

**PUBLIC HEARING AND CITY COUNCIL MEETING**  
**Tuesday, September 22, 2009 7:00 p.m.**  
**Public Safety Building**  
**3925 W Cedar Hills Drive, Cedar Hills, Utah**

Present: Marisa Wright, Mayor Pro Tempore  
Council Members: Charelle Bowman, Eric Richardson, Ken Kirk  
Absent: Mayor Mike McGee, Jim Perry  
Konrad Hildebrandt, City Manager  
David Bunker, City Engineer  
Courtney Hammond, City Meeting Transcriber  
Others: Cliff Chandler, Scott Jackman, Shawn Richins, Donald Steele, Diane Kirk,  
Laurie Herget, Shirlene Jensen, Nancy Steele, Chris Grzybowski, John Settle, Carla  
Settle, Jeff Hillock, Karissa Neeley, Brent Uibel, Tiffer Jenkins, Matt Haney, Thayne  
Ruth

**COUNCIL MEETING**

1. This meeting of the City Council of the City of Cedar Hills, having been properly noticed, was called to order at 7:02 p.m. by C. Wright.

Invocation given by C. Bowman

Pledge of allegiance led by C. Kirk

2. Public Comment (7:04 p.m.)

Shirlene Jensen: Ms. Jensen lives on Avondale. A year and half ago she came to a meeting to ask when the road would be completed and manhole covers repaired. She asked for an update on the roads. The drains need to be flushed of mud and debris from the recent flood. David Bunker stated that the City is working on it. The City has made good progress, and it looks like the issue will be resolved without litigation. The developer is now being more cooperative, and the City is in the process of trying to get the escrow bond released.

Tiffer Jenkins: Mr. Jenkins thanked city staff for helping out with the park strip. He thanked the City Council for the cutout on Nielsen Blvd. He suggested that the City not be in a hurry to sell lots at the rock bottom pricing.

**PUBLIC HEARINGS**

3. Whether to declare forfeited certain performance guarantees posted to guarantee the construction and completion of subdivision improvements for Avanyu Acres, Plats A, B, C, and D (7:13 p.m.)

John Settle: I would like to make a few comments on catch basins. We have an 8-foot culvert that interconnects Salt Lake and Utah County. We have a north catch basin that was designed to catch that in case of emergency. As of now the state has inspected that because it is at the end of its life cycle. There are 900-some homes that are either on easement or that have built over the top of that where our catch basin is designed to run off. We also catch all of Box Elder's water in our catch basin. We maintain that catch basin, and we take care of that catch basin. And I think

that we need to be reimbursed for it because it is on our property, which we pay for, which we pay taxes on, and we also pay for the drainage to the City for drainage that is on our own property. All of the association members that pay dues have paid an increase of dues to take care of things that have been left undone. This one is a big safety issue besides all the other things that have been left undone. But the things to consider there is we have three catch basins to take care of City water problems that are not ours. I don't think that is fair, and I don't think that is right. So my opinion is that we should be reimbursed for it or be paid at least for having them on our property.

Jeff Hillock: The issues I have, getting back to the developer, there is no street lighting in the north half of the subdivision, which is shown on the original prints. The streets are atrocious. I tell people they need to watch out for the tower of records building standing in the middle of the street by my lot. The association has done its best to take care of it by grinding it so that at least it gets stopped, but that needs to be addressed. The concrete's cracking, and has never been final inspected, so the other thing I see is that is a liability issue that goes back to the City and developer because we technically don't own that yet. We have already had one child fall and hurt himself on busted concrete. Also there was supposed to be landscaping and things taken care of in the common area up behind on the east side of subdivision that has never been dealt with. We have been kind of hung high and dry. Our opinion, myself and my neighbors, is that if he is going to release the bond to the City, we definitely want to make sure there is plenty of money there because there are a lot of issues that need to be dealt with. I drove over curb for three and half years because there was a sinkhole. I could not even put an approach in. The association took care of that problem. I think the association should be reimbursed for that as well because it was a developer issue. I couldn't do it when I built the house even if I had wanted to because it was 8 inches. There are a lot of problems to be addressed. Please make sure that if the City is going to take this, there is plenty of money and make sure you get all the bids.

Matt Haney: I want to thank the neighbors for coming out, and thank David Bunker for commissioning the study, and for you guys moving this forward. We are thankful that this is a priority for you guys. Just to echo some of the concerns. We also did do a lot of sidewalk replacement in the neighborhood. We hired a contractor and replaced a lot of the concrete ourselves just because. It would be great to be reimbursed to those neighbors that did replace their sidewalk. First and foremost for commissioning the study, thanks for staying on top of it. Thanks for moving this forward and bringing us all together tonight.

Thayne Ruth: I would echo what Matt said. I'm looking forward to getting this accomplished. We've been working at this for several years now. We were very interested third party observers at the mediation that was required a couple of years ago. There wasn't really any progress there. It was my understanding that the City had moved forward and had filed suit. I was kind of surprised because this indicates that perhaps that didn't happen. I would like a comment on that as to where we are in the legal process. I tried contacting the city attorney to get some feedback. I would like to hear where we are on that. Dave, what was the estimate that came back after the report? It was north of \$250,000 dollars.

David Bunker: I can't remember.

Thayne Ruther: It is about \$250,000 worth of work. Recognize that there needs to be a priority in the things that need to be addressed. Certainly the safety issues need to be addressed first. There are a lot of things that need to be done there. It is time to get things accomplished.

CONSENT AGENDA

- 4. Minutes from the August 18, 2009, Regular City Council Meeting (7:26 p.m.)
- 5. Minutes from the August 25, 2009, Special City Council Meeting (7:26 p.m.)

**MOTION: C. Bowman - To approve consent agenda.** Seconded by C. Kirk.

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

SCHEDULED ITEMS

- 6. Review/Action on the Welcome to Cedar Hills Sign Requirement for Phillips Edison Located at the Northeast Corner of Cedar Hills Drive and 4800 West (7:30 p.m.)

See handouts.

Presentation:

Chris Grzybowski of Phillips Edison stated that the lettering and tree will be on three sides and the monument sign will be set at a 45 degree angle. Per the development agreement, the lettering is being paid for by the City.

Council Discussion:

- C. Richardson stated that he appreciates that Philips Edison has taken all the Council's comments into consideration and has presented a great sign. He is in favor of approval.

**MOTION: C. Kirk - To accept the conceptual artist drawing presented from Phillips Edison this evening and propose the entrance sign to include those things that were specifically identified as presented to us on the northeast corner of Cedar Hills Drive and 4800 West.** Seconded by C. Bowman.

**AMEND MOTION: C. Kirk - And that the tree emblem and lettering will be on three sides.** Accepted and seconded by C. Bowman.

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

7. Review/Action on Resolution Regarding the Municipal Wastewater Planning Program (7:36 p.m.)

See handouts.

Staff Presentation:

David Bunker stated that as part of an annual evaluation, the City completed a wastewater questionnaire that was sent from the state. The evaluation helps with funding capabilities with the state. The Council needs to pass a resolution that the City has prepared the wastewater planning documents. The City does well with wastewater planning, though there are areas for improvement. Areas for improvement are primarily administrative. The City does not have a sinking fund. It is important, but the City may not have the capability of accomplishing it now.

Council Discussion:

- C. Richardson stated that while sinking funds are important, the City sewer system is part of a special service district that should have its own sinking fund. The City staff does a good job of maintaining city infrastructure.

**MOTION: C. Richardson - To approve Resolution No. 9-22-2009A.** Seconded by C. Wright. Vote taken by roll call.

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

Further Discussion:

- C. Wright stated that she talked to the man that lived next to the water flood and to Stephanie Martinez. She wanted to publically defend Public Works. The man said he felt like it took a long time for city staff to get there, because water was gushing. He said, in reality, it took Public Works a half hour to get there. The goal is 20 minutes. The flood was caused by a computer glitch.

8. Review/Action on Development Agreement with Chase Bank (7:46 p.m.)

See handouts.

Staff Presentation:

Konrad Hildebrandt stated that this development agreement is similar to the agreement with Walmart. Section 13.3 says that the developer will install the sign and then give the easement to the City at no charge. The City will then maintain the sign. Section 14.2.1 states Chase Bank is responsible for the landscaping around their building. Section 14.5 states that the developer is responsible for snow removal of the walkways. Section 16 states that the developer will be charged for water actually used as documented one year after developed. The City will buy back any excess water acre feet.

David Bunker stated that the architectural plans need to be added to the development agreement.

Council Discussion:

- C. Richardson stated that the city policy should be that the development agreement comes before the building permit because the development agreement delineates the way development should proceed. Sections 10.1.1 and 10.1.2 concern traffic devices. Before staff signs off on this development agreement, he would like staff to ensure the approval documents indicate the actual devices that were installed. He would like city policy to be that developers bring in actual water shares rather than cash in lieu.
- C. Kirk stated that there was a lengthy discussion during the approval of the trash enclosure. It is not in this development agreement, and should be added to ensure that the correct enclosure in the architectural plan is followed.

**MOTION: C. Richardson - To instruct the City Manager to execute the development agreement with JP Morgan Chase and Chase Bank Development for the Chase Bank Development subject to: update of 10.1 making reference to specific traffic calming devices as required at development stage for development, that chase bank submit water shares not cash in lieu, and that colored architectural plans be added to the document for approval.** Seconded by C. Bowman.

Further Discussion:

- David Bunker stated that the City has available shares for purchase. Three shares is a small amount of water. It would benefit the City to do cash in lieu. The process of getting 3 shares of water is difficult because it has to go through the state.
- C. Richardson stated that prior analysis has shown that the City needs more water shares. He doesn't want to sell the shares we do have.

**AMEND MOTION: C. Richardson - Strike reference to section 15 on water shares.** Accepted and seconded by C. Bowman.

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

9. Review/Action on Cedar Hills Golf Course Items (8:08 p.m.)

See handouts.

Staff Presentation:

Konrad Hildebrandt stated that the City is currently leasing a triple wide trailer for a clubhouse. The lease expired on September 13, 2009. All the options on extending the lease raise the cost. He believes the events portion of any new facility would help pay off the costs. Staff recommends a month to month lease on the trailer as Council determines what direction it wants to take on a permanent facility for a clubhouse. The City now owns the cart barn and Sunset Room.

Council Discussion:

- C. Kirk stated that on March 3, 2009, the Council decided 3-2 to move forward with a clubhouse design. Since then the Council has decided not to move forward or spend money on any design. As he sees it, the March motion is being ignored. He thinks the City will need the trailer for at least a year. This is an issue that is too complex for citizens to understand in a one-paragraph ballot.
- C. Bowman stated that she would like to negotiate a lower lease rate. She would like to continue at the \$990/month lease.

**MOTION: C. Richardson - To no longer approve the March 3, 2009 golf course design or direction and follow the direction of the August 18, 2009 discussion, which is to allow no further expenditures on golf course clubhouse.** Seconded by C. Bowman.

Further Discussion:

- C. Kirk stated that the motion on August 18 has already been approved and doesn't need to be reapproved. He asked C. Bowman to state what kind of clubhouse she will support. He will abide by the final vote of the Council, whatever that may be.
- C. Bowman stated that she would support a clubhouse that costs less than that which was originally proposed and that can be built in phases. She is not opposed to a tri-building, though she is not committed to it. She does not believe that a vote on a general obligation bond for the clubhouse would pass today.

**AMEND MOTION: C. Kirk - To remove the August 18 portion from the original motion.** Accepted by C. Richardson and seconded by C. Bowman.

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

**MOTION: C. Richardson - To accept staff's recommendation of a month to month lease and instruct staff to pursue the best option available starting at \$990 a month.** Seconded by C. Bowman.

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

10. Review/Action on Ordinance Regarding the Approval of Minutes (8:42 p.m.)

See handouts.

**MOTION: C. Bowman - To approve Ordinance No. 9-22-2009A, an ordinance establishing a policy and procedure for the approval of written minutes for the public meetings of the City Council and other public bodies of the City of Cedar Hills, with the amendment of section 1C where it states "if the Public Body does not take action to approve the draft minutes within 90 days, the draft minutes shall be deemed to have been approved by the Public Body and will stand as proposed."** Seconded by C. Richardson. Vote taken by roll call.

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

11. Review/Action on Appointment of Mayor Pro Tem (8:42 p.m.)

See handouts.

**MOTION: C. Bowman - To appoint Ken Kirk as Mayor Pro Tem starting on the first meeting of January 2010.** Seconded by C. Wright.

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

12. Review/Action on Canvass of 2009 General Municipal Election (8:43 p.m.)

**MOTION: C. Kirk - To accept the canvassing board actions and accept the election results for the 2009 Primary Election held on September 15, 2009.** Seconded by C. Bowman.

Further Discussion:

- C. Richardson stated that during the work session the Council reviewed polling books, the tally list and the statement for disposition of ballots.

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

13. Review/Action on Interlocal Agreement with Utah County Regarding a Community Development Block Grant Program (8:45 p.m.)

See handouts.

Staff Presentation:

Konrad Hildebrandt stated that the county has tried to become designated an urban county, which brings additional federal tax dollars to the county. It would increase the City's opportunity

to get funding for several projects. He recommended approval of the interlocal agreement to submit back to Utah County. Currently the City has eligibility through the Mountainland Association of Governments and splits state money, though distribution of funds tends to go to smaller communities.

Council Discussion:

- C. Kirk stated that he doesn't like the language that states that the county has complete authority over determining the fund distribution.

**MOTION: C. Wright - To approve the Utah County Interlocal Cooperation CDBG Agreement and authorize Mayor, Mike McGee, to sign.** Seconded by C. Bowman.

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

14. City Manager Report and Discussion (8:58 p.m.)

- The owners/developers of the proposed nature park submitted some proposals. The Council is willing to accept a quit-claim deed to the City, but does not want to buy the land.
- There were a lot of people that made the water tank flood into a bigger issue than it was. The system worked as designed. It was a lot of water and a few homes were negatively affected, but no water entered homes and the channel worked as designed. David Bunker stated that the biggest cost from the water tank issue will be to re-sod the two properties that were affected. A few plants may need to be replaced. The drains will need to be flushed. The Public Works staff got to the office within 22 minutes to shut off the pumps.
- David Bunker stated that the City keeps track of how many water rights are paid in lieu. The rates that are charged are based on what the City can buy water rights for and administrative costs. The City was able to negotiate a great price because it can buy it in block. Cash in lieu is not always a bad thing.
- David Bunker stated that the Cottonwood Well is operational, but the final walkthrough has not been completed. The cross gutter at the base of Ironwood Drive needs to be repaired, and then the asphalt will be patched.

MAYOR AND COUNCIL REPORTS

15. Board and Committee Reports (9:27 p.m.)

- C. Kirk: The Transportation Safety and Livability Oversight Committee met, and the cutout on Nielsen Blvd took place.
- C. Richardson: The Planning Commission will consider the pergolas, porches, etc ordinance. He asked the Council to get any feedback to them before their meeting. On Thursday, October 19 at 10 a.m. is the next UTOPIA meeting.

EXECUTIVE SESSION

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

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

No Executive Session

ADJOURNMENT

18. Adjourn

This meeting was adjourned at 9:30 p.m. on a motion by C. Bowman, seconded by C. Kirk and unanimously approved.

Approved by Council:  
October 6, 2009

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