

PUBLIC HEARING AND CITY COUNCIL MEETING  
Tuesday, December 8, 2009 7:00 p.m.  
Public Safety Building  
3925 W Cedar Hills Drive, Cedar Hills, Utah

Present: Mayor Mike McGee, Presiding  
Council: Ken Kirk, Jim Perry, Marisa Wright, Charelle Bowman, Eric Richardson (via telephone)  
Konrad Hildebrandt, City Manager  
David Bunker, City Engineer  
Greg Robinson, Assistant City Manager  
Kim Holindrake, City Recorder  
Becky Tehero, Finance Director  
Courtney Hammond, City Meeting Transcriber  
Others: Gary Smith, Stephanie Martinez, Scott Jackman, Cliff Chandler, Angie Anderson, Darren Judd, Shawn Richins, Glenn Dodge, Stacy Richards, Alan Richards, Becky Richards, Orson Herman, Roland Brown, Clint Seaman, Lora Brown, Andy Gibbins, Jared Bradley, Farley Eskelson, Steve Jenkins, Diane Kirk, Thayne Routh, Lisci Routh

COUNCIL MEETING

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

Invocation given by C. Kirk

Pledge of Allegiance led by C. Bowman

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

Stacy Richards: Ms. Richards stated that she appreciates the City Council thoughtfully considering the variance for setback issue. She asked that the Council leave the setback as an outstanding issue. She thinks allowing the variance would set a precedent for future issues.

Alan Richards: Mr. Richards stated that allowing the variance would set the wrong example for any future building and for wrong behavior. He stated that setting the wrong example is making the process part of the problem rather than part of the solution. Leaving it noncompliant doesn't hurt anyone. There isn't enough feedback from the entire HOA. In other cities there are public hearings for this type of process.

Marisa Wright: C. Wright stated that tonight is Mike McGee and Charelle Bowman's last meeting. She publically thanked them for their service and stated that real changes are made on the local level.

PUBLIC HEARINGS

3. Concept/Preliminary/Final Plat for a 1-Lot Subdivision Located at Approximately 3800 West and Box Elder Drive (7:09 p.m.)

No comments.

CONSENT AGENDA

4. Minutes from the November 10, 2009, Public Hearing and Regular City Council Meeting (7:10 p.m.)

**MOTION: C. Kirk - To accept the minutes from the November 10, 2009, Public Hearing and Regular City Council Meeting as published and sent out without change.** Seconded by C. Perry.

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

Motion passes.

#### SCHEDULED ITEMS

5. Review/Action on 2009 Fiscal Year Audit (7:10 p.m.)

See handouts.

Angie Anderson and Darren Judd of Hawkins, Cloward and Simister reported on the 2009 Fiscal Year Audit and gave a clean, unqualified opinion on the City's financial records. There was continued success with the City's budget compliance, with no instances of budget noncompliance, which is unusual for a government entity. The audit went smoothly. The City has made great progress to have accounting done, clean, and settled before the audit.

C. Perry stated that in the work session, the auditing staff reported that they had "never seen better" in a city's budget. He thanked the staff for their diligence and requested that Angie Anderson's report be entered verbatim in the minutes:

Angie Anderson: You guys are awesome. The budget is awesome. That is in my work papers. You worked really hard on your budget to make sure you budget for stuff in a timely manner. You have received the budget excellence award, and you deserve it. It is really hard on a city level to actually maintain budget compliance because you have to stay within your budget at a department level. So, like the Mayor and Council, Sanitation, Streets, at that level you have to maintain budget compliance. You are about the only one I've had where this is a repeat. I haven't written you up on noncompliance. That is such a hard thing to do. It's really hard to do that. I wish I could write in the report "They're awesome." But I think the state would be a little bit upset with me. You should really be commended and your department heads for watching that and the Council for monitoring and overseeing it. You have just done a really good job, and we did see a lot of improvement. There were a lot of improvements in accounting processes. Rachel and Becky have done a very good job to get that cleaned up. It went very well this year.

**MOTION: C. Kirk - To accept the Fiscal Year 2009 Independent Audit Report as presented with gratitude expressed explicitly to staff members for their diligence and expertise.** Seconded by C. Perry.

(Note: phone connection lost with C. Richardson)

Yes - C. Bowman  
C. Kirk  
C. Perry  
C. Wright

Motion passes.

6. Review/Action on Setbacks for Property Located at 9425 N Avanyu Drive (7:16 p.m.)

See handouts.

#### Staff Presentation:

Greg Robinson stated that this item was continued from the last council meeting. He has not talked to Mr. Richards. As far as he knows, the residents involved have not come to any solution. Property boundaries were analyzed by surveyors. The only issue is the boundary between the Richards and the Rouths. If the property is to be sold in the future, this would be a problem. The City's position is to fix these types of problems. Leaving it non compliant is not good for the residents or the City.

Mr. Routh stated he did talk to Mr. Richards after the last meeting. Mr. Routh would like written permission to remove improvements from the Richards' land, but the Richards don't want to give that permission. That was the end of the discussion.

Council Discussion:

- C. Bowman stated that this situation has happened before, and the Council does grant variances. The precedent is already set.
- C. Perry stated that the issue is not between neighbors. The issue is between the Rouths and the City. The Rouths are not compliant with a city requirement. The City does not make laws, and then decide to let people not comply. The City can make them come into compliance by moving their house or granting a variance. The mistake was unintentional, and therefore the Council has no intention of requiring the house to be moved. It is not acceptable for the City to pretend that this didn't happen.

**MOTION: C. Kirk - The City Council makes the following findings regarding the property located at 9425 N. Avanyu Drive: the change in setback does not create a hazardous condition, nor will it adversely affect surrounding residents; varying from the designated setback is appropriate for the zone and property location; a variance from the rear setback does not change the development's density nor the required distance between the dwelling units; and this change complies with the zoning regulations. I move to approve an amendment to Avanyu Acres, Plat A, and amend the side setback for lot 19 from a 12-foot setback to a 6-foot setback.** Seconded by C. Bowman.

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

Motion passes.

7. Review/Action on Final for the McDonalds Site Plan Located at Approximately 10180 North 4800 West (7:25 p.m.)

See handouts.

Staff Presentation:

Greg Robinson stated that McDonalds is here for final approval. At the last City Council meeting, the preliminary site plan was approved. Changes were made to the elevations with brick columns instead of stone. Virtual berming was added. Dormers were added to the front elevation and the non-drive-thru side elevations. Brick colors were changed, the required engineering changes were made, and the light box detail was added. The traffic plan was submitted and reviewed by David Bunker. The Planning Commission recommended approval of the site plan. The development agreement has not been done yet, though it will be similar to Chase Bank's. The square footage of the signs is within the sign ordinance, but the number of the signs is not.

David Bunker stated that the traffic impact study was completed by Fehr & Peers. There are two access points that operate currently at a level C. With the additional growth by 2030, traffic numbers will operate at a level of service D or E. Level D is acceptable, but levels E and F are not. Left hand delays out of the middle and north intersections would make the intersections a level E at peak p.m. traffic times. As 4800 West becomes a five lane road, traffic flow will be analyzed by UDOT. David Bunker's recommendation at this time is to leave traffic flow measures as is.

Steve Jenkins of McDonalds stated that the trash enclosure will match the look and feel of the building, in this case field brick with a complementary Trex color fencing.

Council Discussion:

- Mayor McGee stated that the traffic flow is not a problem right now, and in the future it may be UDOT's problem. He would like to see some enhancements on the 4800 West drive-thru side. For instance, he would like to see a faux bricked doorway or window. He would also like to see some more glass along that side of the building.
- C. Kirk stated that a pedestrian crosswalk or other pedestrian safety solution may need to be considered in the future.
- C. Wright stated that she thinks it is important to give caloric information for Lone Peak High School students to make healthy eating choices. She stated could not support the site plan without the caloric

impact on the menu board. Steve Jenkins stated that he reviewed the recommendation of including caloric intake on the menu board. Currently only New York requires that information to be displayed, and it has not been successful. It becomes confusing for customers. There are paper sheets on the trays that have nutritional information. Some of the packaging also contains nutritional information. He can request some manner of posting within the restaurant of nutritional information.

- C. Perry stated that while he admires C. Wright's passion, there is no legal criterion for denying approval based on whether McDonalds decides to add caloric intake on the menu.
- C. Richardson stated that McDonalds has done a great job working through the Design Guidelines and working with staff, the Site Plan Review Committee, the Planning Commission, and the City Council.

**MOTION: C. Perry - To approve the final site for the McDonald's Site Plan located at approximately 10180 North 4800 West, subject to: the traffic report being reviewed by the City Engineer, final engineering, execution of a development agreement prior to commencement of construction, final drainage plan, participation in traffic calming and mitigation efforts including a 1-year review from the Traffic Safety and Livability Oversight Committee one year after opening to review the impact of the business while operating, participation in any additional traffic mitigation measures that may be needed at that time, conveyance of water rights as per city policy, and make a finding that signage is appropriate and complies with the spirit and intent of the Commercial Design Guidelines and sign ordinance.** Seconded by C. Bowman.

**AMEND MOTION: C. Perry - The development agreement shall be executed prior to the issuance of a building permit.** Accepted and seconded by C. Bowman.

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

(C. Wright excused 8:14 p.m.)

(C. Richardson excused 8:18 p.m.)

8. Review/Action on Proposal by The Cedars Townhomes HOA Regarding the Park Located on Sage Vista Lane (8:14 p.m.)

See handouts.

Staff Presentation:

Konrad Hildebrandt stated that The Cedars Townhomes HOA has presented information on a proposed park. At the time of the landslide there was discussion about a future park in that area. The HOA has now received title to the property. At the time that the City Council talked about park participation, the City was in the middle of the landslide issue. The City was confident at the time, and is still confident that the City was not responsible for the landslide. The City felt it appropriate to participate to beautify the land.

Roland Brown, HOA President, stated that the total funds are not available for the entire project. Phasing has been planned. The HOA has already raised \$30,000 (\$10,000 assessment from HOA members, and a \$20,000 donation from Comcast), with an additional \$10,000 slated through assessments in 2010. He would like city participation of \$20,000-\$25,000 that was discussed following the landslide.

David Bunker stated that the City can get special deals on playground equipment and may be able to use its buying power as part of the participation.

(C. Wright returned 8:26 p.m.)

Council Discussion:

- Mayor McGee stated that he remembers discussion of a financial contribution from the City but feels it is important that the park remain open to the public.

- C. Kirk stated that he looked at the scar, and a park is an improvement. He is concerned because the City has a priority list for parks. He does not object to seeing this park put on the priority list and waiting in line.
- C. Perry stated that the landslide was a major event. The City wanted to contribute in some way to make the situation better. On October 11, 2005, the City Council approved \$20,000 toward the park. Even C. Parker and C. Fotheringham who were very conservative voted for the contribution. The City would have given them the \$20,000 back in 2005, but there were issues with the land, etc. For that reason, it falls outside the normal priority list.

**MOTION: C. Perry - To approve and authorize up to \$20,000 toward the construction of The Cedars Townhomes park subject to the funds being budgeted in the 2011 Fiscal Year and the funds being disbursed after the City receives receipts of expenditure or the City, at staff's discretion, spends money directly for park equipment or other items the City can get at more beneficial pricing.** Seconded by C. Bowman.

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

9. Review/Action on Resolution Setting Park Reservation Policies and Park Regulations (8:49 p.m.)

See handouts.

Staff Presentation:

David Bunker stated that this proposal adjusts the fees and policies for park reservations. The current park reservation policies are slim. They need to be updated so that parks are utilized in a way the City can control. He would like to move toward online park reservations. There is a liability issue with people coming to the parks. Those that reserve a park need to be made aware of the liability.

Council Discussion:

The Council would like to see the following changes:

- Take out proof of insurance for equipment/inflatables.
- Add: A clean up fee may be charged.
- Add the sentence, under large groups: must be approved by a city representative and may require additional fees and acquisition of appropriate permits, licenses, and liability waivers.
- Separate bullet: The playing of music must conform to Cedar Hills' noise ordinances.

**MOTION: C. Kirk - To postpone this until the next Council meeting to allow staff to make the recommended changes as discussed by the Council.** Seconded by C. Perry.

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

10. Review/Action on Resolution Adopting Fees (9:08 p.m.)

See handouts.

Kim Holindrake stated that this adds/changes the fees for park reservations. It also addresses a change to the non-resident sewer rate because the resident sewer rate changed in June.

**MOTION: C. Perry - To adopt Resolution No. 12-8-2009A, a resolution adding, amending, or deleting certain fees to the official Fees, Bonds, and Fines Schedule of the City of Cedar Hills, Utah, subject to changing the non-resident sewer rate to simply state "doubled the resident rate", and adding a \$500 fee for a park reservation deposit.** Seconded by C. Kirk. Vote taken by roll call.

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

11. Review/Action on Ordinance Setting the Time and Place of City Council meetings for 2010 (9:11 p.m.)

See handouts.

**MOTION: C. Bowman - To adopt Ordinance No. 12-8-2009A, An Ordinance setting the time and place of the regular meetings of the City Council of the City of Cedar Hills, Utah.** Seconded by C. Perry. Vote taken by roll call.

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

12. Review/Action on New Location for the Eagle Scout Project for a Welcome to Cedar Hills Sign (9:13 p.m.)

See handouts.

Kim Holindrake stated that this motion will clean up the official record.

**MOTION: C. Wright - To ratify the action of the Council to locate the Welcome to Cedar Hills sign on SR-92 as presented by Hunter Wilson as an Eagle Scout, and add how proud we are of Hunter and his good work that will benefit the residents of Cedar Hills for year to come.** Seconded by C. Kirk.

C. Perry stated that Hunter is still trying to raise money for this project. He will be donating, and will take any other donations to Hunter.

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

13. City Manager Report and Discussion (9:15 p.m.)

- The new City Council orientation is tomorrow.
- The Christmas Dinner is one week away.
- There are some extra Healthy Cedar Hills shirts.
- There is a resident who is requesting to purchase some city property in an open space area at the end of Silver Lake. He would like to put a shed on his property, but it would encroach on setbacks. The Council would like to consider it as an agenda item.

MAYOR AND COUNCIL REPORTS

14. Board and Committee Reports (9:19 p.m.)

- C. Kirk: The North Point Solid Waste Special Service District passed its 2010 budget. It was approved and operations are going well.
- C. Bowman: She would like to see the fee schedule for home businesses on a future agenda.

EXECUTIVE SESSION

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

No Executive Session.

ADJOURNMENT

17. Adjourn

This meeting was adjourned at 9:26 p.m. on a motion by C. Bowman, seconded by C. Wright and unanimously approved.

Approved by Council:  
January 5, 2010

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