

PUBLIC HEARING AND CITY COUNCIL MEETING

Tuesday, November 10, 2009 7:00 p.m.

Public Safety Building

3925 W Cedar Hills Drive, Cedar Hills, Utah

Present: Mayor Mike McGee, Presiding
Council Members: Jim Perry, Eric Richardson, Ken Kirk, Charelle Bowman, Marisa Wright
Konrad Hildebrandt, City Manager
David Bunker, City Engineer
Greg Robinson, Assistant City Manager
Brad Kearn, Building and Zoning Official
Courtney Hammond, City Meeting Transcriber
Others: Shawn Richins, Stephanie Martinez, Scott Jackman, Cliff Chandler, Hunter Wilson, Trudy Barnes, Alan Richards, Dan Wilson, Jerry Dearing, Thayne Routh, Michelle Harley, Karen Noble, Steve Jenkins – McDonalds, James Cheney, Farley Eskelson – McDonalds, Stacey Richards, Brent Swensen, Kyle Swensen, Clint Seaman, Ken Yates, Nathan Yates, Alan Balzen, Troop 1190, Jared Stevenson, Lisa Routh, Jerome Broekhuijsen, Joshua Broekhuijsen, Garrett, Broekhuijsen, Ben Higbee, Diane Kirk, Roy Williams – Phillips Edison

COUNCIL MEETING

1. This meeting of the City Council of the City of Cedar Hills, having been properly noticed, was called to order at 7:03 p.m. by Mayor McGee.

Invocation given by C. Bowman

Pledge of Allegiance led by Hunter Wilson

2. Public Comment (7:06 p.m.)

Trudy Barnes: Ms. Barnes stated that she has worked for 10 years as a massage therapist and been licensed in three cities. She feels the Cedar Hills business licensing fees are out of line with surrounding cities. She doesn't have any employees, doesn't receive deliveries, etc. She has less than one or two clients per day but is required to pay \$150 in business licensing, which is 50% higher than the fees required in Pleasant Grove. She requested that the Council reduce the fee back to \$40 for her category, which is a Moderate Impact Businesses. She also asked that the City stop charging the \$25 inspection fee after the initial year.

Alan Richards: Mr. Richards stated that he opposed any setback changes or variances in between his house and his neighbor's house. He is frustrated that he has less than half the setback required because the pins were not double checked during the inspection process. He would like the Council's best judgment in this matter.

Dan Wilson: Two weeks ago the Council voted to approve a Welcome to Cedar Hills sign. A third location was approved that was not originally proposed. There are a number of issues with the proposed location. It is a narrow strip of land with many obstacles. He has talked to UDOT,

and they have no problem with the sign on SR-92. UDOT has no plans for widening the road at that spot.

Hunter Wilson: Hunter was asked to consider possible city slogans. He gathered together some ideas. He asked the Council to consider the list and have it on the agenda for next month.

Jerry Dearing: Mr. Dearing congratulated Eric Richardson and the others who won the election last week. He noticed that the Council will be considering a McDonalds. He had many calls from residents who were concerned about pedestrian access to the retail center across the street from the high school. He hopes that McDonalds and Walmart will finance a pedestrian access over the street.

Thayne Routh: Mr. Routh is also frustrated with the setback issue at his property in Avanyu. He is willing to buy the property from Mr. Richards, but Mr. Richards does not want to sell. He is also willing to move all his improvements. He asked that the request for variance be approved.

PUBLIC HEARINGS

3. City Code Amendments Regarding Zoning Definitions, Conditional Uses Regarding Animal Rights, and Portable Utility Sheds (7:23 p.m.)

Michelle Harley: I am actually interested in—they're talk about changing the zoning for animal rights. I am very much for that. I am very interested in having just a few little chickens in my back yard. I think that would be a really good thing. I know all over this country there are a lot of movements to bring animals in. We are here trying to make a living, raise our family, and teach good values and things like that. I think my lot is significantly large enough that I would be able to have that without impeding my neighbors. My question has to do with CC&Rs. I know my CC&Rs specifically—it is not an HOA—but they specifically say that two animals are all that is allowed and only domestic animals. Chickens are not allowed. I don't quite understand how that would be affected, but I am very much for having those zoning changes because I would like some chickens.

Jerry Dearing: With respect to this, I have a couple of concerns. I think the general idea is to expand animal rights to some other areas. But with respect, first of all, to the residential 20,000 square feet and above have animal rights already. In the legislative intent it talks about "residents may engage in limited agricultural and livestock raising pursuits for family food production or recreational purposes" and it was a permitted use—it is a permitted use in that area now. It is not a permitted use in other areas. The amendment here attempts to change it to a conditional use. I would oppose that rather strenuously. I think it is something that those citizens in that area have. I don't have any animals, but I have neighbors that do. We need to keep it in conditional use. Secondly, I'm not sure it is really ready to be passed. The only definition that I can find in connection with this is what an animal unit is. I'm not sure it is overly good. But, it does give some definition. Here it not only talks about animals, but now we are talking about small animals and fowl. It says that the maximum number of small animals and or fowl is 8, no roosters, and yet animal units—you can have two animal units, which could be as many as 32 feeder lambs, as many as 16 goats, and yet you can only have eight fowl or a combination of that. And I don't know what a fowl is because it is not defined anywhere. I really think you need to go into that further, maybe come up with some definitions of large animals versus small animals and see what you want to do with that. I don't think it is ready to be passed yet.

4. Vacation and Re-subdivision of Juniper Heights, Plat C, Lots 13 and 14 (Juniper Heights, Plat F) (7:28 p.m.)

Karen Noble: Basically I am just here because I don't understand why it is a public hearing. Since our neighbors and ourselves decided—when we figured out he was several feet over onto our property line. It was kind of a mutual mistake. We had already done our landscaping. They came in and did theirs. We spent a lot of money, and then we realized later that it was wrong—that the lines were wrong. So he came to us and said, “we are willing to buy that little piece from you if you are willing to sell it.” We decided to do that, and we went through all the hoops and did all of the legal things. We settled it. We are both happy with what we did. So basically I just wondered why it was a public hearing.

C. Perry: We are required by law.

Karen Noble: Is that the only reason?

C. Perry: Yea.

Mayor McGee: Nobody is opposing anything, it is just required to make it legal.

5. Subdivision Plat for Juniper Heights, Plat F, located at 10361 N and 10343 N Sandalwood Drive, Cedar Hills, Utah (7:29 p.m.)

No comments.

CONSENT AGENDA

6. Minutes from the October 20, 2009, Public Hearing and Regular City Council Meeting (7:30 p.m.)

MOTION: C. Wright - To accept the minutes from the October 20, 2009, Public Hearing and Regular City Council Meeting. Seconded by C. Kirk.

Yes - C. Bowman
C. Kirk
C. Perry
C. Richardson
C. Wright Motion passes.

MOTION: C. Wright - To move item 14 to the beginning of the list. Seconded by C. Bowman.

AMEND MOTION: C. Perry - To move item 15 after 14. Accepted by C. Wright and seconded by C. Bowman.

Yes - C. Bowman
C. Kirk
C. Perry
C. Richardson
C. Wright Motion passes.

SCHEDULED ITEMS

14. Review/Action on Canvass of 2009 Municipal General Election (7:31 p.m.)

See handouts.

Kim Holindrake presented the poll books and tallies to the Council, who is acting as the canvassing board. There were two absentee ballots that were returned and postmarked before Election Day. Those are to be counted. These were opened, read, and added to the official tallies. One ballot had a vote for Eric Richardson, Scott Jackman and Paul Sorenson. The other ballot had a vote for Eric Richardson, Scott Jackman, Paul Sorenson. Both ballots were from precinct 3. State law has changed and requires that the canvassing board sign the official canvass.

MOTION: C. Perry - The City Council, acting as the Canvassing Board, accepts the 2009 Report of Municipal General Election Results for November 3, 2009, and declares those candidates with the highest number of votes elected to office, specifically Eric Richardson as Mayor, Scott Jackman and Stephanie Martinez as Council Members. Seconded by C. Wright.

Yes - C. Bowman
C. Kirk
C. Perry
C. Richardson
C. Wright Motion passes.

15. Review/Action on a Proclamation Declaring November 19, 2009 as Feed America Day (7:38 p.m.)

See handouts.

Mayor McGee read a letter sent from Mayor Billings of Provo. On Feed America Day, the Wednesday before Thanksgiving, the public is invited to fast for two meals and donate the equivalent value to a church or charitable organization to feed the hungry.

C. Wright stated that while there is no good way to get this out to the residents before Feed America Day, she would like the City to have a box at the city offices for people to drop off donations with a sign specifying the food will be donated to the Community Action Services and Food Bank.

MOTION: C. Kirk - As written as per the official proclamation as identified in the handout. The staff will provide a box at the city offices identifying anyone that wants to donate to the Community Action Services and Food Bank, and they can donate there. Seconded by C. Bowman.

Yes - C. Bowman
C. Kirk
C. Perry
C. Richardson
C. Wright Motion passes.

MOTION: C. Kirk - To move item 13 to next on agenda. Seconded by C. Bowman.

Yes - C. Bowman
C. Kirk
C. Perry
C. Richardson
C. Wright Motion passes.

13. Review/Action on Board/Committee Appointments-Planning Commission, Parks and Trails Committee and Board of Adjustment (7:44 .m.)

See handouts.

Mayor McGee stated that he wished to appoint Peter Karp to another three-year term on the Parks and Trails Committee, James Cheney and Carl Volden to the Board of Adjustment, Cliff Chandler to the Planning Commission, Bobby Seegmiller as first alternate to the Planning Commission and Glenn Dodge as second alternate to the Planning Commission. He also appointed Larry Locken and John Howard to the Traffic Safety and Livability Oversight Committee.

Council Discussion:

- C. Perry stated that he appreciated those that have served. Since these positions are to be chosen by the mayor and confirmed by the council, and there will be a new mayor and two new council members, he would prefer to wait until the first meeting of January.

MOTION: C. Perry - To table this item until the first of the year. No second. Motion dies.

MOTION: C. Kirk - To accept the appointment of the mayor's recommendations as indicated and the appointment of Carl Volden to the Board of Adjustment. No second. Motion dies.

MOTION: C. Perry - To table item until the first meeting of the year. Seconded by C. Bowman.

Yes - C. Bowman
C. Perry
C. Richardson
C. Wright
No - C. Kirk Motion passes.

7. Review/Action on Concept/Preliminary for the McDonalds Site Plan Located at Approximately 10180 North 4800 West (7:49 p.m.)

See handouts.

Staff Presentation:

Greg Robinson stated that the changes requested by the Site Plan Committee and the Planning Commission have been made. Outstanding items based on staff recommendations include an updated traffic study and a development agreement. He would like to see further grading detail on the landscaped area and some berming to hide some parking. He would also like to see detail on the light box and would recommend matching the light boxes from Walmart and Chase Bank. Walmart currently has a sidewalk along the north side of the property. McDonalds is connecting to that sidewalk. Chase Bank has a sidewalk along the north side of its property with a handicap ramp that goes north and east. There may be a need to address a connection to Chase Bank, though doing so will reduce the landscaping percentage.

Farley Eskelson with McDonalds stated that McDonalds needs to look like a McDonalds. This is a small building. He tried to introduce more colonial elements and it didn't work on such a small building. He has no problem adding quoining where possible, but dormers will not work.

Roy Williams of Phillips Edison stated that Phillips Edison owns the lot and is very pleased that McDonalds has chosen this site to develop. Economic conditions dictate limited growth in the commercial segment. A bank and fast food facility operate differently. He doesn't want to see McDonalds looking like a bank or office building. He is very pleased with the design that was developed.

Council Discussion:

- The Council requested paths through the landscaping to provide pedestrian access and a curb cut and path across from Chase Bank's sidewalk ramp.
- Mayor McGee stated that he doesn't feel like the building has enough colonial elements. C. Kirk agreed.
- C. Perry stated that he did not like the columns.
- C. Bowman stated that she would not be able to vote for the building as presented. She would like the columns to be similar to the Chase Bank columns. She would also like to see dormers and quoining.
- C. Kirk stated that he has been to McDonalds around the world and there are different designs everywhere. There are simple changes that can be made to the exterior that won't affect the air flow or roof but will allow the building to fit into the commercial zone.
- C. Richardson stated that as the City Council member assigned to the Site Plan Committee and the Planning Commission, he has worked with every developer in the commercial zone. This building has evolved a lot, and McDonalds has been a pleasure to work with. The one thing that concerns him is the stone columns. He suggested using Walmart as a model and making the columns out of the same brick with perhaps some keystoneing. He stated that, in his opinion, the elevations need more work, but everything else seems to be in order. Farley Eskelson agreed to work on the brick columns with keystoneing and one dormer.
- C. Wright stated she would like the brick to be true red.

MOTION: C. Richardson - In regards to preliminary approval for McDonalds, I move that we approve the elevation plans subject to review of all columns for a more colonial look, that they be brick columns and a dormer as discussed; City Council approval of complete sets of color elevation plans and sample boards are deemed harmonious with American Colonial style;

landscaping plans to be accepted subject to a review of landscaping counts, quality, species, and sizing to match Walmart; installation and acceptance of virtual berming guideline standards so as to shield the view of the parking lot; submission of a combined Lone Peak Public Safety District/District of American Fork Police Department accident report for the areas of 4800 West in proximity to Cedar Hills Drive and West Cedar Hills Drive; a finding from the City Council that the proposed site plan complies with the purpose and intent stated in the Guidelines for the Design and Review of Planned Commercial Development for projects and that the latitude exercised by the Council is necessary for individual use within the planned area; also finding that the development meets minimum standards of the community vision section of the Design Guidelines; light box approval; landscape grading plan submitted and approved; future signage approval; indication on erosion control plan to indicate that the construction access will be at the northwest corner of the site only and construction shall be prohibited from tracking debris onto roads; future approval of pedestrian interface as discussed; all cement surfaces shall be stamped in the color and pattern approved by the City Council at final approval except for the approved ADA accesses as discussed; that no building permit shall be issued until execution of a development agreement; and finally subject to engineering, legal review, and Fire Marshall approval; and calculation of exactions by the City Council. Seconded by C. Bowman.

Yes - C. Bowman
C. Kirk
C. Perry
C. Richardson
C. Wright Motion passes.

MOTION: C. Richardson - To move items 10, 11, and 12 next on the agenda. Seconded by C. Perry.

Yes - C. Bowman
C. Kirk
C. Perry
C. Richardson
C. Wright Motion passes.

10. Review/Action on Vacation and Resubdivision of Juniper Heights, Plat C, Lots 13 and 14 (Juniper Heights, Plat F) (8:48 p.m.)

See handouts.

MOTION: C. Richardson - To approve the vacation and resubdivision of Juniper Heights Plat C, Lots 13 and 14 and make the finding that the vacation and resubdivision does not create a hazardous condition or adversely affect surrounding residents, that the change in plat recording does not create a hazardous condition nor will it adversely affect surrounding residents, also that the vacation and resubdivision is appropriate for the zone and locations, that it does not change the development's density nor required distance between zoning units and that it complies with the zoning regulations. Seconded by C. Perry.

Yes - C. Bowman
C. Kirk
C. Perry
C. Richardson
C. Wright Motion passes.

C. Bowman and C. Wright excused (8:50 p.m.)

MOTION: C. Richardson - To approve Ordinance No. 11-10-2009A. Seconded by C. Perry

Yes - C. Kirk
C. Perry
C. Richardson Motion passes.

11. Review/Action on Subdivision Plat for Juniper Heights, Plat F, located at 10361 N and 10343 N Sandalwood Drive, Cedar Hills, Utah (8:51 p.m.)

See handouts.

MOTION: C. Richardson - To grant preliminary and final subdivision approval for Juniper Heights Plat F, as indicated. Seconded by C. Perry.

Yes - C. Kirk
C. Perry
C. Richardson Motion passes.

C. Bowman and C. Wright return. (8:53 p.m.)

12. Review/Action on Setbacks for Property Located at 9425 N Avanyu Drive (9:15 p.m.)

See handouts.

Staff Presentation:

Greg Robinson stated that a property line adjustment is allowed per code and has been done in the past. The distance between the two houses is adequate to meet both setback requirements.

Mr. Richards is angry that the situation happened, and he doesn't want a variance allowed. He stated that he would like his neighbor to comply with the setback requirements. He requested that the Council wait to make a decision on this item.

Council Discussion:

- C. Perry would like to see a review of how this situation occurred and examine if there are some processes that can be changed to avoid any similar problems in the future. He is okay with continuing this item but stated that whatever Mr. Richard's finds out in the interim will not necessarily affect the Council's decision.

- C. Kirk stated that both parties should have been notified, but weren't. At this point, the mistake has been made, and there isn't much that can be done short of demolishing Mr. Routh's house. The variance, while not perfect, is the best solution.
- C. Richardson stated that the disposition of the Council is not to make anyone tear down a house. He is willing to continue the item so the neighbors can work something out, but the Council will not require the Rouths to tear down the house.

MOTION: C. Kirk - To continue this to the next meeting to allow Mr. Richards time to consult with his attorney. No second. Motion dies.

MOTION: C. Perry - To continue to the next meeting. Seconded by C. Bowman.

Yes - C. Bowman
 C. Kirk
 C. Perry
 C. Richardson
 C. Wright Motion passes.

8. Review/Action on City Code Amendments Regarding Zoning Definitions, Conditional Uses Regarding Animal Rights, and Portable Utility Sheds (8:48 p.m.)

See handouts.

Staff Presentation:

Brad Kearl stated that this amendment allows animal rights in areas of the City that previously did not have animal rights. This was discussed previously. The Planning Commission cleaned up the language. This ordinance does not affect CC&Rs.

Council Discussion:

- C. Richardson stated that he is opposed to allowing livestock on lots of a relatively small size. Having livestock 50 feet from the property line is too close.
- C. Kirk stated that he thinks the definitions need to be improved. Fowl should be clarified, with more separation between large, medium, and small animals.

MOTION: C. Richardson - To approve Ordinance No. 11-10-2009B, an ordinance amending Title 10 including only section 4 and part 2 as indicated on the staff memo. Seconded by C. Bowman.

Vote taken by roll call.

Yes - C. Bowman
 C. Kirk
 C. Perry
 C. Richardson
 C. Wright Motion passes.

9. Review/Action on Retaining Wall Located on Timpanogos Cove
16. City Manager Report and Discussion

MAYOR AND COUNCIL REPORTS

17. Board and Committee Reports

EXECUTIVE SESSION

18. Motion to go into Executive Session, Pursuant to Utah State Code 52-4-205
19. Motion to Adjourn Executive Session and Reconvene City Council Meeting

No Executive Session.

ADJOURNMENT

20. Adjourn

This meeting was adjourned at 9:32 p.m. on a motion by C. Perry, seconded by C. Kirk, and unanimously approved.

Approved by Council:
December 8, 2009

/s/ Kim E. Holindrake
Kim E. Holindrake, City Recorder