallister, Richard Cook

1.0 **WELCOME/PLEDGE/ACKNOWLEDGEMENTS**

1.1 Mayor Kelvyn Cullimore called the meeting to order at 7:00 p.m. and welcomed those attending.

1.2 The Pledge of Allegiance was led by Councilman Bracken.

2.0 **Proclamation Recognizing Ginger Rhode for an Outstanding Job as Interim Superintendent at Canyons School District**

2.1 Mayor Cullimore stated that Dr. Ginger Rhode was part of the original Management Team for the Canyons School District. Dr. Rhode was formerly with Davis School District where she was the Head of Curriculum Development. She provided the same skills in setting an excellent curriculum for the new Canyons School District. She was one of the unheralded leaders whose efforts really made a difference in educating our children. Upon the resignation of Dr. Doty, the District's first superintendent, Dr. Rhode assumed the helm as an interim superintendent. That was no easy role to fill, yet she did it masterfully for over a year while the School Board completed the firing of a new Superintendent. Mayor Cullimore expressed gratitude for her leadership and accomplishments under very challenging circumstances. Cottonwood Heights is proud to have played a significant role in the establishment of the Canyons District, but recognizes it is leaders such as Ginger Rhode that have made it a success. A proclamation recognizing her efforts was read.

2.2 Dr. Ginger Rhode, Interim Superintendent, stated that she is deeply honored and humbled by the acknowledgement of her work. She appreciates the City's participation with the Canyons School District.

3.0 **CITIZEN COMMENTS**

3.1 Gary McGee corrected his comments from the August 8, 2014, Planning Commission Meeting minutes to read "He is of the opinion that the must-have's have not been met." He encouraged the City to consider each of the statutes and codes regarding the proposed Giverny project.

3.2 Sheryl McAllister is of the understanding that there are traffic studies that have been completed. She requested that they be made available on the City's website.

- 3.3 Kay Skola respectfully requested that the Council take an on-site visit of the proposed Giverny PUD prior to the upcoming Planning Commission Meeting and meet there with residents who have concerns.
- 3.4 Mayor Cullimore stated that a formal meeting with more than two Council Members would have to be noticed as a public meeting.
- 3.5 Debbie Scott agrees with Ms. Skola's request to have the Council attend a meeting prior to the Planning Commission Public Hearing on the Giverny PUD. A meeting was proposed for 4:30 p.m. the following Tuesday prior to the next City Council Meeting.
- 3.6 Mayor Cullimore stated that they could schedule the meeting, but informed Ms. Scott that the City Council is not the deciding body for the proposed Giverny PUD. The Council's presence would be more informational than influential. She also requested that the Planning Commission Chair be present at the meeting.
- 3.7 City Attorney, Shane Topham, reported that there are provisions with the Planning Commission rules and procedures that would impact their ability to accept information outside of public meetings. Visiting the site is permitted. There would be issues with the Planning Commission having dialogue where they may be lobbied by one side or the other.
- 3.8 Mayor Cullimore clarified that the proposed Giverny PUD is not a request for a zone change; it is a request for a residential development which requires a conditional use permit. The Planning Commission is charged with the responsibility of reviewing Conditional Use Permits and imposing conditions under such permits. The City Council deals with legislative issues such as a request for a zone change. Administrative issues are handled by the Planning Commission by implementing the code as it is written and deciding what provisions of the code apply to a particular property and what conditions are imposed for each development. If there is an appeal to a Planning Commission's decision that would go before the Board of Adjustment. The issue with Giverny deals with the conditional use permit and what the Planning Commission believes should be done to mitigate identifiable detrimental effects.
- 3.9 Richard Cook, the Giverny developer, offered to meet with anyone wishing to obtain additional information about the proposed development. He stated that there was a site visit which was publicly noticed and the Planning Commission attended. He indicated that anyone wishing to walk the property should obtain permission from the property owner. He confirmed that he is willing to attend a meeting to further describe the proposal.
- 3.10 Jill McGee contested Mr. Cook's comment about the Planning Commission's visit to the property of the proposed Giverny development. She stated that residents were encouraged not to attend the field trip or have conversations with the Planning Commission outside of public meetings and were, therefore, not welcome at that site meeting as Mr. Cook indicated. She believes that if the community would have been invited to the site visit there would have been an extreme presence of residents in attendance to voice their concerns regarding the proposed development. Ms. McGee expressed her frustration with the proposed Giverny project and believes that it would cause personal financial devastation and negatively impact property values of her home.
- 3.11 Gray Smith reiterated Ms. McGee's comments. He remarked that when the Planning Commission visited the property of the proposed Giverny development, he was told he not to interfere or participate. At the end of the Planning Commission's site visit, he noticed they were delayed in exiting the property due to the traffic issues. Mr. Smith's understanding is that all communication from residents to the Planning Commission must be generated through staff.

- 3.12 City Manager John Park confirmed that the reason communications go through staff is because a copy is kept for public record as well as distributed to the Planning Commission.
- 3.13 Clayton Wilkinson expressed concern with the reputation of Cottonwood Heights and property values. He is of the opinion that in developing subdivisions it is common to sell the best lots first and set the precedent for price for the remainder of the subdivision. He expressed concern that the configuration of this development would not maximize values but rather diminish values not only for this development but the overall perception of the city. He said if we have a \$200,000 home across from a \$600,000 home it devalues the \$600,000 home and will not be sellable. Placement of expensive lots across from less expensive ones does not work as is proposed here.
- 3.14 Nancy Hardy is of the belief that zoning values should protect and enhance property values, particularly of existing single-family homes.
- 3.15 Cynthia Smith expressed concern with the report given to Council at the last City Council regarding the public hearing for the proposed Giverny PUD. There was no mention of the fact that there was a large turnout, an overflow area was required, and that over 200 individuals signed a petition citing City Code to oppose the proposed PUD. It was also conveyed that traffic issues were not presented as a significant issue.
- 3.16 Sheryl McAllister stated that her attendance at meetings will pose a hardship for her but she intends to attend as many as she can. She expressed frustration with the proposed Giverny PUD.
- 3.17 Nancy Hardy stated that due to the overwhelming number of people who voiced opposition and signed the petition, the proposed annexation of Granite Oaks should be postponed until the proposed Giverny PUD is finalized.
- 3.18 Dale Howells reported that he was cited for having an animal causing a nuisance. Yet he has had those peacocks for decades and nobody had complained. He stated that the noise from peacocks cannot be stopped. Besides, he is of the understanding that his agriculture zoning was grandfathered in and the animals were allowed. He went to court to oppose the citation he received for the animals being too noisy. The judge found that he was in violation of the noise ordinance, even though the zoning allowed the peacocks. Mr. Howells feared he would have to destroy the animals but at the last minute a person from Alpine was able to take the animals. He expressed frustration that the zoning he has did not protect him and that a single neighbor with a complaint could force him to dispose of this beloved animals. He said he is felling boxed in.
- 3.19 Mayor Cullimore confirmed that Mr. Howell's property was zoned as it was prior to incorporation and he had not lost any of his rights. Unfortunately, the noise ordinance does require that he restrain and house those animals in a way not to be a nuisance to the neighbors. Mayor Cullimore expressed his regrets to Mr. Howells at the loss of the birds.
- 3.20 Josh Hansen stated that he has been working with Councilman Shelton and Police Chief, Robby Russo, regarding on-street parking in his neighborhood. He discussed the two-hour time limit for parking and wishes to change the verbiage of "impervious surface".
- 3.21 Gray Smith is of the belief that there has been discussion regarding imposing a moratorium on the PUD Ordinance. Mountain Accord issues were also discussed. He recommended that when a large entity approaches the City they should get in front of it and protect itself by reaching a resolution about how to manage traffic. He believes that the most significant issue with the proposed Giverny development is density.

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

#### 4.0 **PUBLIC HEARINGS**

##### 4.1 **Public Hearing to Receive Input on a Proposed Street Vacation Located at 8044 South Danish Road**

4.1.1 Senior Planner, Glen Goins, presented the staff report and stated that the proposed street vacation involves an overlooked piece of property that was never vacated. The remnant parcel measures 1,022 square feet in size.

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

#### 5.0 **REPORTS/PROCLAMATIONS/RECOGNITIONS**

##### 5.1 **Standing Monthly/Quarterly Reports**

##### 5.2 **Monthly Financial Report**

Finance Director, Steve Fawcett, presented the Monthly Financial Report for July. He stated that expenditures are normal and that most significant sources of revenue are not received in July. Revenues, business licenses, and building permits also appear to be doing well. Mr. Fawcett reported that the final sales tax remittance received for fiscal year 2014 ended at \$5,203,000. This represents a 3.5% increase over the previous year. Franchise fees totaled \$304,000, representing a 2.5% increase. Mr. Fawcett stated that the balance of bond proceeds for the city hall after paying for the property and other miscellaneous expenses totaled \$10,574,000.

A complete copy of this report is available on the City's website.

##### 5.3 **Unified Fire Report**

Assistant Fire Chief, Mike Watson, presented the Unified Fire Report for the month of July. He reported that the monthly call volume for Station 110 came in 3rd among all UFA stations with a total of 244 calls and Station 116 came 16th received with a total of 105 calls. There were a total of 78 fire calls and 271 medical calls for the month of July. Station 110 had 179 total medical calls with 123 Advanced Life Support (ALS) calls resulting in 50 transports; and 56 Basic Life Support (BLS) calls resulting in 16 transports. Station 116 had 73 total medical calls with 54 Advanced Life Support (ALS) calls resulting in 12 transports; and 19 Basic Life Support (BLS) calls resulting in 6 transports.

The customer service message included Boy Scout talks and safety demos, citizen station tours, participation in swift water training, PALS practice and training, heavy rescue training, and ropes training, a fire safety talk and demo to preschool children. The safety message for the month of July pertained to school safety. Drivers are encouraged to slow down and be especially alert in residential neighborhoods and school zones. Motorists are encouraged to take extra time to watch for children at intersections, on medians, and on curbs. Chief Watson asked adults to discuss the dangers of driving/walking and texting with their children.

A complete copy of this report is available on the City's website.

6.0 **ACTION ITEMS**

6.1 **Consideration of Ordinance No. 226 Approving an Annexation into the City of Approximately 210 acres of Real property located at or near 9300 South Wasatch Boulevard**

6.1.1 Mayor Cullimore stated that the proposed ordinance is for approval of annexation petition for approximately 210 acres of real property, known as the Granite Oaks area into the City. Approval of the annexation allows it to move forward for filing with the Lieutenant Governor's Office.

City Attorney Shane Topham reported that there is a provision in the ordinance that will lock the zoning in place, including the current zoning which is comparable to what Salt Lake County has placed on the property. A six-month moratorium will be placed on the property as of the date the annexation becomes effective. During that time, it will have to go through a City rezoning process to conform to our zoning laws.

6.1.2 **MOTION:** Councilman Bracken moved to approve Ordinance No. 226. The motion was seconded by Councilman Tyler. Vote on motion: Councilman Shelton-Aye, Councilman Bracken-Aye, Councilman Peterson-Aye, Councilman Tyler-Aye, Mayor Kelvyn Cullimore-Aye. The motion passed unanimously.

6.2 **Consideration of Ordinance No. 227 Approving a Street Vacation Located at 8044 South Danish Road**

6.2.1 Mayor Cullimore stated that the proposed ordinance will approve the street vacation of approximately 1,020 square feet at 8044 Danish Road.

6.2.2 **MOTION:** Councilman Tyler moved to approve Ordinance No. 227. The motion was seconded by Councilman Shelton. Vote on motion: Councilman Shelton-Aye, Councilman Bracken-Aye, Councilman Peterson-Aye, Councilman Tyler-Aye, Mayor Kelvyn Cullimore-Aye. The motion passed unanimously.

6.3 **Consideration of Resolution No. 2014-53 Approving an Interlocal Easement Agreement with Salt Lake County on the Old Mill Subdivision**

6.3.1 Mayor Cullimore stated that the proposed resolution will approve an Interlocal Easement Agreement with Salt Lake County providing for an easement to service a fence erected by the City along the Big Cottonwood Canyon Trail on the south side of the existing water detention facility known as Spencer's Pond. The County owned the property and never had an easement for servicing the wall. At the urging of the residents, Cottonwood Heights obtained the easement and will allow maintenance, should the need arise.

6.3.2 **MOTION:** Councilman Shelton moved to approve Resolution No. 2014-53. The motion was seconded by Councilman Bracken. Vote on motion: Councilman Shelton-Aye, Councilman Bracken-Aye, Councilman Peterson-Aye, Councilman Tyler-Aye, Mayor Kelvyn Cullimore-Aye. The motion passed unanimously.

6.4 **Consideration of Resolution No. 2014-54 Approving an Agreement with Quicksilver Concrete, Inc.**

6.4.1 Mayor Cullimore stated that the proposed resolution will approve an agreement with Quicksilver Concrete, Inc. for 2015 miscellaneous concrete replacement projects. Each year the City participates in the 50/50 program for concrete repairs to curb, gutter, and sidewalk.

6.4.2 **MOTION:** Councilman Shelton moved to approve Resolution No. 2014-54. The motion was seconded by Councilman Bracken. Vote on motion: Councilman Shelton-Aye, Councilman Bracken-Aye, Councilman Peterson-Aye, Councilman Tyler-Aye, Mayor Kelvyn Cullimore-Aye. The motion passed unanimously.

6.5 **Consideration of Resolution No. 2014-55, Approving Amendment No. 2 to Agreement for Public Works-Related Materials and Services Between Salt Lake County and Cottonwood Heights**

6.5.1 Mayor Cullimore stated that the proposed resolution will approve the amendment to the Agreement for Public Works-Related Materials and Services between Salt Lake County and Cottonwood Heights. The purpose is to extend the existing agreement for certain services. He noted that the County takes care of traffic lights, school flashing signs, and items of an electrical nature.

6.5.2 **MOTION:** Councilman Shelton moved to approve Resolution No. 2014-55. The motion was seconded by Councilman Bracken. Vote on motion: Councilman Shelton-Aye, Councilman Bracken-Aye, Councilman Peterson-Aye, Councilman Tyler-Aye, Mayor Kelvyn Cullimore-Aye. The motion passed unanimously.

7.0 **CONSENT CALENDAR**

7.1 **Approval of Minutes for August 12, 2014**

7.2 The minutes stood approved.

8.0 **ADJOURN BUSINESS MEETING AND RECONVENE WORK SESSION IN ROOM 250**

8.1 **MOTION:** Councilman Tyler moved to adjourn and reconvene the Work Meeting. The motion was seconded by Councilman Peterson and passed unanimously on a voice vote. The business meeting adjourned at 8:35 p.m.

Minutes approved: 09/09/2014