

CITY COUNCIL MEETING

Tuesday, July 18, 2017 7:00 p.m.
Community Recreation Center
10640 N Clubhouse Drive, Cedar Hills, Utah

Present: Mayor Gary Gygi, Presiding
Council Members: Denise Andersen, Ben Bailey, Mike Geddes, Jenney Rees, Daniel Zappala
Chandler Goodwin, City Manager
Charl Louw, Finance Director
Greg Gordon, Recreation Director
Jeff Maag, Public Works Director
David Shaw, City Attorney
Colleen Mulvey, City Recorder
Gretchen Gordon, Executive Assistant, HR
Others: Darrell Child, Preston Child, Officer Christensen, Battalion Chief Edwards

COUNCIL MEETING

1. Call to Order.

This meeting of the City Council of the City of Cedar Hills, having been properly noticed, was called to order at 7:02 p.m. by Mayor Gygi. The Pledge of Allegiance was led by C. Geddes, and the invocation was given by C. Rees.

2. Approval of Meeting’s Agenda.

MOTION: C. Rees—To approve the agenda as is. Seconded by C. Andersen.

Yes - C. Andersen
C. Bailey
C. Geddes
C. Rees
C. Zappala Motion passes.

3. Public Comment

Dave Free stated he lived at 4309 W Oak Road North. He discussed an issue concerning a section of sidewalk that was unable to be built. He cited a number of concerns with the overall appearance of the area. He asked for the City to amend the area. Mr. Free stated he had lived on Oak Road North for twenty years and felt it was the forgotten part of City, being the original part of the City. The sidewalk being unfinished had cause for concern for a number of the residents, in that pedestrians were forced to cross the street when happening upon said location which could be dangerous at times. Mayor Gygi asked Mr. Goodwin if he was aware of the issues raised by Mr. Free, to which Mr. Goodwin responded in the affirmative. Mayor Gygi informed Mr. Free that staff would look at the issue and return with a recommendation.

CONSENT AGENDA

4. Minutes from the June 8, 2017 Special City Council Meeting

MOTION: C. Rees—To approve the consent agenda. Seconded by C. Bailey.

Yes - C. Andersen
C. Bailey
C. Geddes
C. Rees
C. Zappala Motion passes.

CITY REPORTS AND BUSINESS

5. City Manager.

Mr. Goodwin first discussed recreation and noted that a number of programs had just finished, and others had begun open registration. The park equipment for Bayhill Park was set to be delivered the week of July 24th with anticipation of completion the following week. An application for rezoning had also been submitted by the landowner on a specific parcel, which would be discussed by the Planning Commission on July 25th.

6. Mayor and Council.

C. Zappala stated having two issues he wished to bring to the attention of the Council. The first was a resident brought to C. Zappala's attention the issue of neighbors having open fires. These neighbors were burning trash and weeds, which prohibited many residents in the neighborhood from being outside or opening windows. C. Zappala replied that in speaking with the Department of Air Quality, they indicated that the City had the power to ban open fires. He suggested that the Council entertain possible legislation regarding the matter.

C. Bailey stated there was a burn season, typically for a period of two months. He attested to there being cities that prohibited burning, with the exception of agricultural burning, for over twenty years. He said he would be very supportive of banning fires outside of agricultural burning. He said burn permits lasted three days upon application; however, there were a number of regulations. One of these regulations was to maintain the smoke output. Green waste could increase the amount of smoke produced and should not be burned. C. Geddes stated green waste was free to be taken to the landfill.

C. Zappala continued with his second issue. He mentioned revisions to ordinances regarding solar and alternative energy. He shared he had conversed with a resident whose neighbor had installed a ground based solar system. Depending on how the ground based solar system would rotate, it could at times not follow code. He had talked with the resident and agreed the system affect property values. He asked the Council for a reexamination to be had by the Planning Commission concerning the issue of rooftop versus ground based solar panels.

Mayor Gygi reported that the Mountainland Association of Governments (MAG) would not be meeting until August. One item on the forthcoming MAG agenda would be in regards to the County's relationship with cities. Cedar Hills may be discussed as part of that item. Mayor Gygi would report on the discussion back to the Council following the meeting. Mayor Gygi also stated that at the last Lone Peak Public Safety Meeting there were a number employee issues. One issue was that of Chief Freeman's resignation and finding a replacement.

SCHEDULED ITEMS

7. Discussion on Cedar Hills Insurance Coverage for Utilities

Public Comments:

Rhett Barney introduced himself and stated he lived at 3914 Morgan Boulevard. He stated that on May 8th a water break had occurred. He said he had been directed by the City personnel to call a disaster cleanup, which he did. There was water in his basement, including sewage. He shared that home owner's insurance would not cover the damages since it originated from the sewers, and that the City was responsible for compensation. It was asked that the City recoup the amount for each of the four affected units outlined in an email that was sent to the City.

Mr. Goodwin stated that the Council would be talking about that matter tonight. He explained that he had Gretchen Gordon reach out to each affected home for an itemized list of damages, which he then distributed to the Council for review. Mayor Gygi turned the discussion over to Darrell Child of Olympus Insurance.

Darrell Child, Executive Vice President, Olympus Insurance, stated that he would provide an overview of what was included in the present insurance program and some possible alternatives. The program was designed to cover liability that may arise from any operations that occur with the City. The program included coverage of all machinery and equipment, including vehicles. The liability program was designed to pick up legal liabilities that may arise as they are defined by the courts. He went into detail concerning liability and negligence and used various cases to illustrate the two points. He also spoke on Sovereign Immunity, a legal doctrine by which the State could not commit a legal wrong and was immune from civil suit or criminal prosecution. All that he had cited was presented as a preamble to a Good Neighbor No Fault Sewer Planning and Water Planning Policy. He stated that a Good Neighbor policy was often adopted for cases when insurance usage was exhausted. He explained that in the past Olympus had instructed cities to advise their citizens that it was a good idea to take elective sewer coverage on personal policies. This could potentially limit the amount of responsibility of a city having to aid in a Good Neighbor basis.

Mayor Gygi indicated he was familiar with the negligent issue. He said the City's previous insurance carrier had a no fault provision in the policy. He then asked if Olympus Insurance did not provide a no fault coverage. He also inquired that if the City were to adopt a Good Neighbor policy, would the City be self-insuring itself.

Mr. Child responded that it was a combination between the two. He stated a belief of recognition that if the number of claims was increased in a policy, premiums would also increase.

Mayor Gygi questioned if Olympus Insurance would help only on the adjusting side, but that the City would self-insure. Mr. Child confirmed that to be the case. Mayor Gygi then directed comments to the Council and stated that this topic was the subject of his most recent newsletter column. In the column he had encouraged residents to check with their home owners insurance concerning coverage. He thought the City should listen to residents and find common ground.

Mr. Child said that having worked with many city councils before he found it beneficial to set guidelines in advance. Olympus Insurance did not encourage cities to leave it open, but rather to deal with situations as they arise. This also would insure equity and fairness.

C. Rees said she would like to see how other cities of similar size handle such situations and see their policies. Mr. Child stated he could provide examples of said policies.

Mr. Goodwin thanked Mr. Child for his presentation. He said this was not the first time this kind of issue had occurred and cited an instance in 2012 when Manila Creek experienced sewer backup due to vandalism, which resulted in raw sewage backing up into residents' homes. The City was not negligent and could not prevent the vandalism from occurring. Mr. Goodwin then directed commentary regarding a spreadsheet identifying the houses affected by the raw sewage. He said the City needed to assist residents. However, there was a concern regarding the usage of water and sewer funds as it would put the City's debt service coverage ratio in jeopardy. Mr. Louw stated that in this case the City was okay.

Mr. Goodwin asked for direction from the Council on how staff was to proceed on the aforementioned claims against the City. Mayor Gygi started off by sharing his thoughts that there was a precedent for such instances. He stated the City could not have a policy of constant replacement, mitigation, nor restoration. He believed it important to strive for a public relations effort to inform citizens. A possible venue for notification could be next year's disaster Town Hall meeting. Mayor Gygi believed the City should take up Olympus Insurance on their ability to adjust some claims. He said the City should listen to residents, find common ground and counsel them on contacting personal insurance in regards to these kinds of situations.

C. Geddes said he had his insurance agent look at a rider, something that was very inexpensive, to cover sewer back up. He asked if the City knew how settlement was reached on the Manila Creek incident. Mr. Goodwin stated the City would have to review the documentation of which the City was in possession in order to understand the number reached, as there was no clear formula explicitly illustrating that process. C. Geddes liked what Mayor Gygi had said about Olympus Insurance helping adjust claims.

C. Bailey stated as a home owner and having insurance policies he would expect between the City's and personal insurance that this kind of instance would be covered. He questioned how that was not covered. He understood insurance could get complicated. He sympathized with residents and stated the City needed to help them. There was some deliberation as to the state of a specific sewer line. C. Bailey expressed frustration with insurance companies as a whole. Mr. Goodwin said he had spoken with Olympus Insurance regarding possibly insuring the subsurface infrastructure of the City; however, that was cost prohibitive, being so expensive. Mr. Child explained that a city would not have enough claim payments to cover the premium it would be charged. It would be more cost effective to simply have reserve funds.

C. Geddes asked if there was a summary of overall cost for the City regarding this instance. Mr. Goodwin stated that the City's Public Works crew did a lot of work, and noted that the asphalt cost \$49,000.

C. Zappala shared C. Bailey's frustration that insurance wouldn't cover these occurrences. C. Zappala stated that he would like some good neighbor policy be put in place. He would also like funds be set aside, maybe through increasing tax, as an extra insurance policy by the City.

Mayor Gygi asked C. Rees for comment. C. Rees echoed the words of C. Geddes asking for the numbers regarding the Manila Creek Road and what other cities were implementing. C. Andersen expressed a desire to implement a Good Neighbor Policy, but that in this instance the City needed to execute a plan as had occurred with Manila Creek Road.

Mr. Goodwin said staff would work with Olympus Insurance to itemize claims and return with the numbers set upon to the Council. C. Zappala interjected quickly with the observation of Orem's recent adoption of a code dealing with damage prevention. Mayor Gygi said the City will regularly and consistently remind residents to review their home insurance policy. Mr. Goodwin said he would try to have numbers by August 1st to bring before the Council. An unknown speaker in the audience then inquired as to whether or not the City could go after the responsible party. Mayor Gygi replied that anything was possible.

Mr. Stulce addressed the Council saying he had helped with disaster recovery for the residents in the area. He stated that pricing in his industry was carefully regulated by insurance companies. He said that cleanup had been done according to Xactware protocol of Category III of sewer cleanup. He indicated that he had sent a report to the City already. Adjusters had reviewed the report, but he would welcome working with another adjuster as well.

C. Zappala stated that the City had a water main break, and made the observation that from the description provided it sounded more like a sewer issue. Mr. Goodwin replied that water had backed up into the sewer and the clog backed the sewage up into the homes.

8. Review/Action on an Ordinance Regulating Fireworks

Mr. Goodwin stated this ordinance only addressed aerials and not ground fireworks. Regardless of conditions varying year by year, he didn't see circumstances allowing aerials east of Canyon Road, due to the dry environment. He further reviewed details within the code.

C. Rees cited the last discussion had by the Council concerning problematic areas throughout the City. She then questioned as to why not change the reference map annually instead of altering the ordinance every year. Mr. Goodwin expressed nervousness regarding changing an ordinance year by year. He said there were going to likely be times when an individual could have an open fire east of Canyon Road and it would not be an issue. C. Rees stated this year had been her fifth year dealing with this specific issue. Almost every year on July 4th there were some restrictions and quickly following on July 24th there were tighter restrictions. If this pattern were to continue, the City would be required to change the ordinance annually, possibly multiple times in a year. Mr. Goodwin said he was not proposing to change the ordinance every year, rather, he was proposing to simply have the ordinance in place so questions like where aerials and open fires are allowed may be reviewed. C. Rees stated the problem heard by the Council last time discussing the issue had to do with the authority behind a resolution versus that of an ordinance. She asked if the City could define what a mobile firework was. Mr. Goodwin said that while the

City could provide this definition, he would prefer tying it to a State ordinance. There was continued deliberation regarding ordinances versus resolutions.

C. Zappala said he understood the reasons why Canyon Road was chosen as a boundary with it being a natural area. However, there were a lot of other areas where aeriels were a hazard. He said with the City being so integrated with wildlife, aeriels should be banned throughout the entire City. There was further discussion as to whether the State allowed such citywide bans and urban interfaces. There was also continued deliberation as to the exact areas that would prohibit aeriels. Mr. Goodwin agreed with C. Zappala and others that the resolution did not have any teeth in its present form. He asked if the City would want to adopt an ordinance presently and then revisit the issue. C. Rees answered affirmatively, but stated that a change to the wording was necessary.

Mayor Gygi asked Fire Chiefs Edwards and Bailey if there had ever been a fire in Cedar Hills attributed to fireworks. They both answered in the affirmative. C. Bailey stated that unfortunately the fire department was in other areas and relied upon other cities' departments to respond. He stated that he would be good with having a map as discussed.

Mayor Gygi said he'd prefer language to be looser than tighter regarding the ordinance. C. Zappala responded he'd rather be more restrictive. C. Rees said she had read only ten percent of costs associated with fire was ever recouped.

Mayor Gygi asked C. Bailey what caused the fire in Alpine, to which C. Bailey replied that it was target shooting. Chief Edwards cited another fire having been caused by a campfire. Mayor Gygi said that personal responsibility trumped restrictions. However, if the Council wished to be more restrictive they should speak with the residents and tell them that the Council wished to take away some freedoms and liberties.

C. Geddes expressed a dislike for taking away personal liberties, and questioned whether or not taking away liberties was right. He preferred educating people and allowing them to deal with consequences. C. Zappala asked if the Council was comfortable with a one hundred foot boundary on Cottonwood Drive. Mayor Gygi told C. Zappala that he would need to direct that question to the Chief. Mr. Goodwin stated that the one hundred foot restriction was arbitrary.

MOTION: C. Rees - To approve Ordinance No. 07-18-2017A, an ordinance amending Title 5 Chapter 2 Section 3 of the City Code of the City of Cedar Hills, Utah, making it unlawful to discharge aerial fireworks in any area as identified by the map created and provided by the City of Cedar Hills. Seconded by C. Geddes.

After subsequent discussion the following vote on the motion was noted:

Yes	-	C. Andersen	
		C. Bailey	
		C. Geddes	
		C. Rees	
No	-	C. Zappala	Motion passes.

9. Review/Action on Adoption of an Ordinance Adjusting the Common Boundary between the City of Cedar Hills and Pleasant Grove City (Thayne Property)

Mr. Goodwin stated that Pleasant Grove City had submitted their documentation concerning the Thayne Property outside of the 30-day filing period. This then requires both municipalities to adopt another ordinance and submit it within the 30-day filing period. C. Zappala asked if the timeline of this matter was governed by State law, to which Mr. Goodwin answered in the affirmative.

MOTION: C. Rees—To approve ordinance 07-18-2017B, an ordinance adjusting the common municipal boundary between the City of Cedar Hills and Pleasant Grove City.

Seconded by C. Andersen. Vote taken by roll call.

Yes	-	C. Andersen	
		C. Geddes	
		C. Rees	
		C. Zappala	
No	-	C. Bailey	Motion passes.

10. Review/Action on a Resolution Placing an Opinion Question on the November 7, 2017 Municipal General Election Ballot Regarding the Imposition of a PARC Tax

Mr. Goodwin shared this was a formality to place the PARC Tax on the ballot for the November election. The Council had conversed about this topic before and its possible \$40,000 in revenue it could potentially bring the City.

MOTION: C. Geddes—To approve Resolution No. 07-18-2017B, a resolution placing an opinion question on the November 7, 2017 Municipal General Election ballot as to whether or not the City of Cedar Hills should impose a local sales and use tax of one-tenth of one percent to fund cultural, recreational, botanical and zoological organizations and facilities in the City of Cedar Hills, and approving the ballot title and propositions.

Seconded by C. Zappala.

C. Rees asked if she could aid in drafting the voter pamphlet information. C. Geddes asked what happened if no one was willing to write a rebuttal. Colleen Mulvey, City Recorder, stated that as long as the City solicited for an argument against the ballot proposition; that is all that was required. C. Geddes inquired as to whether the City or elected officials could promote voting for various propositions. Mayor Gygi stated the City could not; however, any resident – including elected officials – could.

Yes	-	C. Andersen	
		C. Bailey	
		C. Geddes	
		C. Rees	
		C. Zappala	Motion passes.

11. Review/Action on a Resolution Adopting the Mountainland Pre-Disaster Hazard Mitigation Plan

Mr. Goodwin said the City most recently adopted this plan in 2005. It was a plan to fulfill State and local hazard mitigation planning responsibilities to promote pre- and post-disaster mitigation measures. This action would provide an updated version of the 2005 plan.

C. Rees shared she had received the plan on Friday and had only been able to review a fraction of the 348 pages. She was surprised by the Cedar Hills portion and had question regarding the City's relationship with MAG. Mr. Goodwin also recognized a number of items that needed changing.

C. Bailey said Cedar Hills was a relatively small city in comparison to Salt Lake City. C. Rees said that while she understood that point, she wanted to know if the City was also taking on any form of responsibility or liability for not implementing MAG's recommendations. C. Bailey stated the City had been a member of MAG for years. Mr. Goodwin said the City was in fact trying to be proactive with the County on emergency management. For this reason, the City moved its notification services over to Everbridge as that was what the County wanted.

Mayor Gygi said to keep in mind that this was a non-binding resolution.

MOTION: C. Andersen—To approve Resolution No. 07-18-2017B, a resolution adopting the 2017 Mountainland Association of Governments Pre-Disaster Hazard Mitigation Plan.

Seconded by C. Bailey.

Yes - C. Andersen
C. Bailey
C. Geddes
C. Rees
C. Zappala Motion passes.

Mr. Goodwin wanted the Council to know that some funding from emergency management does come from adopting the plan, which is another incentive to adopt.

12. Discussion on Private Signs on Public Property

Mr. Goodwin discussed the concession contract with Ernie's Sports Deli. Currently the City pulled private signs posted on public property. An example would be Marco Pizza's grand opening signs having been pulled from the City's park strip. Mr. Goodwin said that according to his understanding if the City were to allow Ernie's Sports Deli to place private signs on public property, other entities would be then permitted to follow suit. Ernie's Sports Deli did not have a sign like McDonald's. Ernie's staff in Orem used an a-frame sign, which made it mobile. If the City restricted such private signs on public property, Mr. Goodwin believed this would start the City down a rabbit hole concerning other businesses, namely Great Clips.

C. Geddes stated that Great Clips did not lease from the City as would be the case with Ernie's Sports Deli. There was a discussion about the City's other rental spaces, including the marquee sign. C. Rees made mention of a church also that met in the same area, and there was further deliberation on the matter.

David Shaw, Legal Counsel, said the Council was talking about First Amendment rights and who had the right to be in a public space. In that context, the City would not have to allow somebody to advertise. C. Zappala asked if this pertained to elementary schools and advertising on their publicly owned property. David Shaw responded by stating that was probably the case. C. Bailey stated he was open to allowing Ernie's Sports Deli to put a sign on the City's building. Mr. Goodwin said that this was the rabbit hole he mentioned earlier.

C. Rees asked Mr. Shaw for a legal analysis showing what the policy for businesses would be moving forward, if they were to allow Ernie's Sports Deli to place private signs on public property. Mr. Shaw responded that an analysis would be more detailed than the Council had time for during this meeting. However, the short answer would be the City could either have a limited public forum for its sign or a wide open forum. C. Rees indicated that she would like more information regarding the matter.

Mr. Goodwin said that replacing the panels on the marquee could cost upwards of \$10,000 in order to accommodate added business names, and he therefore preferred the temporary a-frame signage. C. Rees agreed with his remarks.

C. Zappala said the City could lease land on Canyon Road that the City owned for the purpose of placing signage. Mr. Shaw concurred that it could be done, and that a billboard could be erected. If so, he asked who would get to be on the billboard. There was subsequent discussion concerning the possibilities and Mr. Shaw said he would present additional findings at a later meeting.

Mayor Gygi stated there then would be no resolution.

C. Geddes said an individual could always steal a sign and add Ernie's logo to it.

C. Zappala questioned if a private property owner were to reside in an area could they put up a commercial sign pointing to Ernie's business. Mr. Goodwin cited that having been done before by Garbett Homes.

ADJOURNMENT

This meeting was adjourned at 8:37 p.m. on a motion by C. Zappala, seconded by C. Geddes, and unanimously approved.

Approved by Council:
August 29, 2017

/s/ Colleen A. Mulvey, MMC
City Recorder