

CITY COUNCIL WORK SESSION
Tuesday, February 18, 2020 6:00 p.m.
Community Recreation Center
10640 N Clubhouse Drive, Cedar Hills, Utah

Present: Jenney Rees, Mayor, Presiding
Councilmembers: Denise Andersen, Ben Ellsworth, Mike Geddes, Kelly Smith
Absent/Excused: Brian Miller
Chandler Goodwin, City Manager
Kevin Anderson, Assistant Public Works Director
Hyrum Bosserman, City Attorney
Craig Hall, City Attorney
Colleen Mulvey, City Recorder
Others: Lt. Josh Christensen

This work session meeting of the City Council of the City of Cedar Hills, having been properly noticed, was called to order at 6:07 p.m. by Mayor Rees.

1. Open and Public Meetings Training

Craig Hall presented on the Sunshine Laws which weren't started on the federal level until 1976. He said every portion of every meeting of an agency must be open to public observation. He noted that procedures must be implemented to ensure that the public is provided with adequate advance notice of the agency's scheduled meeting and agenda.

Mr. Hall stated that the Utah Open and Public Meetings Law wasn't passed until the early 1980s. He said that government is and should be the servant of the people, and it should be fully accountable. The appointed officials/employees have a different responsibility and the people of Utah hold them to that. More is expected out of elected officials and the public has invested their confidence and trust with them at the ballot box and that needs to be maintained.

Mr. Hall prepared a quiz and read the questions aloud by members of the Council.

Question 1: Three members of the five-person Council inadvertently meet at a local restaurant. They sit down together and discuss the upcoming Council meeting. Serious discussion occurred between all three members regarding a zoning decision to be made in the next meeting. Concerns?

C. Andersen answered that it is not allowed because there is a quorum gathered when there are three members present. Mr. Goodwin commented that there has to be three voting members. Mr. Hall said that three is the magic number and asked what they shouldn't have done. C. Andersen replied that they should not have discussed the zoning issue. Mr. Hall said it's tempting to talk about Council issues, but they must maintain control over the topic of conversation.

Question 2: The City Recorder received responses to a City road construction project (\$1,000,000). It is within the engineer's estimate and the budget approved by the Council. The

Mayor reaches out to the entire City Council on the phone seeking approval to sign the construction contract. Should the Mayor sign the contract outside the meeting?

Mr. Hall stated there are two issues with this and that it has to be on an agenda with a formal vote to move forward. He said the budget is approved, the money is there, but the actual authorization has not been given.

Question 3: Council Member Z cannot attend the next Council meeting in person. He will be in some exotic place. Can he attend the meeting in an alternate manner?

Mr. Hall commented that yes, he can as long as there are policies in place that allow it and asked what the agenda must say to indicate this. C. Andersen replied that the agenda must state that they are participating electronically or via phone. Mr. Hall said the takeaway from this is that yes, it can occur so as long as there are previously adopted policies and the agenda says someone may participate by phone or some electronic means.

Question 4: City Hall has burned down. The Council and the Mayor want to hold a Council meeting right now. Can they do it?

Mr. Hall asked what needs to happen for this kind of meeting to occur. Mayor Rees said that in an emergency the notice can be immediate. Mr. Hall concurred, and explained that the Mayor can call an emergency meeting when rapid response is necessary. Mr. Goodwin asked who determines the scope of an emergency, how emergency is defined, and if failure to notice something properly is considered an emergency. He noted that he has seen other cities do this. Mr. Hall replied that he does not believe that someone's failure to properly notice something qualifies as an emergency.

Question 5: Electronic devices are wonderful tools. During a Council meeting the following occurred: A citizen in the audience doesn't want to speak publicly about an issue because his neighbors are in the audience. However, he sent a text message to Council Member A with his concerns. Is this an issue?

C. Andersen said that she had this happen to her. Mr. Hall asked what she did. C. Andersen said she just nodded and didn't do anything. He was sitting in the audience asking questions while the meeting was going on. Mr. Hall asked if it influenced her, to which she responded in the negative. Mayor Rees remarked that she does not look at her phone during the public comment portion of the meeting.

Question 6: Council Member X sends an email to Council Member Z expressing extreme disappointment in the position X has taken. Should we be concerned?

Mayor Rees commented that there is a law that states a person cannot communicate electronically during meetings. Mr. Hall concurred. He then provided a brief summary of the concepts discussed throughout the training.

2. Discussion Regarding Advisory Committees

Mr. Hall said that he and City Recorder, Colleen Mulvey, had a discussion regarding Advisory Committees being subject to open public meetings. He said the four advisory committees are the Beautification, Recreation, Parks, & Trails, Cultural Arts, Family Festival, and the Youth City Council. Mr. Hall asked who has the authority to spend money from the Youth City Council budget to which Mr. Goodwin replied the Council approves the overall budget, but they do not make the purchases; typically, staff makes the purchases.

In response to a question from Mayor Rees related to meeting minutes, Mr. Hall stated that a brief description in the minutes prior to the decision helps minutes make more sense. Mr. Goodwin said it is difficult to get minutes from these committees and we are trying to simplify it to get better results. Mayor Rees suggested assigning a member in the committee to be the official record keeper. Mr. Goodwin agreed and said that this is an area where the City can improve. Mr. Hall said committees with budgets should take minutes. Ms. Mulvey suggested getting small recorders with thumb drives for committees to record their minutes. Mayor Rees said she wouldn't mind going to meetings if she received an agenda.

Mr. Hall suggested that going forward committees with budgets should post an agenda at least 24 hours in advance. All motions and events of that meeting, as well as who is present, should be recorded.

3. Discussion on City Ordinances Regarding Board of Adjustment and Hearing Officers

Mr. Hall stated that several weeks ago the Mayor gave them an assignment to start working through the City ordinances regarding the Board of Adjustment and hearing officers. Mayor Rees said that there is a board of adjustment that meets very infrequently about land use issues and currently is made up of three residents. However, none of them are land use experts and a lot of cities have a hearing officer that is generally an attorney that specializes in land use issues. In these cases, cities have that person be their appeal authority instead of a board of adjustment. Mr. Goodwin commented that this also helps remove the element of public clamor and that the decisions should be made based on code and how well the application adheres to code.

Hyrum Bosserman stated that it wouldn't be too difficult in the code putting forth a hearing officer or multiple hearing officers. Currently, the Mayor, with advice and consent from the City Council, selects members for the board of adjustment. A lot of cities do it that way or they have the City manager pick the board of adjustment with advice from the mayor. There would be questions about terms, but that is something that could be hashed out later. He said that there are a lot of places in the code where a hearing officer or board of adjustment makes a decision. As it currently stands in the code, business license appeals go to the City Council directly which is generally how it is done, but in some cities, they have a hearing officer hear these appeals.

Mayor Rees commented that she likes the idea of having a land use authority for making land use decisions but on the business license issue, she questioned how the process would work for businesses that sell products through online markets such as Etsy. Mr. Goodwin commented that it hasn't previously been an issue because the staff has always worked with them on some level.

Even if they hadn't met the code, the code would be looked at to see if it was reasonable. If it hasn't been reasonable the Council has been approached to make changes to the code. Mayor Rees said that the question is whether the Council gets to appeal or if a third party should be brought in. C. Geddes stated that since businesses affect the City it should go to Council. Mr. Goodwin says it is worth a discussion. Mayor Rees stated that land use should go to someone who specializes in land use issues.

Mr. Goodwin stated that the State has required some cities to have some separate appeal authority for building permits specifically. Mr. Hall commented that that the building code contemplates having an architect or an engineer to technically interpret the information. Mr. Goodwin says that's in contrast with what the building official has done and recommended or advised.

ADJOURNMENT

This meeting was adjourned 6:53 pm on a motion by C. Andersen, seconded by C. Geddes, and unanimously approved.

Approved by Council:
April 14, 2020

/s/ Colleen A. Mulvey, MMC
City Recorder