

PUBLIC HEARING AND CITY COUNCIL MEETING
Tuesday, May 19, 2009 7:00 p.m.
Public Safety Building
3925 W Cedar Hills Drive, Cedar Hills, Utah

Present: Mayor Mike McGee, Presiding (7:30 p.m.)
Council Members: Ken Kirk, Eric Richardson, Jim Perry, Marisa Wright, Charelle Bowman (7:46 p.m.)
Konrad Hildebrandt, City Manager
Kim Holindrake, City Recorder
Ashley Vogelsburg, Community Services Director
Greg Robinson, Assistant to the City Manager
Courtney Hammond, City Meeting Transcriber
Others: Jim Skelton, John Ostrom, Matt Shipp-Highland City, Courtney Rasband, Jeff Skousen, Pam Skelton, Tyler Whitaker, Nathan Bray, Kristi Warren, Shuxiang Li, Stephanie Martinez, Johnathan Winters, Amber Linebaugh, Chad Linebaugh, Greg Walkenhorst

COUNCIL MEETING

1. This meeting of the City Council of the City of Cedar Hills, having been properly noticed, was called to order at 7:01 p.m. by Mayor Pro Tempore Marisa Wright.

Invocation given by C. Richardson

Pledge of Allegiance led by C. Kirk

2. Public Comment (7:02 p.m.)

John Ostrom: Mr. Ostrom was present to comment on the pocket park. He said the space is used as access to the high school and park. It is also used as parking for teenagers and neighbors. A pavilion is not practical. He would like to see it as a green space with several trees, benches, and a drinking fountain. He is open to having neighbors buy the property, as long as access remains open. A play structure is not necessary.

Courtney Rasband: Ms. Rasband stated that she is opposed to the current proposal for the park. Her understanding is that the current plan is based on budget constraints. She wants the park to be done properly. She would prefer that the park be put on hold until the money is available to do the park properly. She would like to see removal of asphalt and sidewalk and green space with a connecting path to the Highland City Park. She submitted a petition signed by several of her neighbors.

Jeff Skousen: Mr. Skousen commented on the proposed amendments to the city code. He is frustrated by the small size of lots in the City. He, as well as many of his neighbors, wants to invest money into expanding their outdoor structures. He was happy to see the proposed amendments.

Stephanie Martinez: Ms. Martinez presented the City with a certificate of special support from the Girl Scouts. The girl scouts in the area sold 25,200 boxes of Girl Scout cookies. As the Parks and Trails Committee chair, she is glad to hear resident feedback. The Parks and Trails Committee would also like to see green space. She encouraged the Council to keep the land as park space. The City is limited in park space.

Jonathan Winters: Mr. Winters expressed appreciation for the efforts of the Parks and Trails Committee. He is glad to hear that someday it will become park. An asphalt park would not be complementary to the neighborhood.

Jim Skelton: Mr. Skelton spent time talking to neighbors. He feels like if there is going to be a park, the neighborhood should get what it wants. If the money isn't there, the neighborhood can wait.

Shuxiang Li: Mr. Li stated that he thinks the pocket park plan is a bad proposal. The current

proposal will only lead to broken windows.

Tyler Whitaker: Mr. Whitaker seconded what has been said about the pocket park. He thinks that the City should wait until it can create green space.

PUBLIC HEARING

3. Amendments to the City Code, Title 10-5-5, Development in Required Setback Area (required yard area) and Title 10-2-1, Definitions (7:31 p.m.)

No comments.

CONSENT AGENDA

4. Minutes from the May 5, 2009, Public Hearing and Regular City Council Meeting (7:32 p.m.)

MOTION: C. Wright – To accept the minutes from the May 5, 2009, Public Hearing and Regular City Council Meeting with the changes Eric sent in. Seconded by C. Richardson.

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

SCHEDULED ITEMS

5. Review/Action on a Water Regeneration Project (7:32 p.m.)

See handouts.

Staff Presentation:

Konrad Hildebrandt stated that the North Utah County Aquifer Association (NUCAA) has been presenting this proposal to all the cities in North Utah County. Matt Shipp, Highland City Engineer, will give a presentation on the Aquifer Association.

Matt Shipp stated that the association has decided that the aquifer under north Utah County is an important asset. It is estimated that by 2030 the ground water will fall markedly unless there is recharge, primarily because of population growth. Highland City commissioned a conceptual study. The next step is a feasibility study that will cost about \$250,000. Highland, Alpine, American Fork, and Central Utah Water have authorized up to \$20,000. There are plans to meet with Provo, Orem, and Saratoga Springs. They have also met with the County. NUCAA believes that all the cities should be involved and is asking cities for a contribution of up to \$20,000. That contribution does not obligate a city to participate in the next step. The finished project would have monitoring devices to measure how much water is going in.

Council Discussion:

- C. Wright stated that the costs should be broken down by population. Cedar Hills should not pay the same amount as Provo. She does not want to subsidize water for Salt Lake and thinks Salt Lake should participate since it takes water from Utah County.
- C. Richardson is concerned that the cost-to-benefit ratio is not positive. Not all the users of the aquifer are in Utah County. In this case Utah County entities would be paying for the increase in ground water. He would like the increased aquifer to be protected for the use of Utah County users, rather than outside entities. Matt Shipp said that as individuals, cities have a hard time standing against outside entities because of lack of clout. By standing together, NUCAA may have more control over the water.
- C. Kirk stated that he would like to ensure that there is adequate protection of the water in

- the aquifer.
- C. Bowman stated her concern that if the county comes on board, their contribution will come through increased taxes to the cities.
- C. Perry stated that the City wants to do what it can to maximize a common resource, but it wants to make sure there is an approximation of fairness.

MOTION: C. Wright - To continue considering participation with the NUCAA with the hopes that NUCAA will take into account that Cedar Hills is a small town and that we feel participation should reflect the size of the city, and in hopes that they will engage more cities that would benefit from the project better. Seconded by C. Bowman.

Further Discussion:

- Matt Shipp stated that many of the questions that the Council has, such as water rights, can't be answered until after the feasibility study.
- C. Bowman stated her concern that if the county comes on board, their contribution will come through increased taxes to the cities. What she doesn't want to happen is to have both the city and the county on board or else residents will be paying in two ways. It needs to be one or the other and if the city participates the cost needs to be based on population.

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

- Mayor McGee asked Matt Shipp to ask the State Engineer to answer some of the legal questions surrounding water rights.

6. Review/Action on an Open Air Market (8:21 p.m.)

See handouts.

Staff Presentation:

Amber Linebaugh stated that she grew up at Sundance in an artists' community and traveled Europe. She has grown to love the feel of open air markets and farmers markets. She would love to bring some of that culture to Cedar Hills. The market would have a European flair where items would be sold that are not readily available in other venues. It would also be a cultural experience with artists, musicians and free art booths for children. Prices would range from inexpensive to nice antiques. The purpose is to create money for vendors, to attract people to Cedar Hills, and to create a cultural experience for the community. She plans to seek out vendors that she has seen in Park City and Salt Lake City that are very different than what is in Utah County markets.

Konrad Hildebrandt stated that the Council needs to decide how involved the City should be. The permitting process can be very restrictive and involve lots of staff time. There are costs involved, and the Council needs to decide who bears those costs.

Council Discussion:

- C. Wright stated that she loves the idea. She thinks it could do nothing but improve the cultural experience in Cedar Hills. She is concerned that it will draw in the same vendors as the Holy Cow. She wants the park to be left clean.
- C. Kirk stated that he is concerned that this may open a Pandora's Box and may start swap meets or bargain basement markets. It may be a novelty at the beginning and then die off. He

is also concerned about closing Cedar Hills Drive.

- C. Bowman stated that there were similar quality concerns with Walmart, but the Council was able to set parameters and controls to maintain quality. She would be willing to give it a try and seeing how it works.
- C. Perry stated that he thinks the concept is great. He has concerns about the legal implications of setting a precedent. He wants to make sure that the Council understands all the implications.
- C. Richardson stated that he is excited about the concept. He has faith that the City will be able to maintain a high quality market. He thinks the next step is to come up with a permitting process.

MOTION: C. Richardson - To instruct staff to prepare a permitting process taking into account the following issues: (1) the return shall give primary importance to qualitative return with less risk to the City, (2) computation of the expected expenditures, (3) a process that includes standards that are community based and like the general plan and the community (4) come up with this process and present it to the City Council for approval, and (4) instruct City staff to work with Mrs. Linebaugh to fill out an application in line with that process. Seconded by C. Bowman.

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

MOTION: C. Richardson - To move item 7 until after item 9. Seconded by C. Kirk.

Yes	-	C. Bowman C. Kirk C. Perry C. Richardson C. Wright	Motion passes.
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8. Discussion Regarding Fieldcrest Park (8:49 p.m.)

See handouts.

MOTION: C. Bowman - To direct staff to get it on the next Parks and Trails Committee agenda. Seconded by C. Kirk.

C. Wright asked residents to recognize that Council wants the neighborhood to be happy.

Yes	-	C. Bowman C. Kirk C. Perry C. Richardson C. Wright	Motion passes.
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9. Review/Action on Amendments to the City Code, Title 10-5-5, Development in Required Setback Area (required yard area) and Title 10-2-1, Definitions (8:58 p.m.)

See handouts.

Staff Presentation:

Greg Robinson stated that the Planning Commission and staff reviewed this item to make allowances for different types of deck covers, awnings and pergolas that go into the required setbacks. These edits have been suggested by C. Richardson. A new section was created to cover those types of structures. Building and Zoning recommended adding a section that states that any construction has to meet building and fire codes, and that setbacks will be equally proportioned between each property owner.

Konrad Hildebrandt stated that this ordinance does a few things. It allows residents a greater flexibility to do what they want with their yards. On the other hand, setbacks are required for a reason and to protect privacy.

Council Discussion:

- C. Perry said the ordinance does not need to state that it must meet the current building and fire code because that is always the case. The sharing of the fire setback doesn't make sense as written. He would like to strike A.8 and A.11 as well as B.8 and B.11. Many of the amendments improperly use the imperative voice. He is uncomfortable with the provision that allows for a deck up to 8 feet above grade level.
- Mayor McGee stated that the privacy issue needs to be protected. However, there are structures that can be constructed that don't affect privacy.
- C. Richardson stated that his intent was to be consistent with the type of structures allowed in setbacks. The code currently allows detached garages but restricts a covered patio.
- C. Kirk stated that he is a property rights advocate. He also likes privacy. Discretion is important.

MOTION: Richardson - To approve ordinance 5-19-2009A amending Title 10 of the City Code for the City of Cedar Hills, Utah, relating to the Required Setback Area (required yard area), with the following amendments: (1) in 10-5-5 B. delete from the City Code paragraphs 8 and 11 under Section 3; (2) Section 4, 10-5-29 A. 3. shall read, *Prior to construction, a building permit shall be obtained for all structures.*; (3) amend 10-5-29 A. 3. a. to read, *Prior to issuing a building permit, the Chief Building Official shall make a finding whether the materials and finish of the proposed structure are in harmony with the primary structure and the surroundings as a whole and issue a permit with a positive finding.*; (4) amend 10-5-29 A. 3. b. at the end to say, *Additionally, structures in the rear setback area shall not cover over 50% of the rear setback area.*; (5) 10-5-29 A. 3. b. (2) add in front of current text, *Special exception for awnings located in the side setback area and immediately adjacent to garage.*; (6) 10-5-29 A. 3. b. (2) (c) to read, *The awning shall not be more than seven (7) feet tall, 1 foot from the property line, nor a roof pitch greater than 4:12.*; and (7) add paragraph 6 to read *Any setback shall be proportioned equally between property owners.* Seconded by C. Wright.

Further Discussion:

- C. Perry stated that in Section 10-5-29A: recreational equipment should be better defined as swing sets.

AMEND MOTION: C. Richardson - In 10-5-29A, it should read, *recreational equipment such as swing sets, slides, and trampolines.* Seconded by C. Wright.

AMEND MOTION: C. Richardson - To change 10-5-29 A. 4, to, *six (6) feet.* Seconded by C. Wright.

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

- C. Perry stated that he doesn't feel that this ordinance is ideal, but it is better than it was.

MOTION: C. Wright - To move item 10 to the next item. Seconded by C. Bowman.

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

10. Review/Action on Waste Management Contract Extension (9:49 p.m.)

See handouts.

Staff Presentation:

Konrad Hildebrandt stated that the solid waste and recycling contract with Waste Management (WM) has ended its first extension. WM has requested to utilize the second extension for 2 years. There are no problems or complaints with the current provider. The solid waste collection was the highest rated service provided by the City.

Greg Walkenhorst of Waste Management stated that pricing is based on operating costs at the time of the bid. He feels that Waste Management provides better, safer, cleaner service. They provide a consistent pick up time, clean pick up, and any missed service is picked up the same day. WM is not charging a fuel surcharge or charging a processing fee for recyclables, which many companies are doing because the recycling commodities market is down. They can provide recycling pickup on a weekly basis, but it would increase the costs.

Greg Robinson stated that he spoke to Allied and received estimated costs that were a little lower, but not significantly. They were rough numbers because real costs would be based on whether they would need to buy a new truck, which would increase the cost.

Council Discussion:

- C. Perry noted that Highland's costs are a lot lower with Allied.
- C. Wright stated that there is significantly more trash on the streets on Monday morning, the morning the trash is picked up. She is not convinced that the WM service is better than others. Getting bids may provide a better price for the residents. American Fork is giving everybody a recycling bin unless they cancel within three months. If they then cancel their recycling bin it costs \$50. She would like the City to consider something like this, though she recognizes the timing is not right.
- C. Richardson stated that he has frequently seen waste management drivers get out and clean up trash that spilled out onto the street.
- C. Bowman stated that she has been impressed with the practices that Waste Management demonstrates towards our environment and also our community. She appreciates the neighborhood watch program that their drivers participate in and feels that is an added benefit of their service.

MOTION: C. Richardson - To make a finding that WM provides and excellent value to the community and it is in the best interest to extend the contract with WM. No second. Motion dies.

Further Discussion:

- C. Richardson stated that the numbers are all similar. There are a lot of service providers in the City. In his time, he has never heard a complaint about WM service. He feels like it is in the best interest to continue. There isn't an appreciable difference in the numbers, but he feels there is a difference in the service level.
- C. Kirk stated that he attended a meeting where Allied was present. They are trying to charge a fuel surcharge in their negotiations.

MOTION: C. Bowman - To approve the WM Solid Waste contractual extension agreement.
Seconded by C. Richardson.

Further Discussion:

- C. Wright stated that she doesn't think this is a responsible decision. She thinks the City should be getting bids so they can speak with authority when they say it is the best deal. She thinks it is our duty as elected officials to get bids from contract services in order to ensure that the city gets the best bang for our buck. We must prove to our residents that we have done our due diligence in comparing bids. We owe this to our residents.
- C. Richardson stated that for him, it isn't about low price, it is about best value.

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

7. Review/Action on Amendments to the Phillips Edison Development Agreement (10:47 p.m.)

See handouts.

Staff Presentation:

Greg Robinson stated that changes to the development agreement involve changes to the exhibit numbers, making the clearing of right of ways their responsibility and a change in the water rights required at current rates and fees.

Council Discussion:

- C. Perry stated that he wants staff to make the reasons for the changes clear to Phillips Edison and/or Chase Bank.
- C. Wright stated that under the landscaping section she would like to change the portion that says if a species dies or are destroyed, it shall be replaced with similar species to say "same" species. Also replacement trees of a similar caliper. C. Perry disagreed because a better species may be needed and larger caliper trees have an 80% rate of dying.
- C. Richardson does not want the water rights to be submitted by cash in lieu, by removing the last sentence of section 3. If the City is taking cash and purchasing water rights, that is okay.

MOTION: C. Richardson - To submit the amended Phillips Edison Development Agreement to Phillips Edison for their signature and making them send it back to City Council for approval. Seconded by C. Perry.

AMEND MOTION: C. Richardson - And to authorize the City Manager to sign the agreement as constituted. Seconded by C. Perry.

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

11. City Manager Report and Discussion (11:01 p.m.)

- Budget questions should be submitted to Konrad Hildebrandt.
- In allowing residents to govern themselves, the upper zone went through 2 million gallons of water in one night. All the streets were flowing with water. An education campaign should start.
- There were 425 new trees sold to residents. There were 165 trees left for the City to plant in city parks. There are 126 left to be planted. Revenue came in at \$17,501, \$15,661 in expenses including taxes, and a net revenue around \$1,000.

MAYOR AND COUNCIL REPORTS

12. Board and Committee Reports (11:09 p.m.)

C. Kirk: The Solid Waste District is no longer taking checks, only cash or credit cards. He was upset that the contract with WM was expired. WM was no longer legally required to continue the service. He would like contracts to come to the City Council several months before it is expired.

EXECUTIVE SESSION

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

No Executive Session.

ADJOURNMENT

15. Adjourn

This meeting was adjourned at 11:18 p.m. on a motion by C. Bowman, seconded by C. Kirk and unanimously approved.

Approved by Council:
June 2, 2009

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