

CITY COUNCIL MEETING AND PUBLIC HEARINGS  
Tuesday, April 3, 2012 7:00 p.m.  
Public Works Building  
10246 N Canyon Road, Cedar Hills, Utah

Present: Mayor Eric Richardson, Presiding  
Council Members: Jenney Rees, Scott Jackman, Stephanie Martinez, Trent Augustus, Gary Gygi  
Konrad Hildebrandt, City Manager  
Kim Holindrake, City Recorder  
David Bunker, City Engineer  
Greg Robinson, Assistant City Manager  
Courtney Hammond, City Meeting Transcriber  
Lt. Sam Liddiard, Police Department  
Others: Marisa Wright, Scout Troop 838, Stan Jardine, Dave Jardine, Craig Clement, Sarah Brimhall, Brad Seamons, Teresa Seamons, Darren Nielsen, Danielle Nielsen, Steve Cain, Monte Hickenlooper, Robert Wetsel

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. Augustus

Pledge of Allegiance led by Mitchell Larsen, Troop 838

2. Public Comment (7:15 p.m.)

Darren Nielsen: Mr. Nielsen asked the Council to consider an ordinance change to increase the open fence height in front yards to six feet, rather than four feet. He has had problems with theft. He has installed a camera, which helped the police catch a car thief but did not stop the crime at his house. His truck was lit on fire in 2009, there has been attempted burglary during the day, and mining antiques with sentimental value were stolen by a scrap metal guy.

Brad Seamons: Mr. Seamons stated that his wife surprised him with a shed for a shop. Cedar Hills' policy does not allow for the shop because it has to be 120 feet square feet and 15 feet from the property line. He is asking for a variance.

Robert Wetsel: Mr. Wetsel would like to add a garage or shed. He has built a 10 x 16 shed that does meet the code requirements. He is about 15 feet from the curb. He is asking for a variance.

CONSENT AGENDA

3. Minutes from the March 20, 2012, City Council Meeting and Public Hearing (7:26 p.m.)

4. Conditional Use Permit for Walmart Outdoor Garden Sales (7:26 p.m.)

**MOTION: C. Martinez - To approve the consent agenda: Minutes from the March 20, 2012, City Council Meeting and Public Hearing and Conditional Use Permit for Walmart Outdoor Garden Sales.**

Seconded by C. Augustus.

Yes - C. Augustus  
C. Gygi  
C. Jackman  
C. Martinez  
C. Rees

Motion passes.

CITY REPORTS

5. City Manager (7:26 p.m.)

- The Community Recreation Center is scheduled to be completed next week with a community open house on May 5.
- The Council has requested an annual golf report. He recommended having that report in August to close out the fiscal year.
- The Utah League of Cities and Towns spring conference is next week in St. George.

6. Mayor and Council (7:28 p.m.)

C. Gygi reported that Utah Valley Dispatch has been doing an audit of Cedar Hills and has been finding discrepancies in data, which they are working on correcting. There is a safety issue with the border of Cedar Hills and Pleasant Grove and ensuring that the calls are sent to the correct dispatch service. The Finance Committee is looking at refinancing various city obligations.

C. Augustus reported that the Planning Commission considered the Harts development. The Planning Commission would like to hold their meetings at the Community Recreation Center (CoRC). He would like to move forward with a flag trio in the planting bed to the north of the building. He proposed an oil-rubbed bronze finish with an internal raising system. The financing would come from the budget for the CoRC center.

Mayor Richardson met with the high school about drug use, alcohol use, and suicide rates. The City will be working with the school to support the school as it works on these issues.

C. Jackman reported that the Finance Committee met to discuss budgeting in the general fund expenses. The Council will be talking more about refinancing bonds.

C. Martinez stated that Friday is the Easter Egg Flashlight Hunt for ages 11-14. The kids hunt is on Saturday at 11:00. The Easter Bunny will arrive via the fire truck. The firehouse will have an open house after the hunt with a free lunch. The Youth City Council is looking for new members for the next year. It is open for grades 9-12. The Family Festival is coming up. It starts with the 5K on Saturday, sponsored by Get Fit. Monday is the Family Swim Night. The carnival is sponsored by Harts and will run from 11 a.m. to 10:30 p.m. on Friday and Saturday. The schedule is on the website. Tot soccer registration goes until April 16. Lego League registrations are now open.

#### SCHEDULED ITEMS AND PUBLIC HEARINGS

7. Review/Action on an Agreement with Provo River Water Users Association for the Sewer Relocation on 4500 West (7:41 p.m.)

See handouts.

#### Presentation:

Mayor Richardson stated that the piping of the Murdock canal required relocation of some of the sewer lines. After the last meeting, the City was able to negotiate the cost of the sewer line to \$160,000 with Cedar Hills responsible for 75% of the costs.

David Bunker stated that the agreement in the packet is not the final agreement, but it will reflect the parameters 1-4 listed in the memo.

Steve Cain of Provo River Water Users Association stated that this is a supplement agreement that will codify the original agreement with the agreement listed in the memo. Cedar Hills would be responsible for 75% of the \$160,000, due immediately. Ames Construction is eating the difference between the first number they submitted and \$198,000. The partners in the project, including several water districts, are covering the rest of the costs. The canal enclosure is almost complete. If everything goes as planned, the trails contractor will be able to start by the end of June or July.

#### Council Discussion:

- C. Jackman stated that he appreciates the work of Provo River and the efforts on both sides to come to an agreement that is mutually beneficial.

- C. Augustus: appreciates the agreement. It is still difficult for him to swallow the costs when the City did not have a voice in the matter. Going forward he would ask that cities be notified and have their voices heard.

**MOTION: C. Jackman - To approve the amended Provo River Water Users Association agreement terms and conditions for the 4500 West Sanitary Sewer relocation project subject to legal review.**  
 Seconded by C. Martinez.

Yes - C. Augustus  
 C. Gygi  
 C. Jackman  
 C. Martinez  
 C. Rees Motion passes.

8. Review/Action on a Resolution Adopting Fees (7:53 p.m.)

See handouts.

Staff Presentation:

Kim Holindrake stated that this resolution changes some of the city’s fees and adds some fees. It moves the business licensing setup fee so that it applies to all businesses, not just residential businesses. It adds a commercial temporary use application fee and inspection of \$87 and the plan check deposit of \$400 for residential and \$1000 for commercial. The Council discussed these fees during work session. There is no plan check deposit for temporary use permits.

David Jardine of Rhinehart Oil stated while lower is better, the cost of the plan check deposit wouldn’t make a difference in his decision to build in a certain city.

Council Discussion:

- C. Gygi stated that as a business man he likes lower fees. He would like to change the residential fee to \$300 and the commercial fee to \$500.
- C. Rees stated that she feels it is important to be competitive, even if it is just the appearance, as it may be in this case because it is just a deposit towards the total permit fees.
- C. Augustus stated that as a builder, he doesn’t have a problem with the plan check fee. The ultimate building permit is \$20,000 to \$35,000. A few hundred dollars for a plan check deposit isn’t a problem. However, he feels that the City needs to be competitive in the market. No matter what the fee, the City can’t guarantee recouping all costs.
- C. Jackman stated that he feels that the City should either charge the whole amount or go low. If the City wants to be competitive, it should be lower than other cities.
- C. Martinez stated that all the city’s fees are based on passing on the actual cost. If the City is willing to take the risk of someone walking, why charge anything. Either pass on the full cost at the time of the plan check or charge nothing.

**MOTION C. Augustus - To adopt Resolution No. 4-3-2012A, a resolution adding amending, or deleting certain fees to the official fees, bonds, and fines schedule for the City of Cedar Hills, Utah, with the change of the residential deposit amount being set at \$300 and the commercial deposit set at \$400.** Seconded by C. Gygi.

**AMEND MOTION: C. Jackman - To add a plan check deposit for temporary use at \$0.** Accepted by C. Augustus and seconded by C. Gygi. Vote taken by roll call.

Yes - C. Augustus  
C. Gygi  
C. Jackman  
C. Martinez  
C. Rees

Motion passes.

9. Public Hearing/Review/Action on Amendments to the City Code, Title 10, Chapter 6, Article B, Section 5, Dwelling Units Per Structure (8:10 p.m.)

See handouts.

Staff Presentation:

Greg Robinson stated that this item has come before the Council because of a request by Perry Homes to be allowed to build two buildings with eight units per building. The density does not change from what was originally planned. This change to the city code would allow the Planning Commission and City Council to approve a plat with unique conditions that still meets the intent of the city code.

Council Discussion:

Mayor Richardson stated that he wants to ensure that the language gives the City Council the right, but not the obligation to make this variance. The state allows cities to make variances but requires a finding that it does not create a hazardous condition. It does not obligate the City to approve anything that does not create a hazardous condition. It simply adds a legislative component to the code.

**Motion: C. Jackman - To approve Ordinance No. 4-3-2012A, amending Title 10 of the City Code of the City of Cedar Hills, Utah, Zoning Regulations, amending the requirements relating to maximum dwelling units per structure.** Seconded by C. Augustus. Vote taken by roll call.

Yes - C. Augustus  
C. Gygi  
C. Jackman  
C. Martinez  
C. Rees

Motion passes.

10. Public Hearing/Review/Action on the Preliminary Plan for Rhinehart Oil Gas and Convenience Store Located at Approximately 10018 North and 4800 West (8:20 p.m.)

See handouts.

Staff Presentation:

Greg Robinson stated that Harts has been a great partner in this development. Their original development was well beyond what any other development has first come with to the City. This property is located south of the Amsource property. The development is roughly four acres. Harts plan is to develop part of the four acres for a gas station. Staff is requesting Harts put together a master plan for future development on the site. It is an eight-pump gas station. Phillips 66 dictates the look of the canopy. The Planning Commission asked that the columns be bricked; Harts has agreed. The bollards will be upright. The elevations that have been provided fit nicely within the commercial design guidelines. The brick matches the brick on Chase Bank. The wainscot is stone. The landscaping is at 30% with two-inch caliper trees. Parking more than meets the guidelines. Staff

recommends that all improvements meet city specifications and standards as approved by the City Engineer, water rights be submitted to the City, and a plan be submitted showing future development of Harts property and appropriate dedications. The proposed monument sign is slightly larger than what the sign ordinance allows. Harts would like an outdoor cooler for ice which falls under outdoor sales, currently not allowed without a conditional permit.

David Bunker stated that half of the street right-of-way dedications come from each development. Harts would be required to give half and Amsource the other half. Bringing utilities to the site will require Amsource's cooperation. Harts has committed to install the utilities. The development agreement needs to be finalized with Harts. If Amsource does not participate in the utilities, it may be appropriate for the City to enter into an agreement for reimbursement for half of the costs. The storm drain calculations are being finalized. The traffic study came back, and the site can handle the additional traffic. The lighting plan meets the city's guidelines.

David Jardine stated that the timeframe for adding a carwash has not been set. That decision needs to be made in conjunction with the Smarts. The south side of the property is open, though they are not looking to bring in anyone that would compete. Food will be offered in the convenience store, but it will be provided by Harts. He will look into having music scaled back during the evening hours. Harts came to Cedar Hills because they are familiar with the area, and there is good brand awareness in the area. They met with Highland a year ago because they owned property in Highland. Highland was uncooperative. Highland would allow a convenience store to be open on Sunday but would not allow beer sales. Harts does not like to sell beer but to be competitive it is important. They would like the pumps and convenience store to be open 24 hours a day. The concrete under the canopy will be colored but not stamped.

Stan Jardine stated that he likes that Cedar Hills requires a lot from commercial developers. He feels that the path that Cedar Hills is on will set it apart. Cedar Hills has had a vision from the beginning of its commercial development. He suggested that the City not stray from that vision.

Konrad Hildebrandt suggested that the Council look at more evergreen trees. He would like to see in the development agreement a first right of the City to get gas in case of a natural disaster.

#### Public Comments:

Marisa Wright stated that she is very familiar with colonial style. She has a few ideas that would make the building more colonial. (1) Colonial villages have different shades of red. Matching colors make it look like it was built at one time by one developer. She recommended a very deep shade of red. (2) For the sign, have a large concrete circle with their sign mounted on the concrete, allowing for better contrast. (3) Use one foot, white frames in the windows.

David Jardine stated that framed windows would hinder the effectiveness of window signage.

#### **MOTION: C. Jackman - In regards to the preliminary sit approval for Harts, I move that:**

**(1) Architecture - Elevation plans be accepted and to make a finding that the proposed architectural plans comply with the intent of the design guidelines, specifically, that the motif is an expression of the approved American Colonial style, and that the proposed building is harmonious and cohesive with the existing buildings in the SC-1 Zone, subject to sign approval, an approved materials board, review of canopy, all utility, and access doors colored such as to blend with the exterior brick walls.**

**(2) Landscaping - A landscaping plan to be accepted, including a combined landscaping quantity of 25% and quality level that will meet the intent of the Design Guidelines, and successfully mitigates the**

hard surface and visual impact of the development subject to verification and acceptance that proposed plants and trees comply with the approved species list at approved spacing. Evergreen trees shall be Scottish Pine.

(3)Traffic - A traffic study to be accepted and make a finding that the traffic capacity appears to be appropriate for the proposed project and the traffic safety and calming can be appropriately mitigated subject to acceptance by the City Council of a Livability and Safety Standards Plan by the Traffic Safety and Livability Oversight Committee, submission and acceptance of a UDOT Category III traffic impact study.

(4) Site Plan - A submitted site plan be accepted and to make a finding that the proposed site plan complies with the purpose and intent statement of the Guidelines of the Design and Review of Planned Commercial Development Projects (Design Guidelines), and complies with the City of Cedar Hills Code 10-6A-31A, a harmonious grouping of buildings. The planned development meets the minimum standards of the Community Vision section of the Design Guidelines and the Cedar Hills General Plan. Building placement and sub-districting is in harmony with the intent of the Design Guidelines, taking into account the requirements for a human-scaled, pedestrian-friendly development that is sensitive to the surrounding residential areas. Building height, setback and facades are in harmony with the intent of the Land Use section of the Design Guidelines, and exceed all minimum standards. Cedar Hills' noise ordinance is nontechnical in nature. Still the submitted site plan appears to adequately predict a commercial environment that is sensitive to the adjacent residential areas.

(5) Site plan acceptance is subject to adoption of a development agreement and conditional use permit demanding maximum daytime commercial activity, L1, L10, and L90 levels of 60, 55, and 50 dBA, respectively. Furthermore, maximum nighttime commercial activity L1, L10, and L90 levels of 50, 40, and 445 dBA, respectively; no compressor enclosure openings on the sides facing residential areas; outside storage, container storage, and overnight parking shall not be allowed as outlined in the Design Guidelines; lighting plan; and future development plan.

(6) Final engineering and verification, including but not limited to, a finding that drainage calculations substantially conform to the City's design requirements, meet preliminary design criteria, and that final design of the site will dictate final sub-basin design and should be subject to final engineering review; a storm water management plan must be submitted for pre and post construction runoff control. The plan should include applicable BMPs and details; Construction access via 4800 West only. Streets shall be kept free of dirt and debris during construction; all utility for complete site improvements shall be included as part of subdivision requirements.

(7) Grant preliminary site approval further subject to fire marshall and police chief approval, legal review, verification of water rights submitted, the issuance of a conditional use permit, and acceptance of a conditional use permit by the City Council, subdivision approval, if required, the acceptance by the City Council of recorded CC&Rs providing for the construction, completion, reasonable maintenance, upkeep and cleanliness, and surety of the combined project site in accordance with the City's subdivision ordinance and section 4.5 of the Design Guidelines. Said CC&Rs shall allow for the inclusion of adjacent development as a future phase and association member. And forward this matter to the Planning Commission for further consideration. Seconded by C. Augustus.

Yes - C. Augustus  
C. Gygi  
C. Jackman  
C. Martinez  
C. Rees

Motion passes.

Break (9:26 p.m.)

Reconvened (9:33 p.m.)

11. Review/Action on Completion of the Community Recreation Center Basement (9:24 p.m.)

See handouts.

Staff Presentation:

Greg Robinson stated that staff would like to move forward with the programming in the Community Recreation Center. Staff is looking for input on priorities for the building. Up to this point, staff has approached the building as a recreational building, including golf, and recognizing that to keep costs down, revenue is needed through rentals. The center is most likely to be booked over the weekends. Recreational activities have been concentrated during those hours when residents are most likely to use the center for recreational purposes: early in the morning and in the evening. Programming at this point is focused on adult fitness classes. He feels that flipping the cardio and classroom space will limit the number of participants in the classes.

Council Discussion:

- C. Martinez stated that staff has been working with the instructors to make it fair for both instructors and the City. She would lower the day pass rate to \$1-2 dollars. She would like to give staff the approval to move forward on finishing the basement. She would like to move forward on flipping the cardio and class area. The City has the ability to cancel a class if there are five or less participants.
- C. Jackman recommended putting together a subcommittee of one or two council members with staff to put together a proposal to present to Council.
- Mayor Richardson appointed C. Martinez and C. Augustus to work on the basement plans, and C. Martinez and C. Rees to work on the fees/instructor issues.

**MOTION: C. Jackman - To move forward with the Community Recreation Center basement based on finding that the needs for the recreation facility exceed what we have and there is a need to expand into the basement. To also appoint C. Martinez and C. Augustus to explore options of how to finish the basement, and to appoint C. Martinez and C. Rees to explore programming options, and have them report at a future time.** Seconded by C. Martinez.

Yes - C. Augustus  
C. Gygi  
C. Jackman  
C. Martinez  
C. Rees

Motion passes.

12. Discussion on Refinancing City Bonds and Prepayment Options (9:50 p.m.)

See handouts.

- Mayor Richardson stated that the City received an upgrade on its bond rating. Combined with low interest rates, it is a great time to look at refinancing options. There are two bonds that are worth considering refinancing: the golf course general obligation bond and the pressurized irrigation II bond. The City has solicited input from members of the community, the Finance Director, and financial advisors. If the City decides to move forward, the next step is to set the parameters resolution, followed by a period of time for public to protest. The complete process from parameters resolution to bond refinancing is 60 days. The pressurized irrigation II bond is a line of credit bond owned by Wells Fargo. The bond can be refinanced on a five to seven year fixed rate followed by a

variable rate. To go that route, it would make more sense to structure it so that the bond could be paid off at the end of the seven years, which would require a \$4/month fee increase. The golf general obligation bond would be a fixed rate and would save about \$250,000 total. One reason why he would like to pay the pressurized irrigation bond off early is that it saves money for future improvements when city infrastructure needs to be replaced.

- C. Jackman stated that the Finance Committee talked with members of the public. It was suggested that rather than raise the pressurized irrigation rate to pay off the bond with unrestricted funds, the funds for the Civic Center be used. The Council has asked that the Civic Center be on every agenda. He would like that to happen. If the City decides to increase the rates, he wants to ensure that the \$4 increase will automatically drop once the bond is paid off. He suggested crafting a poll to put on the website. C. Jackman and C. Rees will work on writing that opinion poll to gauge people's opinions about refinancing options.
- C. Gygi stated that the City is doing a rate analysis on water. He talked to the Utah Taxpayers Association. They said that the City should charge the residents whatever that analysis reveals to be the cost. If the City decides to charge the \$4/month, it will be viewed as a tax increase. He does not like the idea of using unrestricted funds. He sits on the Utah Valley Dispatch committee. They are looking at a place to locate. It may work out well for them to locate in a Cedar Hills Civic Center. That would be a win-win for both entities, and unrestricted funds may be required to build that center. The Utah Taxpayers Association believes there is a purpose for a city to go into debt. He suggested a town hall meeting in the next month to discuss the issue.
- C. Martinez stated that the City can work with the local HOAs to get information out about the refinancing issue and the town hall meeting. She also suggested that along with the poll, people can make a comment that will be sent to the council members.
- Mayor Richardson stated that the second meeting in May will be a town hall meeting in the Community Recreation Center.

#### EXECUTIVE SESSION

13. Motion to go into Executive Session, Pursuant to Utah State Code 52-4-204 and 52-4-205 (10:12 p.m.)

**MOTION: C. Jackman - To go into Executive Session, Pursuant to Utah State Code 52-4-204 and 52-4-205 to discuss professional competence and pending litigation.** Seconded by C. Martinez.

Yes - C. Augustus  
C. Gygi  
C. Jackman  
C. Martinez  
C. Rees Motion passes.

\*\*\* EXECUTIVE SESSION \*\*\*

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

**MOTION: C. Jackman – To adjourn Executive Session.**

Yes - C. Augustus  
C. Gygi  
C. Jackman  
C. Martinez  
C. Rees Motion passes.

#### SCHEDULED ITEMS

15. Review/Action on City Manager Performance and Contract

See handouts.

Mayor Richardson stated that the Council has spent time reviewing the City Manager's performance and discussing where they want to see the City go in the next period of time.

**MOTION: C. Jackman – To continue this item until the Council can have a revised version provided by the City Attorney, which includes but is not limited to removing the \$100 a month stipend and possibly other things.** Seconded by C. Gygi.

Yes - C. Augustus  
C. Gygi  
C. Jackman  
C. Martinez  
C. Rees Motion passes.

Mayor Richardson asked C. Rees to be the point on those changes. He and C. Gygi will continue to work on the performance review.

16. Review/Action on Reimbursement of Costs – Litigation – Mayor and City Manager

See handouts.

- C. Jackman stated that he hasn't seen any invoices.
- Mayor Richardson stated that typically the invoices would be submitted to the finance department. He can have them sent to the Council in the redacted format because certain information regarding legal representation is not public information. The information could be given in an executive session where the information could be shared, the Council could receive the public portion, which is the total amount, or the Council can instruct that it be given to the finance department.
- C. Jackman would like the invoice handed over to the finance department and have them let the Council know how it changes the budget.

**MOTION: C. Jackman – At this time the City Council hereby authorizes payment to Stirba and Associates for attorney fees and costs incurred by the Mayor and City Manager in having to personally defend themselves against the allegations addressed above subject to submitting the public form of the invoice to the finance director and the City Council.** Seconded by C. Gygi.

Yes - C. Augustus  
C. Gygi  
C. Jackman  
C. Martinez  
C. Rees Motion passes.

ADJOURNMENT

17. Adjourn

This meeting was adjourned by 2:45 a.m. on a motion by C. Jackman, seconded by C. Rees, and unanimously approved.

Approved by Council:  
May 1, 2012

\_\_\_\_\_/s/ Gretchen F. Gordon  
Gretchen F. Gordon, Deputy City Recorder