

CITY COUNCIL MEETING
Tuesday, January 5, 2010 7:00 p.m.
Public Safety Building
3925 W Cedar Hills Drive, Cedar Hills, Utah

Present: Mayor Eric Richardson, Presiding
Council Members: Ken Kirk, Scott Jackman, Marisa Wright, Jim Perry, Stephanie Martinez
Konrad Hildebrandt, City Manager
Kim Holindrake, City Recorder
Cathy Larsen, Deputy Recorder
David Bunker, City Engineer
Eric Johnson, City Attorney
Others: Shawn Richins, Cliff Chandler, Mrs. Chandler, Donald Steele, David Told, Joel Wright, Mary Carson, Diane Kirk, Marissa Walker, Corey Jackson, Chris Hocker, Richard Hancock, Rosemary Smith, Glen Thomas, Shawn Lunt, Troop 159

COUNCIL MEETING

1. This meeting of the City Council of the City of Cedar Hills, having been properly noticed, was called to order at 7:05 p.m. by Mayor Richardson.

Invocation given by C. Kirk

Pledge of Allegiance led by Jayce Hewlett of Troup 159

2. Public Comment (7:07 p.m.)

Corey Jackson: Mr. Jackson is facing a decision as to whether or not to renew his business license due to the new fee structure. He has had a business for the past four years. The fee has tripled, almost quadrupled. In his home, they invite students to come and have one-on-one private music lessons. He is a cellist and teaches cello lessons. His wife is a pianist and teaches piano lessons. He feels they are a service to the community, and it is an extra source of income. They both give lessons one night a week for about four hours. Parents bring their children to their home, drop them off for about 30 minutes, and pick them up again. Based on the nature of their business, it is considered high impact. Therefore they have to pay over \$300 just to renew the license. He questions the intent of the business license fee. Is it just for the cost of doing a home inspection? Is it to try and cover other expenses that the City is trying to cover? Cedar Hills is a great place to live. Based on the fee structure, and maybe it's an anomaly, it wasn't intended to be that way for their particular business. If the intent is to cover other expenses beyond the inspection, it seems a little steep. Maybe some additional criteria can be introduced to implement the deliberations of the City Council. Maybe they can have some additional consideration given to their situation. If changes aren't made, it is likely that it is not profitable enough for them to continue. The normal fee that they would have originally paid to the City (\$60 to \$100) would be reduced to \$0. Money that would have actually come into the City would go away. That is probably not the intent of the City Council.

- C. Kirk stated that he appreciates Mr. Jackson's concerns. He is not the only one to come to Council with a similar objection. At the last Council meeting, the Council asked this to be on a future agenda to discuss the complaints and issues. It will be on the January 19 agenda. He invited Mr. Jackson to attend and voice his concerns again.
- Mayor Richardson stated that State law only allows action to be taken on noticed items, which is why this issue has been moved to a future agenda. Individuals can review staff recommendations and documentation for agenda items on the City's Web site prior to the meeting. He invited Mr. Jackson to attend the next meeting as well as e-mail any Council member with additional feedback. Besides inspections, there are other State requirements for licensing a business. Individuals who run a business should cover the cost instead of

taxpayers in the community. It also shouldn't be something in excess. There is a fixed cost in order to license businesses and provide security to people that want to conduct businesses. The City needs to figure out how to collect the cost in the right way; where the impact matches the fee. The City is not able to decrease the total amount without decreasing the expenses, but there may also be ways that the City can dissect. The City has gone from a flat rate with everyone paying the same cost, trying to get to a place where the impact matches the fee. It requires more tuning and will be on the next agenda.

- C. Perry stated the City used to have a uniformed fee. The City found that some individuals have businesses in which there is no one going to the residence, there are no inspections involved, and no impact on the community. These individuals were paying the same amount as someone who needed an inspection, where traffic is involved, etc. The Council made the change to make sure that the impact of the business is incurred in the cost. It can perhaps use some tuning and tweaking.

Joel Wright: Mr. Wright stated that Cedar Hills has never added fluoride to the water. It has always been the natural fluoride. Utah County finally recognized that fact and put out somewhat of an internal memo within the County, saying that Cedar Hills qualifies for fluoride. The County didn't get that information to the State. He feels the real concern is that Utah County needs to get out something official and get it out to the State so that pediatricians are not recommending vitamins with fluoride to children. Furthermore it is a real expense. It costs \$25 for 200 fluoride vitamins. For a family of four children like his, you could spend \$100-\$200 more each year for vitamins with fluoride and be giving your children too much fluoride. He will keep pushing the County to get the information out and encouraged the City to find out why the County changed from not having enough fluoride to having enough. The City needs to make sure the information gets to all of the pediatricians in the State of Utah. Secondly, there is this great bike trail coming along the canal that requires \$11,000,000 in federal funding and \$2,000,000 in City funding. He uses it all the time and feels everyone, young or old, will love it. It will be a jewel. He would love to see the trail completed, and encouraged the City to help expedite it, even if it costs some taxpayer money. He feels it is a cost that is well justified.

CONSENT AGENDA

3. Minutes from the December 8, 2009, Public Hearing and Regular City Council Meeting (7:18 p.m.)

MOTION: C. Wright - To accept the minutes from the December 8, 2009, Public Hearing and Regular City Council Meeting. Seconded by C. Perry.

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

Motion passes.

SCHEDULED ITEMS

4. Review/Action on Provo Reservoir Canal Rights-Of-Ways Greenway Interlocal Agreement (7:19 p.m.)

See handouts.

Staff Presentation:

Konrad Hildebrandt stated that the City received an interlocal agreement provided by Utah County Commissioner Larry Ellertson. Mr. Ellertson was not able to attend. The Provo River Water Users are the lead agency that solicited the federal money, approximately 90%, to cover the canal. They wish to include all cities that border the Provo River Reservoir Canal to enter into an interlocal agreement. This will cover the canal and create a greenway trail system. The agreement would include the County, Orem City, Lindon City, Pleasant Grove City, Highland City, American Fork

City, Lehi City, and the City of Cedar Hills. The County has requested the right to use this corridor to develop the greenway trail system. Provo River Water Users loses a lot of water due to evaporation, and this would preserve their water-way. The trail would be a non-motorized, multi-use recreational trail and greenway from Orem through Lehi. It is anticipated that all funding for the construction, maintenance, and operation of the trail would come from federal funds, grants, and/or private and public resources. The estimated cost for Cedar Hills is just under \$77,000. This is not a final proposal; there are anticipated changes. Some of the concerns the City has is in regards to some of the language in the agreement, such as the County will “attempt” to do these things. The County is working with the Provo River Water Users, and wants the Cities to be aware of the proposal. It is believed that the project is already designed, and they want to know who is on board. They want to receive input and concerns from the surrounding cities before completing the agreement. The City was given two agreements: One between the federal government and Provo River Water Users, and one between the County and the Cities. It is unknown what the County would do if one or two cities didn't participate. Cedar Hills is responsible for two sewer lines in that area. The project was presented with the possibility of a board with a member from each City. Provo River Water Users declined that idea stating that the cities will be informed of the rules. The trail will go through the southern border of Cedar Hills although the miles will be cut in half because Pleasant Grove borders the other side. The current Cedar Hills trails are used a lot; there is a resident base that appreciates the trail system. The cost for this project is not funded in the budget. This will pretty much close out a perimeter trail system around the entire City. A staff member will attend a meeting tomorrow at 4:00 p.m. at Lindon City and report back. The cost to upkeep the trail should not be excessive due to the fact that the City's area is not as long compared to all the other Cities.

Council Discussion:

- C. Wright wonders what would happen if only 25% of the cities decide to enter the agreement. Her concern is that when you keep going west past Lone Peak High, there is a point where the trail drops straight down. She feels the only option would be some type of bridge, but it may be very expensive. She feels the trail is a fantastic idea. It is definitely the type of City she would like to live in. Generations from now will be grateful that the City did something like this.
- C. Perry is concerned about the use of two different funding mechanisms, i.e. the County and the individual cities. They are making an assessment for the City based on an average of population percentage relative to the other cities, as well as the miles of trail. He is concerned with what would happen if one of the cities opted out. He feels that either the County should fund it all since the cities are all in the County and already contribute. There is a lot of opportunity for it to break down and go wrong. There needs to be a board with representation. Otherwise, the City needs to spend some time with them stating concerns.
- C. Kirk stated that the two agreements are incorporating information that involves the cities. He agrees that there is convoluted information between the two agreements. He likes the idea of a trail; it is a perfect opportunity to benefit the community. On Page 3 it states, “. . . Cities are responsible for reimbursing the Association for the payment of certain costs associated with the relocation of city-owned utilities within the PRC Corridor,” which has been discussed. However, in the last sentence, it states, “The Association may suspend such use rights upon the non-payment by one or more Cities of such costs and expenses.” If one city decides to not participate, trail usage may be suspended. He would support a member of Council or the community to be on a board with the County to pursue this further. There will have to be the creation of at least one Ordinance, which will require the safety, protection, and upkeep of the trail.
- C. Jackman is concerned about the ongoing cost of maintenance, which is unknown. The same in regards to law enforcement. It is worth pushing forth to create a board with a representative from each of the cities.
- Mayor Richardson's recommendation is to solidify some feedback. He is concerned with who the controlling bodies are, who is on the hook for the funding, and how the representation occurs. He instructed staff to bring back feedback from the meeting.

5. Review/Action on Engagement Contract with Blaisdell & Church PC for Legal Services (7:34 p.m.)

See handouts.

Staff Presentation:

Konrad Hildebrandt stated that the City has a contract with Smith Hartvigsen for legal services for the last five or six years. The assigned attorney to represent the City has been Eric Johnson. Recently, Eric Johnson joined the firm of Blaisdell and Church. Mr. Church represents the Utah League of Cities and Towns and Utah Local Government's Trust. He is also the acting city attorney for Highland, the Lone Peak Public Safety District, and others. Mr. Church and his firm are one of the foremost municipal attorneys. Eric Johnson has expressed interest to continue as the City attorney. Action by the Council is needed since the contract is with Smith Hartvigsen. Smith Hartvigsen has notified the City requesting what should be done with the City's files. The City can continue with Mr. Johnson through Blaisdell and Church, or the City can do a Request for Qualifications (RFQ) to invite additional attorneys, including Blaisdell and Church. There is ongoing litigation that needs to be addressed.

Council Discussion:

- C. Perry would like the City to temporarily transfer to Blaisdell and Church and do an RFQ for additional attorneys. He is very happy with Eric Johnson, and feels Mr. Johnson has served the City well. He feels, however, that it is the City's responsibility to periodically do a review to consider all options. The City originally accepted Smith Hartvigsen's proposal with the idea of working with Eric Johnson.
- C. Wright also feels it is the duty of the elected officials to periodically go through and get other attorneys and firms. She agrees with transferring the records to the new firm, continuing services with Mr. Johnson, and in the meantime doing an RFQ for additional attorneys.

MOTION: C. Perry – To have staff create an RFQ for a City attorney and City legal services, while in the interim authorize a transfer of all City legal matters currently residing with Smith Hartvigsen to Blaisdell and Church and Mr. Eric Johnson. Seconded by C. Jackman.

Further Discussion:

- C. Perry stated that an RFQ is not just to specify how much the City will be charged per hour, but also if the City can work with them affectively. He proposed that the Mayor and staff review the requests and limit them to about three.
- Mayor Richardson would like to narrow the search down to three or four, including Mr. Johnson. He feels Mr. Johnson has done a great job, and has been impressed with the way he has represented the City. He proposed taking this opportunity to look at how the City pays for its legal services. The City can do some analysis on where hours have been spent and what may behoove the City.
- C. Martinez would like to narrow the search to about four.

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

Motion passes.

6. Review/Action on Purchase of City Property by Resident Located at Approximately 8912 North Silver Lake Drive (7:42 p.m.)

See handouts.

Staff Presentation:

Konrad Hildebrandt stated that David Told has requested to purchase a small amount of property to

facilitate the building of a garage and meet the setback requirements. This is somewhat unique in that the property that is being requested is also open space and a drainage area. The staff and City Engineer see the drainage area as a critical need to the City. There is a trail system identified through this area. Mr. Told may need to relocate to allow the trail system go through there. The City recommends that Mr. Told pay current appraised prices. The neighbor to the south of Mr. Told's property is quite a distance away.

David Bunker stated he just saw the revised proposal and feels it looks a lot better. The property is a drainage corridor, and just east of it is a section of the metropolitan water line that's suspended. The space underneath the pipe is about two to three feet tall and about 40 feet wide, but a lot of water can come through there especially with the velocity that it will have coming down the mountain. It is a very important corridor for the City to maintain. From Mr. Told's property line going down into the ravine, there is a 30-40 foot drop in elevation. That drainage is expected to stay down in that valley. It is possible that some property can be utilized there. The City definitely doesn't want to pinch off the east side of Mr. Told's property where it touches the aqueduct easement or make the area any narrower. Drainage is a big issue through this area. When the plat was originally recorded, it was recorded as dedicated open space. If there is going to be a structure built within that area, the open space dedication would have to be removed. The property would be added to the lot.

Resident Discussion:

David Told stated his neighbor is a little concerned so he cut the requested in half to 3,000 square feet. The easement line in the back is not his property line; his property line is actually 25 feet further east. He would like to put a garage in back of his property and about 10 feet into the purchased property. This leaves an additional 10 feet of land for set-backs. The drainage is a concern. He feels this proposal gives ample drainage. He suggested working with Dave Bunker to make sure it is a win for everybody, and there are no issues. He thinks his neighbor would be happy with the new proposal. He tried to contact him a couple of times prior to the meeting.

Council Discussion:

- C. Perry is not necessarily opposed to the request but feels more information is needed. He wants to make sure David Bunker is confident about the drainage and what is going to change. From David Told's property on, it is essentially open space. Therefore it doesn't really impact the subdivision density. What matters are the look, feel, and esthetics of the community.
- C. Kirk stated that he needs to know the neighbor feels about the request before moving forward with a decision. He wants additional information from the City Engineer about the drainage and his concerns. If the drainage is not going to be satisfied in the same aspect as it is now or if there is any additional cost to the City, he would be more apt to say "No." It needs to be accessed in the same way it is now.
- Mayor Richardson wants to know if the Council is inclined to sell the property or not. If sold, there will be some costs such as a plat for recording and engineering fees. A decision is needed as to what the fees are and who will pay for those fees. His recommendation is to have David Bunker look at this and make sure there are no deal breakers. It is important to keep access to the corridor; it is important to maintain drainage. The Council can then review the appraised values and decide on the amount.

MOTION: C. Perry – To authorize staff to continue investigation of the sale of property at 8912 Silver Lake Drive. Seconded by C. Martinez.

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

Motion passes.

7. Review/Action on Board/Committee Appointments - Planning Commission, Parks and Trails Committee, and Board of Adjustment (7:57 p.m.)

See handouts.

Board of Adjustment

Mayor Richardson recommended James Cheney be reappointed to the Board of Adjustment with a term ending December 31, 2014. He also recommended that Carl Volden be appointed to fill the vacancy with a term ending December 31, 2010.

MOTION: C. Perry - To affirm Mayor Richardson's appointments to the Board of Adjustment of James Cheney with a term beginning January 1, 2010, and ending December 31, 2014, and Carl Volden to fill the vacancy with a term ending December 31, 2010. Seconded by C. Kirk.

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

Planning Commission

Mayor Richardson stated that Cliff Chandler has been a wonderful addition to the City, and he has enjoyed working with him on the Planning Commission. Cliff has served on the Planning Commission as well as the Site Plan Review Committee. He recommended Cliff Chandler be reappointed to the Planning Commission. He also recommended that Bobby Seegmiller, who previously served as 1st Alternate, be reappointed to fill the vacancy created by Scott Jackman, who was elected to City Council. He also reappointed Glenn Dodge, who previously served as 2nd Alternate, to 1st Alternate. This leaves a vacancy for the 2nd Alternate, which will be noticed.

MOTION: C. Kirk - To affirm Mayor Richardson's recommendations to the Planning Commission as previously stated. Seconded by C. Perry.

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

Traffic Safety and Livability Oversight Committee (TSLO)

Mayor Richardson stated that the TSLO's purpose is to balance safety and to plan for the future. When the Committee was created, both Larry Locken and John Howard were appointed. They have both served well. He recommended that both Larry Locken and John Howard be reappointed to the TSLO Committee.

MOTION: C. Jackman - To affirm Mayor Richardson's recommendations of Larry Locken and John Howard to the Traffic Safety and Livability Oversight Committee, as of January 1, 2010. Seconded by C. Wright.

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

Parks and Trails Committee

Mayor Richardson stated that there has been a Parks and Trails Committee in the community for awhile, and they have done a great job in planning for parks as part of the general plan. Members of the Committee have helped create one of the finest assets in the community. He appreciates everyone who, over the years, has served on the Committee including Stephanie Martinez, who was the prior chair, and David Told. As the City has grown and matured, some of the needs of the community have changed such as recreation. Instead of planning for parks, there is a need to plan on how to put the parks to the best use. He feels the need is not for a standing committee, but for an ad hoc committee. It gives an opportunity for more people in the community to get involved, less time is needed for an on-going committee, there is more focus on a particular subject, and there is more input from the community at large. He recommended either reevaluating the bylaws of the Parks and Trails Committee or dissolving the Committee and coming up with more ad hoc committees. He recommended holding off on making any appointments right now and would like to look at changing the bylaws at the next Council meeting. One concern is that members may have expertise or motivation in a specific area; and when those items are finished, their participation rate may decline. There is an opportunity to make some changes, and look at things more strategically.

Council Discussion:

- Stephanie Martinez stated that the Parks and Trails Committee were hands-off in regards to recommendations. There was a need for it, but it wasn't part of the job. This is something that frustrated the Committee. They worked on a master plan for two years that still hasn't come to Council. The Committee is given a set of needs according to population, and the City is deficient in regards to those needs. If there is a separate committee for recreation, the committees need to work together. She agrees that park planning is gone, but there are still things that the Parks and Trails Committee does such as Arbor Day and National Trails Day. She would like to see those things continue.
- C. Kirk stated that ad hoc committees have a purpose, but he likes the Parks and Trails Committee as a standing committee. There are a lot of pocket parks out there, and the Parks and Trails Committee has a priority listing. He would like to see added to the Committee members of the community with certain interests.
- C. Perry agrees with C. Kirk and Mayor Richardson. He would love to see a blend. He would like to keep a Parks and Trails Committee, and then have individuals over certain issues.

Konrad suggested taking #8 to Executive Session.

MOTION: C. Perry - To move item #8 after #13. Seconded by C. Jackman.

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

9. Review/Action on Interlocal Cooperation Agreement Creating the Northern Utah County Aquifer Association (8:15 p.m.)

See handouts.

Staff Presentation:

Konrad Hildebrandt stated that the entities involved are Alpine, American Fork, Pleasant Grove, Highland, Saratoga Springs, Cedar Hills, and Central Utah Water. All of these entities have paid the fees and signed the agreement, except Pleasant Grove and Cedar Hills. Barry Edwards, previous Highland City Manager, is the director and in charge. The City needs to know what is going on with the debris basins. Previously Council approved \$10,000 for participation in a North Utah County Aquifer Association (NUCAA) feasibility study, which the City has currently not paid. The City does

not have any winter water rights. One of the benefits they are trying to create is a protection against another entity trying to take a city's water. Instead of one city fighting to hold water, there is a group of cities holding together.

Council Discussion:

- Mayor Richardson is not against the concept of recharging water for future resources. He is concerned with the checks and balances of the agency in charge, what representation the City gets, and whether it is the property of the City's funds and taxpayers.
- C. Wright feels that the last time, scare-tactics were used to try and get the City involved. She is very frustrated how all of this came about.

MOTION: C. Perry - To authorize staff to continue to observe and dialogue with the North Utah County Aquifer Association, as appropriate, and not to join or officially participate in the Association, per say, nor to give them any funding. Seconded by C. Kirk.

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

10. City Manager Report and Discussion (8:20 p.m.)

- Local Officials Day will be held Wednesday, January 27, at the State Capitol Building. This is a chance to get to know and eat lunch with local and state leaders. Rudy Giuliani is the guest speaker. It is held early in the morning until lunch. Everyone attending needs to register. Mayor Richardson attended last year, and recommended attending.
- There will be Incident Command System training held in Sandy City from 2:00-4:00 p.m. on Wednesday, January 27. This is emergency training geared towards local government officials on setting up a Response Plan. Everyone attending needs to register.
- The Monthly Management Report will be completed in a few days.

MAYOR AND COUNCIL REPORTS

11. Board and Committee Reports (8:35 p.m.)

- C. Perry stated that the Youth City Council did a fabulous job with the Sub for Santa. It was a lot of work. They went door-to-door, to stores, and church groups for donations and collected a lot of items.
- C. Kirk stated that the official letter was signed with the North Pointe Solid Waste Special Service District. They have reduced the rates for curbside recycling, and the City will save some money.

EXECUTIVE SESSION

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

MOTION: C. Perry – To go into Executive Session, Pursuant to Utah State Code 52-4-205 to discuss pending or reasonably imminent litigation. Seconded by C. Jackman.

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

*** EXECUTIVE SESSION ***

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

MOTION: C. Perry – To adjourn Executive Session. Seconded by C. Jackman.

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

8. Review/Action on the Cottonwood Well Pump Station Project Final Payment

MOTION: C. Perry – To continue item #8 to allow staff to give time to work with the City Attorney and assess the best path to move forward. Seconded by C. Wright.

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

ADJOURNMENT

14. Adjourn

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

Approved by Council:
January 19, 2010

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