



8 **MINUTES OF THE CENTRAL WASATCH COMMISSION (“CWC”) SPECIAL BOARD**
9 **MEETING HELD MONDAY, OCTOBER 30, 2023, AT 3:30 P.M. THE MEETING WAS**
10 **CONDUCTED BOTH IN-PERSON AND VIRTUALLY VIA ZOOM. THE ANCHOR**
11 **LOCATION WAS COTTONWOOD HEIGHTS CITY HALL LOCATED AT 2277 BENGAL**
12 **BOULEVARD, COTTONWOOD HEIGHTS, UTAH.**

13
14 **Board Members:** Chair Christopher F. Robinson
15 Mayor Monica Zoltanski
16 Mayor Roger Bourke
17 Mayor Jeff Silvestrini
18 Mayor Michael Weichers
19 Mayor Dan Knopp
20 Ex Officio, Annalee Munsey
21 Laura Briefer (representing Mayor Erin Mendenhall)

22
23 **Others:** Carl Fisher
24 Kirk Nichols

25
26 **Staff:** Lindsey Nielsen, Executive Director
27 Samantha Kilpack, Director of Operations
28 Shane Topham, CWC Legal Counsel
29

30 **OPENING**

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32 **1. Chair of the Board Christopher F. Robinson will Call the Meeting to Order and**
33 **Welcome Board Members and the Public.**

34
35 Chair Chris Robinson called the CWC Special Board Meeting to order at 3:30 p.m.

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37 **2. The CWC Board will Consider Approving the Minutes of the CWC Board Meeting Held**
38 **on October 16, 2023.**

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40 **MOTION:** Mayor Knopp moved to APPROVE the CWC Board Minutes from October 16, 2023.
41 Mayor Silvestrini seconded the motion. The motion passed with the unanimous consent of the Board.
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1 **LITTLE COTTONWOOD CANYON EIS AND RECORD OF DECISION**

2
3 **1. The Board will Discuss the Little Cottonwood Canyon EIS and Record of Decision.**

4
5 Chair Robinson reported that the reason the CWC Special Board Meeting was held was to consider
6 sending a letter related to the Utah Department of Transportation (“UDOT”) Little Cottonwood
7 Canyon Environmental Impact Statement (“EIS”) Record of Decision (“ROD”). A draft of the letter
8 was sent to the Board Members ahead of the CWC Special Board Meeting. Chair Robinson reported
9 that the letter would be sent to Carlos Braceras and Spencer Cox, the head of UDOT and the Governor
10 of the State of Utah, respectively. Chair Robinson referenced the letter from the Stakeholders Council
11 drafted in July 2023. There was a motion from the Stakeholders Council in September 2023 asking
12 that the CWC respond to the UDOT Little Cottonwood Canyon EIS ROD. The Meeting Materials
13 Packet included both the Stakeholders Council letter and the newly drafted letter.

14
15 The letter for Governor Cox and Director Braceras was dated October 30, 2023, and drafted by
16 various subsets of the CWC Board and the Stakeholders Council. Executive Director, Lindsey
17 Nielsen, reported that the letter was in response to one that the Stakeholders Council collectively sent
18 to the CWC Board. The Stakeholders Council made a motion that asked the CWC Board to respond
19 to the ROD that was released recently for the UDOT Little Cottonwood Canyon EIS. The newly
20 drafted letter was discussed during the Closed Session at the last CWC Board Meeting held on
21 October 16, 2023. Potential strategies and approaches were considered at that time. CWC Board
22 Members collectively decided on a request to engage in an environmental collaboration and conflict
23 resolution (“ECCR”) process with UDOT regarding the ROD. The letter explained why the CWC
24 wanted to convene an ECCR with UDOT and respectfully asked the Governor and Director to
25 entertain that request. Ms. Nielsen shared a copy of the letter with those present.

26
27 Mayor Zoltanski noted that the CWC is known as a deliberative body focused on consensus. The
28 Stakeholders Council approached the CWC Board with a strong request to take action and challenge
29 the ROD. Presenting the idea of an ECCR to the Governor and Director was a solid path forward. It
30 made sense to explore whether there was an opportunity to resolve concerns raised by the
31 Stakeholders Council and engage with UDOT. The CWC was well-positioned to make that request.
32 Mayor Zoltanski reported that there had been a lot of public comment opposing the gondola
33 alternative but it seemed that each part of the process moved approval of the gondola closer. There
34 was strong support for Phase I of the UDOT Little Cottonwood Canyon EIS. If there was room for
35 Phase I to advance while discussions were had about later phases, that could be beneficial. With the
36 approaching deadline, there needed to be swift action, which was the reason for the meeting.

37
38 Chair Robinson liked the fact that the drafted letter stated the following: “An ECCR process aligns
39 with Governor Cox’s Disagree Better Initiative.” That was something that he had been following
40 closely. There was a desire to improve civil discourse. Chair Robinson reported that while it was not
41 required under the National Environmental Policy Act (“NEPA”), the ECCR process was something
42 that was recognized in Federal processes as a potential means of avoiding or addressing conflict.

43
44 Mayor Silvestrini was largely in support of the letter in its current form. There had already been an
45 informal decision made that the CWC would not file litigation or participate in potential litigation.
46 He referenced the bolded portion of the letter that mentioned working to avoid costly litigation. While
47 he did not have an issue with that statement, he felt it should be prefaced with a statement that certain
48 interests may pursue litigation regarding the matter without this process. He did not want it to appear

1 that the CWC was threatening litigation. Mayor Silvestrini asked to attach a copy of the letter
2 received from the Federal Highway Administration (“FHWA”) to the letter submitted by the CWC.
3

4 Chair Robinson had a similar concern. He did not want the recipients of the letter to assume that the
5 CWC was threatening legal action. There was one other reference to litigation in the letter on the
6 second page. That likely would not require further wordsmithing if the original reference to litigation
7 was clarified. Mayor Roger Bourke was concerned with one element of the bolded paragraph. The
8 bolded paragraph could be read to mean that Phase I would be accepted by the CWC, as defined in
9 the ROD, with no modifications. He thought that was short-sighted because there were still some
10 concerns related to the first phase, such as the limitations surrounding diesel buses. It was important
11 to think about the technology of the future, which included electric buses. Mayor Bourke also felt it
12 was necessary to consider the success of Phase I before moving to additional phases of the project.
13 If the paragraph referenced a modified Phase I, he would be a lot more comfortable with the language.
14

15 Mayor Knopp asked who drafted the letter. Chair Robinson explained that Ms. Nielsen started the
16 letter and a group contributed, which consisted of Mayor Zoltanski, Laura Briefer, Carl Fisher, and
17 John Knoblock. It had gone through a few different iterations. Mayor Knopp did not want to do
18 anything that would stop progress as something needed to be done to address the transportation issues
19 in the canyon. He hoped that it would be possible to work with UDOT. He believed electric buses
20 would be considered when those were a realistic possibility for the canyon. It was important to work
21 hand-in-hand with UDOT and not be adversarial. Any mention of litigation would be
22 counterproductive. Mayor Knopp stressed the importance of moving the transportation work forward.
23

24 Chair Robinson thought that focusing on the Disagree Better Initiative would make it possible to
25 engage in conflict resolution. It could potentially speed up the process. He hoped that after
26 appropriate modification, it would be possible for the CWC Board to vote unanimously to send the
27 letter. The letter would be reworded to reference “potential costly litigation brought by others,” to
28 make it clear that the CWC did not have a desire to litigate. He believed the ECCR process could
29 speed things up and lead to positive outcomes for all. Mayor Knopp wondered whether the groups
30 interested in litigation would rethink their approach if the ECCR moved ahead. Chair Robinson
31 pointed out that it was not possible to forecast the outcome of a conflict resolution process.
32

33 There was discussion about desired edits to the drafted letter. Mayor Silvestrini referenced the bolded
34 paragraph and reiterated his preference to indicate that the CWC understood that others may file
35 litigation. He wanted to make sure it did not sound like the CWC wanted to litigate. Mayor Bourke
36 did not have a problem with adding that clarification. However, he did not want the letter to imply
37 that there was a full endorsement of Phase I without any modifications. Chair Robinson suggested:
38

- 39 • The CWC and its Stakeholders respectfully request to engage in an environmental
40 collaboration and conflict resolution (“ECCR”) process with UDOT concerning its LCC EIS
41 ROD, with the express goal of identifying a mutually acceptable pathway forward for effective
42 implementation of the goals of Phase 1, thereby avoiding costly litigation delays in the EIS
43 process that we understand other parties may bring.
44

45 Mayor Knopp suggested that the language state, “We can work to avoid costly litigation and delays
46 in the EIS process brought forward by others.” He felt it was important to make it clear that the CWC
47 was not interested in litigation. Chair Robinson asked that the letter be shared in a Word document
48 so edits could be made. Mayor Bourke pointed out that it was not possible to avoid costly litigation

1 brought forward by others, but it was appropriate to make it clear that the CWC would not litigate.
2 Chair Robinson believed the intention was to explain that the ECCR process might be beneficial.

3
4 Laura Briefer noted that the deadline for any claim filed by parties challenging the ROD was
5 December 10, 2023. She did not see in the letter whether there was a request to hear back by a certain
6 date. Chair Robinson confirmed that a request had been made for a five to seven-day response. Ms.
7 Briefer agreed with what Mayor Bourke said, which was that the CWC could not control what others
8 would do in terms of filing challenges. She wondered whether the language could indicate that the
9 CWC hoped that entering into the ECCR process would help mitigate legal challenges. Discussions
10 were had about a potential ECCR process and the timeline. Ms. Briefer believed that if the ECCR
11 moved forward, the deadline would need to be moved to accommodate that process.

12
13 Mayor Zoltanski explained that there were many possible outcomes of the letter. UDOT might fully
14 reject the idea of the ECCR process, but the letter was a call to action and a request to participate in
15 the process. Carl Fisher had spoken to some people from the Environmental Dispute Resolution
16 (“EDR”) Program. There were a few different options for moving forward. The 150-day deadline
17 could be extended if UDOT chose to do so. For instance, UDOT could decide to extend the deadline
18 for six months while attempting to achieve a resolution. Another option was to allow people to file
19 their legal challenges and then attempt to move into environmental collaboration after those filings
20 were made. There were some options before the Governor and UDOT when it came to this process.
21 Mr. Fisher stated that the first step in a collaborative process was to do a Situation Assessment to
22 understand everyone involved. There was a possibility that the filed challenges would inform them
23 of who some of those parties were. Chair Robinson suggested the following language: “In the event
24 that complaints are filed, the ECCR could be a valuable tool in attempting to resolve the conflicts.”

25
26 Ms. Nielsen explained that following the CWC Special Board Meeting, she could make the suggested
27 edits to the letter and circulate it to CWC Board Members for final approval. From there, it could be
28 sent to the appropriate parties. Chair Robinson believed it would be possible to make the changes
29 during the current meeting if the issues were only related to the bolded paragraph. Additional
30 discussions were had about the drafted language and suggestions were made for further clarity.

31
32 Mayor Weichers referenced language about the goal of identifying a pathway for effective
33 implementation of the goals of Phase I. He liked what was originally stated there. Mayor Zoltanski
34 also liked the original language, because when the Wasatch Front Regional Council (“WFRC”)
35 approved funding for the EIS, it was with a statement of intent that each phase would be evaluated
36 after funding and implementation. She did not feel that electronic buses had been ruled out, but those
37 were not a viable consideration at the current time. There was nothing in the original language of the
38 draft letter that would exclude future improvements, such as electric buses. Mayor Bourke agreed
39 that it did not necessarily exclude electric buses, but it did not include them either. He was
40 uncomfortable referencing the “effective implementation of Phase I,” because it implied that it would
41 move ahead without any changes. Chair Robinson proposed that the following language be added:

- 42
43 • In the event there were to be any litigation by others (the CWC does not litigate) this ECCR
44 process could become a means of settling those conflicts...

45
46 Mayor Knopp asked that there be some language added to indicate that the CWC wanted to see the
47 process move forward. There was a desire to assist with the process. The following was proposed:
48 “We support the ECCR as a good-faith process to narrow or resolve conflict concerning the EIS.”

1 Additional discussions were had about appropriate wording for the bolded paragraph of the letter.
2 Mayor Bourke reiterated his concerns about the defects in Phase I and did not want to imply that the
3 organization was supportive of Phase I as it was currently proposed. Chair Robinson noted that there
4 was a reference to effective implementation. He felt the concerns were covered in the language.
5

6 The checklist on the second page of the draft letter was reviewed. The point related to the Federal
7 Delegation was removed as the CWC was not in a position to speak for them. There was also a
8 checklist item drafted to read: “An ECCR process will save taxpayers a considerable amount of time
9 and money if an ECCR process can create consensus among stakeholders.” Mayor Bourke pointed
10 out that the letter had not asked for an extension of the December 10, 2023, deadline. This was added:
11

- 12 • The CWC respectfully requests a response from the State within 7 days, exploring the option
13 of the ECCR process and extending the December 10, 2023 deadline to allow time for an
14 adequate ECCR process.
15

16 Chair Robinson asked CWC Legal Counsel, Shane Topham, whether he had any concerns with what
17 had been drafted. Mr. Topham did not have any concerns but made minor edits to the last paragraph.
18 Further edits and corrections were made. Chair Robinson asked whether the letter would be submitted
19 by regular mail or electronic mail. Ms. Nielsen explained that both could be done. Discussions were
20 had about how signatures would appear on the letter and what contact information should be added.
21

22 Chair Robinson pointed out that the agenda stated that there would be a discussion on the ROD, but
23 on all of the agendas, there was a notation at the bottom that said action could be taken on an item.
24 He asked Mr. Topham whether a vote could be taken on the proposed letter. Mr. Topham explained
25 that he had discussed the matter with CWC Staff. The catch-all provision at the end, which stated
26 that final action may be taken in relation to any topic listed on the agenda, made a vote appropriate.
27 It was determined that the Stakeholders Council documents and recommendation would be attached.
28

29 **MOTION:** Mayor Zoltanski moved to APPROVE the correspondence to Governor Cox and Director
30 Braceras, as drafted. Mayor Bourke seconded the motion. The motion passed unanimously.
31

32 Mayor Knopp asked about the CWC Board Members who were not present. Ms. Briefer noted that
33 Mayor Erin Mendenhall was supportive of her name being included in the letter. Mayor Knopp asked
34 about Mayor Nann Worel. Ms. Nielsen offered to reach out to Mayor Worel about the letter.
35

36 **PUBLIC COMMENT**

37
38 Chair Robinson opened the public comment period.
39

40 *Kirk Nichols* thanked the CWC Board for addressing this issue. He explained that this was something
41 that had been discussed for the last several months at the Stakeholders Council level. He pointed out
42 that UDOT had been reminded during every public comment period about the inadequacies.
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44 There were no further comments. The public comment period was closed.
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46 **COMMISSIONER COMMENT**

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48 There were no additional comments.

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CLOSING

1. Chair Robinson will Call for a Motion to Adjourn the Board Meeting.

MOTION: Mayor Weichers moved to ADJOURN the CWC Special Board Meeting. Mayor Zoltanski seconded the motion. The motion passed with the unanimous consent of the Board.

The meeting adjourned at 4:41 p.m.

1 *I hereby certify that the foregoing represents a true, accurate, and complete record of the Central*
2 *Wasatch Commission Special Board Meeting held on Monday, October 30, 2023.*

3

4 Teri Forbes

5 Teri Forbes

6 T Forbes Group

7 Minutes Secretary

8

9 Minutes Approved: _____