

**SPECIAL CITY COUNCIL MEETING**

Wednesday, June 28, 2017 12:00 p.m.

Community Recreation Center

10640 N Clubhouse Drive, Cedar Hills, Utah

Present: Mayor Gygi, Presiding  
Councilmembers: Denise Andersen, Ben Bailey, Jenney Rees,  
Mike Geddes (12:09 p.m.), Daniel Zappala (via telephone)  
Chandler Goodwin, City Manager  
David Shaw, City Attorney (via telephone)  
Colleen Mulvey, City Recorder  
Others: Lt. Gregg Ludlow, Ben Ellsworth, Fire Chief Freeman

1. This meeting of the City Council of the City of Cedar Hills, having been properly noticed, was called to order at 12:02 p.m. by Mayor Gygi. The Pledge of Allegiance was led by Boy Scout Matt Tau’lili and the invocation was given by C. Zappala.

2. Approval of Meeting’s Agenda

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

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

3. Public Comment

No comments.

4. Review/Action on a Resolution Regulating Open Fires and Fireworks

Mayor Gygi explained that in regards to restrictions on fireworks, it was the Fire Marshal’s duty to establish limitations on fireworks. He noted that C. Bailey happened to be the Fire Marshal. Members of the City Council had the right to express opinions to the Fire Marshal. The Chief had the right to override the Fire Marshal, which in this case he did not do. Mayor Gygi explained that the Chief endorsed the recommendations made by Fire Marshal Bailey with one exception; the Chief had indicated that areas west of Canyon Road were problematic for fireworks. A map was then presented identifying areas east of Canyon Road that were banned to fireworks. Additionally, Mayor Gygi noted that there were areas west of Canyon Road that were dry and prone to firework issues.

Mayor Gygi asked if C. Bailey concurred with the Chief’s recommendations and C. Bailey answered affirmatively.

Mayor Gygi said he had an issue with the proposed resolution. He explained that if the City wanted to ban aerals east of Canyon Road every year, it needed to be done by way of an ordinance as opposed to a resolution. A resolution was short term, non-binding, and there were no penalties to disobedience. He explained that an ordinance was more binding.

C. Rees agreed it should be an ordinance and needed to be a part of a future agenda. She noted that she had distributed examples of ordinances and resolutions from other cities to the Council for review. She suggested adding to the resolution language stating "100 feet of any undeveloped lot anywhere in the City". C. Rees said she talked to Chief Freeman and understood and appreciated his concerns. He had indicated to C. Rees that while he preferred to ban aerials in the City, he was willing to find a compromise. C. Rees concluded that she was fine with the map presented with the proposed resolution, and that her only suggestion was to add the aforementioned language.

C. Bailey agreed with C. Rees regarding undeveloped lots, and in his opinion they needed to get a code enforcement officer out to those lots. He recalled that the City already had an ordinance concerning dry areas, which indicated that weeds and tall grasses needed to be mowed down to six inches for reasons related to fire prevention. C. Rees stated that while the City had this ordinance in place, it was not followed. C. Bailey said that fireworks used legally were not causes of fires; rather, it was those that were used illegally that were the problem and needed to be mitigated. Open lots were inviting to children for playing with matches.

C. Bailey noted that he was speaking as the Fire Marshal on this matter, and as such would recuse himself as a Council Member. C. Geddes asked C. Bailey why he would have to recuse himself on this matter. C. Bailey said he helped to develop the fire restriction map. He indicated that he would support the Council's decision regardless. He said his recommendation to Mr. Goodwin would be to make sure weeds and tall grasses were mowed down to six inches, as was previously mentioned.

Mr. Goodwin said the City would notice homeowners in order to give them time to come into compliance with the ordinance. If they did not mow down weeds and tall grasses within a certain period, the City would send out summer crew to do the work. The problem was that as a City, they have had a difficult time finding summer help.

C. Bailey stated that at times there were issues pertaining to who had the final say on a matter. He pointed out that the State had adopted the International Fire Code. The International Fire Code indicated that the Chief could perform certain tasks without permission from the legislative body. The City adopted this Code; therefore, if Chief Freeman wanted to exit out under the State law already adopted, he could do so. If the City no longer wanted to follow State law, a resolution needed to be made to that effect.

C. Geddes asked if Cedar Hills was more or less restrictive than the State at present. C. Bailey said presently the City was at the same level of restriction as the State. If the City wanted to be more restrictive, they could pass a resolution to that effect; however, they could not be less restrictive. Either way, any changes needed to be done through legislation.

Chief Freeman said there were a couple of areas of concern, which he identified on an aerial map of the City. There was subsequent review and discussion regarding the areas in question. Mayor Gygi remarked that the City of Cedar Hills could not enforce anything in Highland City. Chief Freeman said the problem with aerial fireworks was that they had a span of 100 to 200 feet. Therefore, if an aerial was lit in Cedar Hills it could end up in Highland City boundaries.

Mayor Gygi said the City needed to create an ordinance for areas east of Canyon Road, so that in the future enforcing the Fire Marshal's recommendations would not require the Council passing a resolution. He noted having spoken with the City Attorney regarding the matter.

C. Geddes asked what the penalty would be for ordinance violations. Mayor Gygi said there were no penalties for violations to resolutions. C. Rees indicated that an ordinance was needed. Mayor Gygi said the City needed an ordinance on the east side of Canyon Road, since it was an area where they would likely want a multi-year policy to be enforced. There was further discussion, and Chief Freeman noted that the Alpine Mayor issued an executive order on the matter during their Council's meeting last night.

Mayor Gygi said he would be happy to issue an executive order banning aerals east of Canyon Road. He said he would rather take personal responsibility than having the government telling them what to do as a City. Mayor Gygi did not have any problems with non-aerial fireworks and sparklers in areas east of Canyon Road. The language in the proposed resolution was far stricter in that it banned all fireworks. He said the Council should provide instruction on what was expected, the details of which would be included in an ordinance. In regards to the west side of Canyon Road, Mayor Gygi recommended following the Fire Marshal's recommendations on an annual basis. He said Fire Marshal Bailey and Chief Freeman were the most qualified individuals to be making these types of recommendations.

C. Zappala said that most cities issued firework restrictions that were voted upon by their respective Councils. For example, he noted that according to the minutes of the Alpine City Council, dated on May 9<sup>th</sup>, 2017, they approved the fireworks and open restrictions for their City. Mayor Gygi confirmed that C. Zappala was right; councils could approve restrictions for their respective jurisdictions. Mayor Gygi's argument was that resolutions were non-binding and that an ordinance would be a stronger instrument for areas east of Canyon Road, whereas the Council should follow the Fire Marshal's recommendation for areas west of Canyon Road on an annual basis.

C. Rees stated that the City was in a unique situation this year because the Council initially received a recommendation from the Fire Chief and the Council followed said recommendation; however, the Fire Marshal came back with a different recommendation. She agreed that an ordinance was needed and that they should work closely with the Fire Chief when creating said ordinance. There was further deliberation on the matter. Chief Freeman noted that he spoke with Fire Marshal Bailey and they came up with a compromise. His main recommendations pertained to the enforceability of fireworks restrictions. He made note of what types of fireworks were causing the most issues in the areas.

Mayor Gygi said if staff preferred that an executive order be issued banning aerals and ground flowers east of Canyon Road, he was willing to meet their request. However, he did not want to have an overreach that extended to really minor things. Chief Freeman agreed.

C. Bailey requested that the City work through Mr. Goodwin on this matter. He mentioned an email from the Fire Chief that was inadvertently made public, and noted that most of the time

these types of issues were handled internally. Mayor Gygi said that each Council Member had a right to say what they wanted on their personal pages, but no one had the right to speak on behalf of the City unless they had received prior approval from the Mayor and City Manager. There was further deliberation regarding the aforementioned communication that was made public, and Mayor Gygi stated that he was not consulted on the matter. C. Rees stated that the email in question had been posted to the City's website. Furthermore, she noted having spoken to David Shaw, the City's legal counsel, and he indicated having recommended that this special meeting take place.

Mr. Goodwin suggested that this matter be placed on a yearly agenda. Chief Freeman said the problem with creating a blanket ordinance for fireworks was that weather conditions varied from year to year. C. Zappala suggested they create an ordinance stating that the Council approved a policy and a map each May. Each year, the Council would then create and publish a map. Mayor Gygi said that in this case, the City should just create a resolution every year; an ordinance was meant to be more permanent legislation. C. Zappala stated the ordinance would be permanent; however, the map would change on a yearly basis.

C. Zappala stated that the proposed resolution included language regarding open fires which seemed vague. He then read the language to which he was referring. C. Bailey stated that open fires should be allowed if they were screened on top. C. Rees and C. Bailey discussed adding language which said that open fires needed to have a screen on them. Chief Freeman said there were a lot of differences between a fire pit and an open fire. It was difficult to make rules that covered everything. C. Rees stated that in reviewing past resolutions, they all said that open fires were prohibited; however, they were allowed with a screen cover. C. Bailey stated that the key aspect was that equipment needed to be used according to manufacturer instructions. Chief Freeman stated that the City had a policy in relation to open fires, which was different than fire pits. He said that unless it was an approved appliance, screens were not available. He did not believe the City should allow open fires. Staff and elected officials further deliberated upon the language that should be included with the City's open fires policy.

**MOTION: C. Zappala - To approve Resolution No. 06-28-2017A, a resolution of the City Council of the City of Cedar Hills, Utah, adopting specified restrictions: all open fires east of Canyon Road within city limits are prohibited without a screen, and all ground bloom fireworks and aerials are prohibited inside and within 100 feet of an undeveloped lot and inside and within 100 feet of the highlighted areas referenced in the attached map (Attachment A) which by this reference is made part of this resolution.** Seconded by C. Geddes.

**AMEND MOTION: C. Zappala— To amend the motion to state all non-stationary ground flower type fireworks.** Accepted and Seconded by C. Geddes. C. Bailey recused himself from voting on this item.

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

ADJOURNMENT

5. This meeting was adjourned at 12:47 p.m. on a motion by C. Bailey, seconded by C. Geddes, and unanimously approved.

Approved by Council:  
August 1, 2017

/s/ Colleen A. Mulvey, MMC  
City Recorder