

CITY COUNCIL WORK SESSION

Wednesday, October 22, 2014 6:00 p.m.

Community Recreation Center

10640 N Clubhouse Drive, Cedar Hills, Utah

Presiding Gary R. Gygi, Mayor
Councilmembers: Trent Augustus, Rob Crawley, Mike Geddes, Daniel Zappala
Absent/Excused: Jenney Rees
David Bunker, City Manager
Chandler Goodwin, Assistant City Manager
Greg Gordon, Recreation Director
Colleen Mulvey, City Recorder
Eric Johnson, City Counsel
Others: Lt. Sam Liddiard

This work session of the City Council of the City of Cedar Hills, Utah, having been properly noticed, was called to order at 6:06 p.m. by Mayor Gygi.

Pressurized Irrigation

David Bunker stated that there is an issue with a new resident who does not have the ability to hook up to pressurized irrigation (PI). The residence is on Canyon Road south of the church on Box Elder Drive, and there are 5 other homes there that do not have access to PI. He explained that Canyon Road creates a barrier in some locations to run laterals across the street. The PI main is on the west side of the road which is a state highway. Maintenance is also an issue with this area.

Mr. Bunker explained that we have in our fee structure a specific rate for residences that do not have access to PI. If no PI is available the base rate is \$6.80, which is the same for everybody, then for the first 8,000 gallons they pay \$1.49, which is also the same rate as everybody else. From 8,000 – 12,000 gallons they pay \$2.45, again the same as those with PI. From 12,000 – 18,000 gallons they pay \$2.50, whereas if you have PI available you pay \$3.62. For over 18,000 gallons the rate drops down to \$1.50. He reiterated that this is only for residences that do not have access to PI and are using culinary water. He said that this is the city's solution right now to give those residences without PI available a break. This new family did not understand how the water rates were set up and kept reducing their consumption to try lowering their monthly bill which is becoming an issue.

Mr. Bunker asked if we should be doing something different because even at the \$1.50 rate, they are getting billed for every gallon as opposed to the residents hooked up to PI who have a flat rate and it doesn't matter how many gallons they use.

C. Zappala asked if anyone of the 10 homes with the PI meters came close to using 30,000 - 40,000 gallons. Mr. Bunker said that it varies and they have not pulled all of that data together yet, the preliminary numbers show that many connections are over that amount. C. Zappala asked about the difficulty of the main on opposite side of Canyon Road, and could a main be put

in on the opposite side so they all have easy access to a lateral. Mr. Bunker said we could look at that but because it is a state highway the construction standards and cost is a lot higher.

C. Crawley asked if it was only these 6 residences in the entire city that don't have PI access. Mr. Bunker said that there are these 6 and the Dimond Subdivision originally did not have it, but now they do and should be hooking on. He added that every time there is a development where there is no PI, we require the developer to find that PI and bring it to the property.

C. Crawley stated that since this is such a small group of residences without PI access, maybe we could have some special pricing set up just for them. Work out something that makes sense to them and us. Mr. Bunker suggested reducing the rate to \$1.50 straight down the board and not escalate the rates at all for the different tiers. C. Crawley suggested doing a little more than that.

C. Geddes stated that he doesn't like going below minimum of what culinary costs.

C. Zappala stated that he agrees that we ought to be giving them a fair deal, comparable to other residents.

Mayor Gygi asked if staff would be coming back with a recommendation. Mr. Bunker said that they would, the feedback that he got is that the council is amenable to looking at helping these people out with a different rate.

C. Augustus stated that he is fine with it as long as we are not subsidizing it with someone else's tax dollars.

Meeting with Pleasant Grove to talk about utilities

David Bunker said that we have received a letter from the mayor of Pleasant Grove regarding their need to provide sanitary sewer to some of their residents on 4000 North, which is 9600 North for Cedar Hills. For many years Pleasant Grove and Cedar Hills have been engaged in some discussions about providing Cedar Hills' services to the Pleasant Grove citizens on that road. The proposal from Mayor Daniels talks about the cost that it would take for Pleasant Grove to run a main line and that they would participate financially and give Cedar Hills roughly \$164,000 if we allow their residents to hook up to our sewer utility in that road.

Mayor Gygi said that the last time we were talking to them about this the offer was larger. Mr. Bunker stated that he recalls that it was around \$190,000.

Mr. Bunker said that he had a discussion with their city manager Scott Darrington who said that they are also in the same situation with the PI and not being able to provide it north of the canal due to pressure issues. Mr. Darrington suggested to start with discussions on the sewer issue and then work on discussing providing PI north of the canal.

C. Zappala mentioned that maybe these people should be residents of Cedar Hills. Mr. Bunker said that that is part of the issue because if we are providing service to these households maybe they should be Cedar Hills residents.

Mr. Bunker stated that this has been discussed before by past councils and we have never come up with a solid way to solve this and the issue of cleaning up the boundaries. He said that if we are going to talk about utilities we need to talk about boundaries as well, and how we can best serve the people in the area.

C. Zappala said that if it means for the time being they stay in Pleasant Grove but eventually come into Cedar Hills once the house is sold, that he might be amiable to that kind of agreement.

C. Augustus stated that the last time we met with them a couple of years ago; he thought that we were going to meet with them on a yearly basis and be able to have an open dialogue so that we can address some of these issues. He said that he is in favor of meeting and having a discussion with them.

Mayor Gygi stated that that is a good idea but there are some things that he would like to do first. He and Mr. Bunker would meet with their city manager and mayor to get a feel for where they are with this and then bring it to the council. Then the council can debate whether they want to provide services or not. Mayor Gygi said that he would like to make the case to Mayor Daniels that this has been a safety issue since the beginning and to see if they are open to discussing that.

C. Augustus suggested having two councilmembers there also. C. Crawley agreed. Mayor Gygi said that he would think about that.

Development Agreement with Amsource

Chandler Goodwin said that there were a few minor changes to the development agreement, two that he wanted to point out. In section 17 there is language regarding bonding for public improvements for the project, we require that developers post 120% of the value of that bond. Upon completion and inspection the money will be released. Also added is a durability bond which is valued at 20% of public utility improvements and that is held for one year after the initial inspection passes to insure that the workmanship, quality and materials used are up to city standards. He pointed out that this agreement is similar to the development agreement the city has with Walmart and Harts.

C. Zappala asked for an explanation of what a public improvement bond does. Mr. Goodwin stated that when a developer comes in and makes a subdivision we require them to do all the public utility infrastructure and improvements, the water, sewer, sidewalks, and roads. To insure that those are done properly and timely and to the city's codes and specs, we require that they post a bond at a value of 120% of the utility improvements. We hold that money in bond until we've done the inspections and given our final approval on the work done, at that point it is released back to the developer. The durability bond is 20% of the value of the improvements that were made which is held for one year after the final inspections are made to insure that the workmanship, materials and work done remains up to the city's standards. After one year if it is shown to be done properly, that money is released back to the developer.

Mr. Goodwin said that we have also added language to the water rights section. The AF well is worth \$5,000 per acre foot, based on what they have, there should be a minimum requirement of water that needs to be conveyed over to the city. The credit union will have a very lower water

usage, estimated at 2 acre feet; a total of 8 acre feet is the estimated minimum for the rest. If they come in with a laundromat or restaurant that would obviously be much higher. There is language in the agreement that says additional water rights are to be determined by the city engineer.

C. Augustus asked who originally created the development agreement. Mr. Bunker stated that we created this agreement for Lexington Heights and Walmart. C. Augustus stated to clarify that this is a template from the city not a developer. Mr. Bunker said that that was correct.

Eric Johnson said that what city is supposed to do under development is primarily dictated by city development code. A development agreement is for a developer to tell the city what they are looking to do above and beyond the development code in their effort to obtain approval. He said that when he reviewed this agreement last month he thought it was very developer oriented and not very public body oriented. He recommended that the city not agree that certain things do or do not meet code because that is a determination for the approval process, not an agreement. He does not see where Amsource is agreeing to do anything extra above and beyond what the ordinances demand so why should the city enter into an agreement; just let Amsource follow the city development ordinances. He said that even if there is a template that the city has used in the past, he is not enthusiastic about it as a template for the city.

C. Augustus asked for specific examples of where it is more developer oriented. Mr. Johnson said that in section 5 it says the city and developer acknowledges that the approval documents comply with the design guidelines. Mr. Johnson said that that is a determination for the Planning Commission and City Council's approval to make as opposed to being in an agreement. He said that section 5 is not in harmony with general provisions under the land use management act for it to come before the Planning Commission and the City Council to make those types of determinations. He said that agreements like this are standard and he sees developers try and do this consistently, to get an agreement that locks the city in. He said that he tries to resist it.

Mr. Bunker stated that he sees it differently, it does lock the city in, but we are locked in any way through the approval process that we've gone through. They have gone through the Planning Commission and are going through the City Council; this development agreement isn't signed until after the City Council gives final approval, and as a condition they are agreeing with the city that what is approved meets the code. This way they can't back out on the city and say that they did not know what was required to meet code or for approval. The agreement locks us in but so does the actual motion of the council saying that we approve this. It is an agreement that together we understand what the developer is going to be held to.

C. Augustus asked if this was roughly the same agreement that was used for Walmart, McDonalds, Chase Bank and Harts. Mr. Goodwin said that it was the same as the one used for Walmart, which we used as a template.

C. Augustus asked Mr. Johnson if he was recommending that the words from section 5 be taken out or that the wording needs to be changed to something different. Mr. Johnson said his recommendation is that the city identifies what is in this agreement that the city is really after and strip out the stuff that is largely duplicative of the land use development process. Mr. Johnson added that he is not saying you shouldn't enter into an agreement; if this is a template

that the city has used before and is comfortable using again then go right ahead. He is not saying that it violates the law; it is just a recommendation that he thinks there is a better format for the agreement that could be used. Mr. Johnson said that he also thinks it is appropriate if the City Council and the Planning Commission listen to his feedback.

Mayor Gygi stated that he agrees, and what is the downside of having Mr. Johnson look over the document and make recommendations and bring it back to the council.

C. Augustus stated that the downside would be the timing because it does delay them further in their process.

Mr. Johnson clarified that he is not saying this is an agreement where you are inherently getting yourself into trouble by entering into it.

C. Augustus stated that we are not putting further liability by entering into this agreement. Mr. Johnson said you are not; you are kind of duplicating the approval process.

C. Crawley suggested that we make changes in future agreements but not at the last minute, and move forward on this one.

C. Geddes agreed, he said he thinks it makes us look like we do not know what we are doing. This has been our template that we've used in past and changing at the last minute makes us look bad. Let's move forward on this one and in future review it earlier.

C. Augustus commented that if this was the first time we were using it then he would be more inclined to take a step back for review, but we have already used it four times with other commercial developments.

C. Geddes commented that we are not getting hurt by any redundancy in the language.

Mayor Gygi said that Mr. Johnson just wants to tighten up the language. Mr. Johnson said that there is a certain concept of approaching a development agreement that is distinct from the way this one does it that would be a better practice for the city.

MOTION: C. Zappala —To go into Executive Session, Pursuant to State Code 52-4-204 and to discuss the purchase, exchange or lease of real property. Seconded by C. Augustus. (6:51 p.m.)

AMEND MOTION: C. Zappala – to add discussion of pending or reasonably imminent litigation. Seconded by C. Augustus

Yes - C. Augustus
C. Crawley
C. Geddes
C. Zappala Motion passes.

EXECUTIVE SESSION

MOTION: C. Augustus—To exit Executive Session. Seconded by C. Geddes (7:02 p.m.)

Yes - C. Augustus
C. Crawley
C. Geddes
C. Zappala Motion passes.

This meeting was adjourned at 7:03 p.m. by Mayor Gygi.

/s/ Colleen A. Mulvey, MMC
City Recorder