

CITY COUNCIL MEETING
Tuesday, January 19, 2010 7:00 p.m.
Public Safety Building
3925 W Cedar Hills Drive, Cedar Hills, Utah

Present: Ken Kirk (Mayor Pro-Tem), Presiding
Council Members: Marisa Wright, Jim Perry, Stephanie Martinez, Scott Jackman
Eric Richardson, Mayor (Via Telephone)
Konrad Hildebrandt, City Manager
Kim Holindrake, City Recorder
Cathy Larsen, Deputy Recorder
Greg Robinson, Assistant City Manager
David Bunker, City Engineer
Brad Kearn, Building & Zoning Official
Larry Ellertson, County Commissioner
Others: Shawn Richins, Cliff Chandler, Brent Uibel, Roz McClary, Jack McClary, Matt Badger, Jared Badger, Daniel Powell, Mary Powell, Susan McGhie, Julie Sessions, Clint Seaman, Jack Osborne, Barbara McOmber, Art McOmber, Harlow Clark

COUNCIL MEETING

1. This meeting of the City Council of the City of Cedar Hills, having been properly noticed, was called to order at 7:13 p.m. by C. Kirk, Mayor Pro-Tem.

Invocation given by C. Wright

Pledge of Allegiance led by Will Osborne

2. Public Comment (7:15 p.m.)

Susan McGhie: Ms. McGhie stated that the animal rights ordinance has been changed since the last time it was on the agenda. Before, the City was limiting the number of small animals, where now it has gone to four square feet per animal unit. This is twice the size that California did in regards to a referendum for chickens. This was a big concern for them, and put all the hen keepers out of business. She feels it is good that the size is bigger; she believes in free range. Her biggest concern is the item concerning "...not less than fifty feet (50') to an existing dwelling on an adjacent lot" and "10,000 square feet of livestock management area." That could put a structure basically in the middle of a backyard, which would be an inopportune spot if lawn-space is wanted in the yard. She would like the Council to keep that in mind. She moved here from the Bay area. Even in the big City, two hens per property were allowed with or without animal rights. It would be a good idea to open it up to two hens per resident in order for residents to provide for themselves and know what is in their own food.

Julie Sessions: Ms. Sessions thanked the Council for their service. She doesn't have a home business but several neighbors do. The greatest asset to her home has been the piano teacher next door that has inspired a couple of her daughters in profound ways. It has helped them become good citizens and taught them a work ethic. She has not seen any impact on the City at all, let alone a high impact. Talking to her neighbors, it hasn't been an impact for them either. The neighbor that teaches piano teaches four hours a week, eight piano lessons a week. Last year her neighbor paid \$50 for a licensing fee. This year the City said the business is high impact and cost six times that amount. Her neighbor decided it is not worth paying for this increased amount. This is a tragedy since her neighbor is one of the best piano teachers she has seen. She is hoping

that when the Council looks at this, there will be a way it can be restructured. The City could reconsider what is high impact and what is not, and how much money a person is actually bringing in. Then individuals will not be shutting down good, honest businesses that help the community.

Barbara McOmber: Ms. McOmber stated that she has strong feelings about how business licensing fees have changed from last year to this year. A lot of her friends teach piano, sewing, or cello. A lot of their students just ride their bike or walk. When she was in a welfare meeting in a religious setting, she was notified that 45% of the people in that stake area were either out of a job or their job is paying less. In California, where she lived for years, it was a real struggle for moms to stay home. The culture here enables individuals to create businesses from home in order to create a little more income and not work outside the home. These individuals are trying to support themselves; this is taxing them even more. She feels strongly that the Council should reconsider this. This also is a culture base in the community. If men and women stop music and sewing lessons, our children won't have that.

Art McOmber: Mr. McOmber feels his wife did a good job at stating both of their concerns. He understands it takes taxes to run a City. There are a lot of goals that the City has, and most of them are worthwhile. This issue surprised him. He owns and runs a business out of his home. He feels the City's definition of high impact seems a little skewed. He feels this should be revisited in order for the burden of the tax not to get placed upon the shoulders of those who really shouldn't pay for it, i.e. the small business owners working out of their homes. In high impact areas where there is traffic, parking, and so forth, there is a need and a lot of money that goes into maintaining these areas. It is not high impact for a piano teacher to have a child come to their home and a parent park while their child runs in and runs out a half hour later. It seems a little over-the-top to consider this high impact.

Jack McClary: Mr. McClary stated that after reading this and doing a little research on it, it appeared as nothing more than another tax on the citizens of Cedar Hills. He sees no justification for it. Impact fees are designed for businesses that impact infrastructure. He cannot see how a piano teacher impacts infrastructure, and feels it is ludicrous to even consider. He recommended that the Council follow staff's recommendation on the agenda item. Cedar Hills is the only City implementing such a tiered-fee schedule with this amount of increase. This has resulted in a negative impression of the business licensing function of the City government. During this economic time, it is not feasible to raise these fees. He suggested revisiting this item and going back to the way it was done in the past. It is not prudent to move forward with the increase.

Roz McClary: Ms. McClary stated that she supports what everyone has said.

CONSENT AGENDA

3. Minutes from the January 5, 2010, Regular City Council Meeting (7:32 p.m.)

MOTION: C. Wright - To accept the minutes from the January 5, 2010, City Council Meeting. Seconded by C. Martinez.

Yes - C. Jackman
C. Kirk
C. Martinez
C. Perry
C. Wright

Motion passes.

MOTION: C. Jackman - To move item #6 before item #4. No second. Motion dies.

SCHEDULED ITEMS

4. Review/Action on Resolution Adopting Fees (business licensing fees) (7:33 p.m.)

See handouts.

Staff Presentation:

Brad Kearl stated that previously staff was directed by the Council to construct a tier-based fee schedule for home-based businesses. That tier-based system was to reflect the negative impact that businesses have on the community. Staff categorized each business, and questionnaires were mailed to each business. As questionnaires came back, it was found that business owners were not 100% accurate and had to be re-contacted. The City has received a lot of negative responses from citizens whose businesses have been affected by the new fees. It became apparent that the new fees did not have the effect that the City was trying to accomplish. Staff re-evaluated the numbers, and administratively the cost is the same for each business. It is very difficult to come up with a definition for high impact to determine what is or isn't applicable and whether the data is truthful. The total costs to the City for business licensing includes the cost of filing, creating a license, employee wages and benefits, and essential training/seminars. Another option is to have a flat rate; and if there is an additional impact, it could be addressed at that time.

Konrad Hildebrandt stated that the fees need to be fair and equitable. The definitions are too broad and general. Determining a fair impact is difficult; it always results in someone feeling it is unfair.

Council Discussion:

- C. Perry stated that the business licensing fee change occurred not too long ago. The Council asked staff to come up with a scheme that proportioned the cost of business fees according to the impact on the City. The Council wanted to make sure the fees covered the necessary inspections, and that businesses were paying their fair share. Prior to this the City had a flat fee. Businesses with huge impacts on the City, as well as some that presented a nuisance, paid no more than a business with no impact on the City or residents. There is no profit involved, and the City is not trying to make money to fund other things. He feels the Council needs to look at how business licenses are processed and the expenses involved. The proposed schedule needs some tweaking. The City is on the right track as far as making sure every business is not charged the same amount. He likes the tiered fee schedule for home-based businesses that reflects the impact on the community. The current system is too simplistic and generalized; it is hard for business owners to interpret.
- C. Kirk stated that licensing and inspections are two different things. It doesn't cost the City any more to license one business versus another business. The City is providing a service similar to sewer or water where one group should not be subsidizing another. The impact to the City is important. He feels the tiered system is totally inappropriate. He has only heard of one business receiving complaints, which was in violation of a totally separate ordinance. He doesn't feel there is a high impact from home-based businesses. Cedar Hills is the only city in the state that has a tiered system. He recommended a pass-through where everyone pays the same amount. It would eliminate non-filing of individuals as well as minimize false information pertaining to operating a business. At some point there could be discussion regarding a community impact schedule. Walmart is already helping to pay for the impact to the City through taxes. Citizens that own a business are already paying for that impact with property taxes. He doesn't support the tiered system as part of the business licensing fee. He would support a motion for a base fee for business licensing, and then direct staff to come up with a business infrastructure impact fee that separates the types of businesses that are operating in the City.
- Mayor Richardson stated that he appreciates the Council taking a look at this item again. The City has received helpful feedback from residents. He is a big believer that the City should be fiscally conservative, avoiding government subsidies. The goal of business licensing should be to license businesses without impacting other businesses. He hopes the Council will take this into consideration, review the information, and potentially look at the definition of a high impact business. The business licensing fees should match up with the revenue on a one-to-one basis. There are differences between a dance studio versus a family limited partnership office. Some of the differences are the number of complaints, the impact on the community, and the time spent in

staff enforcement. It is typical throughout the State to have a tiered system for commercial businesses based upon a set of criteria. The City could look at this in regards to home-based businesses. He recommends keeping a tiered schedule that matches up with the costs.

- C. Wright stated that she has a lot of mixed feelings. She is a mom of four young children, and feels having music lessons in an individual's neighborhood is almost priceless. It builds a community and allows stay-at-home moms to impart their wisdom on the next generation. The problem is that the expenditures of \$16,305 and revenue of \$14,345 leaves a difference of \$2,000 that the rest of the residents have to make up. Those fees have to be paid somehow. Just because we heard from these high impact businesses, doesn't take away from the fact that these, the very very low impact businesses, will be making up the difference and that's not fair. In government we often subsidize things. Toll roads are the most fair form of taxation, but a lot of people don't like them. They'd rather it be subsidized. The City is not making a profit. After the City increased the fee, a lot of business owners claimed to not be running a business any longer, which is a loss for the City. If the City sets the fee too low or equal across the board, the low-impact businesses are subsidizing the high-impact businesses. Then business owners lie about their impact or shut down. Therefore more time is being spent by staff to investigate each business and verify its impact. The Council has tried to be fair.
- C. Jackman stated that the goal is not to collect fees, but to administer safety and order. There are several variables such as administrative costs, inspection costs, and the impact from the business. The administrative costs and inspection costs are easy to determine. The impact is hard to define because the costs are harder to determine. He would like to see the impact definitions clarified. Music lessons are a lot lower than high impact.
- C. Martinez stated that there is a dance studio down the street from her that causes more impact in the neighborhood compared to a piano teacher. She feels the previous direction from Council to staff to construct a tiered fee schedule was too general.

MOTION: C. Perry - To continue this item to the next meeting and ask the Mayor and staff to come together with a recommendation, and in the meantime suspend collection of business licensing fees until this issue is resolved. No Second. Motion dies.

Further Discussion:

- Kim Holindrake stated that the base fee has to be comprised from the administrative costs of licensing a business. It does not include the inspection fee, which is totally separate. If administrative costs create a \$62 base fee, then every home business pays \$62. She agrees that the definitions may not be as clear when dealing with the impact structure. Even though one piano teacher might have piano lessons one day a week and another piano teacher might have lessons every day of the week, they can't be separated. They have to be defined under one category, such as *piano teacher* or *dance studio*. Throughout the year, a business may add or subtract customers. There are cities that have tiered fee structures, but the administrative costs have to be divided among all the businesses.

MOTION: C. Wright – To have all home-based businesses in the City of Cedar Hills pay the licensing fee base of \$60, non-impact with no additional fee, low-impact with a rate of \$5 on top of the \$60, medium-impact with a rate of \$15 on top of the \$60, and high-impact with a rate of \$25 on top of the \$60. No Second. Motion dies.

Further Discussion:

- C. Jackman stated that assessing the impact is very difficult; it deals with people making complaints, the City staff going out and investigating those complaints, and other items that cannot be enumerated. None of these things are part of the administrative costs. The \$65 base rate does not account for any impact, and the inspection fee is separate. The Council needs to decide on some type of impact fee to offset complaints, etc.

- C. Perry stated that even though every other City charges the same amount, Cedar Hills can do better.
- C. Martinez stated that she understands that the business licensing fee needs to cover the \$62 per business. There is also the gray area of the impact; the impact fee itself is not clear. It could possibly be a two-tiered system, either impact or no-impact.

C. Kirk declared this item an impasse and asked it to be on the February 2, 2010, agenda.

MOTION: C. Wright - To move item #6 before item #5. Seconded by C. Kirk.

Yes	-	C. Jackman	
		C. Kirk	
		C. Martinez	
		C. Perry	
		C. Wright	Motion passes.

6. Review/Action on Provo Reservoir Canal Rights-Of-Ways Greenway Interlocal Agreement (8:25 p.m.)

See handouts.

Staff Presentation:

Larry Ellertson recommended that the Council not take any action this evening. The County is still working on the final agreement, which he hopes to bring back on February 2. There is also an agreement between the County and Provo River Water Users. The concept of this trail spans about 15 years. It is at a point where the canal will be closed, and a trail has been agreed upon. The canal right-of-way is about 100 feet wide. Fifteen feet of that is to be a paved trail for biking, walking, etc. The trail is fairly flat; there is only a grade difference of about 60 feet from the mouth of Provo Canyon to the point of the mountain. There are a couple of areas within the trail system that contain siphons in which there is a bigger elevation drop. Those will be handled in terms of a switchback within the trail. The canal itself is about 23 miles long. It will run through the Cities of Orem, Lindon, Pleasant Grove, American Fork, Cedar Hills, Highland, and Lehi. The portion of land that the trail will reside on is about 16 miles, going from about 800 East and 1100 North in Orem to east of the railroad tracks on SR-92. At that point the trail will head west past Thanksgiving Point where it will connect with the Jordan Parkway. Draper City is creating a trail to the point of the mountain that follows the railroad tracks as opposed to the canal. All of the trail systems in Utah County that are part of the Jordan Parkway are completed. There is a trail that runs on the north side of 800 North in Orem that connects to the Provo River Trail. The Provo River Trail goes as far east as Vivian Park, where there is a mile section before the trail picks up again to Soldier Hollow. Once that mile section of the trail is in place, there will be a great interconnection. At some point the trail system will continue north to Summit County, back down into Salt Lake County, and around to the Jordan Parkway. The Murdock Trail System will become a spine to the trails all the way around Utah County. This will be a great asset for residents of the County. There is over \$10,000,000 from the Federal Government to help build this trail, which is 80% of the cost. There are also some dollars that have been carved out of transportation bonds from the 4800 West Project. This Interlocal Agreement is between the cities and Utah County with the County as the contact point. The County doesn't have the remaining 20% to fund the project. The cities and County will share in the upkeep and maintenance. He hopes every community will maximize the amount they can contribute. Each city will have a member on the governing board. The County is willing to pay 35% of the remaining 20%, even though there is very little unincorporated area. It helps to have an investment in this from each community, so they feel there is some ownership in it. There will be an 18-month construction period beginning early this year. There is a payment of \$600,000 due

now, which the County will pay. The July payment will be paid by the County (\$319,000) and the cities (\$281,000). The remaining balance, due July 2011, will be paid by the cities. There will be an equestrian trail along the path, and the trail is for non-motorized use. The County is working on constructing an ATV trail system and a motor-cross competition track south of Payson. The funds for the enclosure project come from the Central Utah Project (CUP), Jordan Valley Water, and Salt Lake and Sandy Metropolitan Water Districts. The CUP is paying \$70,000,000 for the enclosure project, and would like to reserve a pipeline in that right-of-way for a future use. The County needs to determine where this pipe will be placed in order to determine where to place the trail.

Council Discussion:

- C. Perry questioned why the project is not just funded through the County. There is no question of the value of this project to the community.
- C. Wright is eager to see the final agreement. Years from now the community will have this infrastructure in place. Even though she wants to tax the residents as little as possible, the impact for generations to come is worth it. She hopes that all the cities will come together on this project.
- C. Martinez questioned that there isn't language in the agreement for a governing board.
- Mayor Richardson agrees that this is something that will last for generations to come. He wants to make sure the agreement is right.

Mayor Richardson excused (via telephone) (8:57 p.m.)

5. Review/Action on City Code Amendments Regarding Conditional Uses Regarding Animal Rights (8:58 p.m.)

See handouts.

Staff Presentation:

Brad Kearl stated that the Council suggested that staff redefine animal units into large and small units (animals and fowl). Staff has received requests to have small animals and fowl. In the large animal units, llamas were incorporated as well as like animals and size. Each large animal unit requires 10,000 square feet of livestock management area and a half unit requires 5,000 square feet. A definition for a small animal unit was added and requires a minimum of four square feet of livestock management area. There is not a limit to how many small animals and fowl a resident can have; only in the distance to the neighboring property. The City Code was cleaned up and simplified. A small animal unit must be 50 feet from a neighbor's house so a neighbor is not negatively impacted by the flies and smell. There will not be free range of animals or fowl allowed. The livestock management area can be greater to allow the chickens to roam. The original verbiage was written when the City didn't want a property to have more than two large animals and turn the City into a ranch-style area. Some families may want more chickens because of large families.

Council Discussion:

- C. Perry stated that it is not clear that free range is not allowed. There are both conditional uses and permitted uses with the same verbiage. He is not sure why there needs to be conditional uses in some zones and permitted in other zones. The memo states that conditional uses should be extended to the other zones.
- C. Kirk stated that just because the City doesn't go around and enforce an ordinance, doesn't mean the City won't enforce it. The City needs to clarify the ordinance. It is the coups that are built when the ordinance has passed that could be in violation. He would like a limited number of small animals. He likes the idea of free-roaming. When he had ducks, it was for the sole purpose

- of pest control.
- C. Jackman stated that limits need to be placed in the ordinance pertaining to the number of small animals. A higher number would allow an individual enough small animals so a request for a larger number doesn't come later.
- C. Martinez stated that there is a limit on large animals, but not small animals. She would like to see a limited number of small animals.
- C. Wright agrees that the henhouse needs to be 50 feet away from a neighbor and doesn't want to adversely affect the quality of life for others. She would like to see chickens allowed to roam a little. She would like to limit the number of small animals to 40.
- Kim Holindrake stated that it is a balancing issue. The livestock management area is where the animals are to be kept; it doesn't mean they can be let out to be kept in the yard. The chickens may need more area than the four square feet to move around. The City doesn't want to create an issue in an ordinance to allow small animals to roam around outside a livestock management area. That is why a livestock management area was defined.

MOTION: C. Wright - To approve Ordinance No. 1-19-2010A, an ordinance amending Title 10 of the City Code of the City of Cedar Hills, Utah, amending the requirements relating to definitions, permitted uses, and conditional uses, as amended. Seconded by C. Jackman.

Yes - C. Jackman
 C. Kirk
 C. Martinez
 C. Perry
 C. Wright Motion passes.

7. Review/Action on City Council Assignments (9:30 p.m.)

See handouts.

MOTION: C. Perry - To table item #7, and in the interim ask Council Member Jackman, as a former member of the Planning Commission, to attend the next Planning Commission meeting. Seconded by C. Kirk.

Yes - C. Jackman
 C. Kirk
 C. Martinez
 C. Perry
 C. Wright Motion passes.

8. City Manager Report and Discussion (9:31 p.m.)

- Konrad Hildebrandt is working with Mayor Richardson to bring information forward on the utilization of recreation facility impact fees. If the Council chooses to go forward with a June election, it has to be noticed with the Lieutenant Governor 75 days prior. Action will need to take place by March 18. There will be a presentation on this very soon. Mayor Richardson wants to include the entire community and wants to create an action team.
- Monthly Management Reports have been given to Council. The City exceeded the goal of 100 new items with 116 items improved upon this last year in the City.
- C. Wright would like to have a new photo directory of the staff with positions, etc.
- C. Martinez would like to see a report from Community Development in the next Monthly Management Report.

MAYOR AND COUNCIL REPORTS

9. Board and Committee Reports (9:34 p.m.)

- C. Perry stated that the Lone Peak Public Safety District (LPPSD) will meet on January 28. There has been a very significant turnover on the District Board.

EXECUTIVE SESSION

10. Motion to go into Executive Session, Pursuant to Utah State Code 52-4-205

11. Motion to Adjourn Executive Session and Reconvene City Council Meeting

No Executive Session.

ADJOURNMENT

12. Adjourn

This meeting was adjourned at 9:35 p.m. on a motion by C. Perry, seconded by Wright and unanimously approved.

Approved by Council:
February 16, 2010

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