

CITY COUNCIL MEETING
Tuesday, October 4, 2011 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, Stephanie Martinez, Jim Perry, Marisa Wright
Konrad Hildebrandt, City Manager
Greg Robinson, Assistant City Manager
David Bunker, City Engineer
Rebecca Tehero, Finance Director
Greg Gordon, Recreation Center Manager
Chandler Goodwin, Community Services Director
Lt. Sam Liddiard, Police Department
Others: Cliff Chandler, Melissa Willie, Jim Madsen, Angela Johnson, Paul Sorensen, Kim Holindrake Diane Kirk, Trent Augustus, Brent Uibel, Zonda Perry, Matt Sorenson, Jared Osmond, Rob Lacey, Matt Gibbs

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 Mayor Richardson.

Invocation given by C. Jackman

Pledge of Allegiance led by C. Kirk

2. Public Comment (7:14 p.m.)

Paul Sorenson: Mr. Sorenson stated that he feels the public comment limits residents voice because it limits them to commenting on past or anticipate future discussion. He suggested allowing comments after any major agenda items. As an example, he felt the initiative petition Council discussion was one-sided. Changing the language of the petition changes the intent. He also addressed item 7, the discussion on an employee contract. An article in the Daily Herald discussed that the economy has led many municipalities to lay off workers. Cities typically suffer the effects of the economy years later. It looks like rather than cutting salaries, Cedar Hills is raising salaries. He opposes that.

Angela Johnson: Ms. Johnson stated that she is concerned about the city manager contract. She doesn't want to see it pushed through with a \$9000 salary increase, a car allowance of \$45,000, and a nine-month severance package. She would really like to see employee salaries posted on the website. She would also like to see comments allowed while the Council is on the agenda item. It may even help with efficiency.

Matt Gibbs: Mr. Gibbs is putting together a privacy fencing proposal for The Cedars. Before the HOA can move ahead with an HOA vote, the City Council would need to approve the proposal.

Rob Lacey: Mr. Lacey stated that privacy is an issue in The Cedars. Privacy fences would also help provide a wind break for the backyards.

- Mayor Richardson stated that there were some reasons that open fencing was chosen and that shouldn't be forgotten. The issue needs to go to the Planning Commission first. He directed Konrad Hildebrandt to put the item on the Planning Commission agenda.

Trent Augustus: Mr. Augustus stated that he looked over his property valuation notice and discovered the Cedar Hills portion of the taxes decreased by \$4-5 dollars. He applauded that City Council for maintaining services, even raising a few salaries, but decreasing taxes.

Jared Osmond: Mr. Osmond stated that he owns a 10,000-square-foot house in Cedar Hills and would like to open a residential care facility in the home. Doing so would not affect the zoning; it would essentially be a group home. The property consists of two houses joined by a breezeway. His object is to do a luxury assisted living facility with suites. It would be nicer than any other facility, and he would charge less. The state has a website, which he has given to Brad Kearn. The state would handle licensing. The City's involvement would be the business permit, upgraded to state standards. He is passionate about the subject, because it would benefit his dad, who recently suffered a stroke. He asked to be on the agenda for the next meeting. Nearby residents may fear an increase of ambulances. This is an assisted living facility. When people need full-time care they will be moved to a full-time facility. There would be ten off-street parking spaces. Currently a bed and breakfast is allowed in that zone, this facility would bring in a lot less traffic than a B&B. He has no plans for signage on the property.

- Mayor Richardson directed Greg Robinson to look into the process.

Matt Sorenson: Mr. Sorenson represents the Avanyu Acres HOA. He presented a request to the Council to fund two safety issues in Avanyu. The developer secured the bonds at outset of the development but failed to deliver a durable development. He asked the City Council to fund these items and reimburse itself upon recovery of the bonds. There are two primary issues: manhole covers that extend too high causing injuries and property damage, and storm drain runoff which causes ice that extends to garages.

Brent Uibel: Mr. Uibel stated that he has seen three mayors and several council members over the years. New Council candidates are trying to learn the ropes, but he feels terrible about the way the public treats the Council, which leaves poor rapport between the Council and residents. He asked the current candidates to put their differences aside so that there can be an election that can generate unity. The Council works hard. When someone comes in that is ill prepared and misquotes, it leaves the community in a bad position, often ill-informed.

CONSENT AGENDA

3. Minutes from the September 20, 2011, Public Hearing and Regular City Council Meeting (7:47 p.m.)

MOTION: C. Perry - To continue the approval of the minutes until the next meeting. Seconded by C. Jackman.

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

MOTION: C. Jackman - To move item 8 to the next item. Seconded by C. Perry.

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

SCHEDULED ITEMS

8. City Manager Report and Discussion (7:49 p.m.)

- City staff has actively watched the hillside ever since the landslide and identified some proactive measures that could be taken to protect the hillside. As a result, the City has done some preventative moving of dirt. C. Perry asked the City to organize a community tour. Mayor Richardson said that the City was able to make some smart decisions with this matter that saved the City a lot of money.
- The 4800 West street project is scheduled to be finished before any snowfall.
- Field work on the annual independent audit has begun.
- Rebecca Tehero presented the golf financials. The golf course has three main financial statements (1) statement of net assets, (2) statement of revenues, expenses, and changes in fund net assets, and (3) statement of cash flows. All three statements need to be analyzed to fully understand the golf course financials. If the golf course were turned into a park, the City would still be require to pay the bond on the course, and depreciation on course improvements would need to be expensed. The City would then need to maintain the course but with no offsetting revenue. The estimated park net loss is \$588,889, while the golf course net loss is \$163,852. Keeping the golf course saves the City about \$500,000 with the possibility of revenue to make up the loss and a better chance of attracting a potential buyer.
- Mayor Richardson stated that back in 2005 there was a second study done to examine options with the golf course. At that time, it was concluded that there were no feasible options for anything other than as golf course.
- Konrad Hildebrandt stated that depreciation is not a cash expense. Depreciation is a real expense that has to be included in the financials. At least half of the golf course is in Highland. There have been multiple developers over the years that have offered to buy the course in exchange for density. There is no more density allowed, but there are 22 paper lots ready to be sold. The goals of the golf course when it was first built: (1) beautified open space, (2) provide recreation, (3) pressurized irrigation system, and (4) alternate revenue source. Three of those have been realized.
- C. Perry stated that the Council has worked hard to maintain and/or cut taxes the past several years. No one wants to increase taxes to pay to convert the golf course into a park. The Council has looked at every option for the golf course. He doesn't see any compelling argument for either saving taxpayer money or a better option, even if it costs taxpayer money. Given where things currently stand, what he cares about with the golf course is what costs the taxpayers the least, and what gives residents the most. The stated goals of the original golf course are not his goals, and haven't been his goals as a Council member.

4. Review/Action on the Avanyu Acres Homeowners Association Request (8:30 p.m.)

See handouts.

Staff Presentation

David Bunker stated that this item was presented at the last meeting. Through discussions with the city attorney, staff recommended completing up to \$10,000 in safety improvements. The \$10,000 is based off of bids that the HOA procured.

MOTION: C. Kirk - The Council finds that through inspections by residents, members of this Council, and City staff, that a safety issue exists to our residents in Avanyu Acres as identified by these discussions and therefore approve this motion in the amount not to exceed \$10,000 to make those improvements that will be drawn from funds within the City with a lien established against the current performance and/or durability bond from the developer currently in litigation.

Seconded by C. Jackman.

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

Motion passes.

5. Review/Action on an Alternate Law with Initiative Petition (#4) Relative to the Construction or Purchase of Public Buildings in Excess of \$400,000 Excluding the Cost of Land (8:33 p.m.)

Public Comment

- Paul Sorenson stated that the initiative petition required the approval of the majority of the registered Cedar Hills voters “at a duly called election.” In his opinion, that makes it clear that it requires a majority of those that vote. The petition is not a violation of ex post facto law. There is a precedent accepted by the state of Utah. He found it disconcerting that no one from the initiative committee was asked to participate in drafting a competing law. The intent of the \$400,000 figure is to prevent the City from building the recreation center, city hall, aquatics center, etc. without a vote of the people. He thought that the presentation on the golf course used selective numbers. He would like an independent feasibility study done on the golf course.
- Trent Augustus stated that \$400,000 is beyond ambiguous. It doesn’t define the scope of a project at all.

Council Discussion:

- C. Perry stated that ex post facto very clearly means that you cannot pass a law that applies prior to when it is passed. It doesn’t matter if there is precedent in Utah; there are all sorts of precedents that are unconstitutional. C. Perry stated that he is not confident that everyone on the City Council agrees about what should be proposed as an alternative. Residents aren’t involved in this process because it is the job of the Council to offer an alternative. Both the alternative and the initiative petition will appear on the ballot. At a minimum he would like to construct something that does not violate the Constitution and makes it clear that it requires a majority of registered voters who vote. He thinks the intent of the initiative petition was to block the recreation center. He believes the Constitution dictates certain principle, and he is willing to stand on it. The Council members have taken an oath to uphold both the constitution of the state of Utah and the Constitution of the United States. He is not willing to put forth something that is not within state law. Sometimes in a public atmosphere, it seems like there is more fight and a wider chasm between two parties than are actually is.
- Mayor Richardson stated that laws are made that other parties think are against the constitution. There are many ways to interpret laws and court rulings. The engaged counsel has reviewed the initiative and found several problems with it. Mayor Richardson stated that nearly every city has restrictions on bonding. Additional restrictions can cause unintended consequences. He voted no on the 2003 initiatives because he thought it was bad government. There were unintended consequences of that 2003 law, and it had to be changed. Budgetary decisions are not eligible for citizen initiative. Administrative actions and budgetary decisions are not referable. Approaching it from a size limitation, rather than a dollar limitation, would be a better approach that may allow this to be referable. If the dollar amount is eligible, the Council would like to keep it in. If it is not eligible, the Council can look at size or zoning.
- C. Kirk stated that there are citizens who would like to see protection from the city government spending money frivolously. He does not see anything wrong with the protection. He is unsure what the appropriate dollar amount should be. There is already an ordinance that doesn’t allow the Council to bond without an identified revenue source without a vote of the people.

- C. Jackman stated that there are two ways the Council can spend money. (1) Take legislative action to borrow money, and there is already an ordinance that restricts that kind of action. (2) Take administrative action to spend money that has previously been set aside. The intent of this initiative seems to be to protect against the administrative type of spending.
- C. Martinez stated that effectively this initiative petition would be to do away with the capital facilities plan. If this was passed in the past, there would be no redundant water well.

MOTION: C. Jackman - To continue this item for next time and draft an alternate proposal.

Seconded by C. Martinez.

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

6. Review/Action on Appointment and Swearing in of a Deputy City Recorder (9:38 p.m.)

See handouts.

Presentation:

Mayor Richardson stated that there were some recent staff cuts for budgetary reasons. The City no longer has a deputy city recorder. There are certain events that require a city recorder to be present. He proposed adding individuals to be appointed deputy city recorders. It wouldn't change anyone's job duties, but deputizes them as deputy city recorders. He proposed deputizing Courtney Hammond, David Bunker, and Greg Robinson to be deputy city recorders. The goal is not to make these people eligible in every area of a recorder's functions. These deputy city recorders will not all be fully trained in all areas.

Council Discussion:

- C. Kirk stated that he feels like deputy city recorders should have some training, be notarized, etc. City recorders are licensed and bonded to be able to function in certain areas. If there are needs in those areas, he wants to ensure they are capable to do the job.
- C. Perry stated that it is better to have redundancy.

MOTION: C. Perry - To confirm the mayor's recommendation to appoint Courtney Hammond, Greg Robinson, and David Bunker as deputy city recorders. Seconded by C. Jackman.

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

7. Discussion on Employee Contract Codification (9:47 p.m.)

See handouts.

Council Discussion:

- Mayor Richardson stated that this item is to create a conformed copy of the agreement already in place. In this case, it is Konrad Hildebrandt's employee contract. The original was signed in

2002. There have been addendums made over the years, but they have not been put in one spot. The intent is not to make any changes, but to put it all into one contract. The contract is based on salary studies and the market. Salaries, while important, are only part of the cost of employing an individual. The budget is a much more helpful tool to understand the whole picture of salaries. He recommended taking no action on a conformed copy, but instead to continue action until January when new members of the Council can review the contract and have input. He recommended continuing with the current non-conformed copy. Performance should be reviewed annually; the contract should be reviewed as needed.

- C. Kirk stated that contracts were reviewed in 2008 for both contract employees. In January 2008 a motion authorized the mayor to enter into a contract with David Bunker. The only thing he can find over the last four years he has been on Council that discusses the city manager's contract was in March 2008. At the time Mayor McGee identified that the salary range and vehicle policy had been changed. He has recommended that these contracts be reviewed annually. He emphasized that new Council members should not let these reviews and contracts slide. In 2009, not officially because there are no minutes, the Council must have reviewed the city manager's contract in an executive session. Everything is not in one location, and it needs to be. The City cannot allow its employees to be left hanging high and dry. These things need to be done appropriately. They need their contracts as protection. He recommended that the council approvals be dug up and compiled together so there is no misunderstanding.
- Konrad Hildebrandt stated that the only thing that is potentially difficult or negative about waiting until January is the knowledge of Council members that will walk off and won't be there to verify that changes were made.
- C. Perry stated that over the eight years he has been on Council, performance reviews with goals and objectives were performed. It is unfortunate that a conformed copy was not made every year.
- Mayor Richardson stated that there was no contract in the packets because his recommendation is to make no changes at this time and not make the consolidation. All the Council was going to do was consolidate the contract. The consolidation was met with distrust, and he doesn't want that level of distrust in the City. Three new people on the Council can decide whether to adopt the same contract or a different contract. He is comfortable with the contract in place and the provisions.

MAYOR AND COUNCIL REPORTS

9. Board and Committee Reports (10:04 p.m.)

C. Kirk reported that the North Point Solid Waste Special Service District is looking into a proposal from a company that wants to collect 300 tons of recyclables per day with no tipping fees to the District. In order to take advantage the District would have to take ownership of the recyclables, and cities would have to grant ownership of recyclable waste to the District. He wasn't present at the Utah Valley Dispatch meeting, but Media 8 was discussed. They came up with a drafted policy regarding media.

C. Perry reported that City staff is developing a proposal about how to fold in increased Lone Peak Public Safety District costs under a new funding model. Staff needs to come up with a policy regarding the criteria for teaching a class at the new recreation center.

C. Jackman reported that the Planning Commission looked at a proposal for Bridgestone and temporary commercial standards.

C. Wright reported that the beautification committee is meeting and coming up with a phased landscape design for the recreation center starting with immediately around the building.

C. Martinez reported that Princess Day was successful with 31 princesses along with nearby city royalties. The ski bus and Jr. Jazz are starting again. There have been several south side commercial district meetings that have focused on a master plan of the area including roads and infrastructure across the four parcels. The Smart Family has not been to the last two meetings.

EXECUTIVE SESSION

10. Motion to go into Executive Session, Pursuant to Utah State Code 52-4-204 and 52-4-205 (10:15 p.m.)

MOTION: C. Perry - To go into Executive Session, Pursuant to Utah State Code 52-4-204 and 52-4-205. Seconded by C. Jackman.

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

*** EXECUTIVE SESSION ***

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

MOTION: C. Kirk – To adjourn the executive session. Seconded by C. Jackman.

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

ADJOURNMENT

12. Adjourn

This meeting was adjourned at 10:28 p.m. on a motion by C. Martinez, seconded by C. Jackman, and unanimously approved.

Approved by Council:
November 15, 2011

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