

CITY COUNCIL MEETING
Tuesday, July 7, 2020 7:00 p.m.
Community Recreation Center
10640 N Clubhouse Drive, Cedar Hills, Utah

Present: Jenney Rees, Mayor, Presiding
 Councilmembers: Denise Andersen, Ben Ellsworth, Mike Geddes. Brian Miller,
 Kelly Smith
 Chandler Goodwin, City Manager
 Jeff Maag, Public Works Director
 Hyrum Bosserman, City Attorney
 Colleen Mulvey, City Recorder
 Others: Lt. Josh Christensen

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 Rees. The Pledge of Allegiance was led by C. Andersen and the invocation was given by C. Ellsworth.

2. Approval of Meeting’s Agenda.

MOTION: C. Smith—To approve the agenda. Seconded by C. Ellsworth.

Yes	-	C. Andersen	
		C. Ellsworth	
		C. Geddes	
		C. Miller	
		C. Smith	Motion passes.

3. Public Comment: Time has been set aside for the public to express their ideas, concerns, and comments. Comments are limited to three minutes per person with a total of 30 minutes for this item.

There were no comments.

CITY REPORTS AND BUSINESS

4. City Manager

Mr. Goodwin started by recognizing the golf staff and the course, it has been an excellent year and has exceeded everyone’s expectations even during these difficult times. Events had started up again with some restrictions, recreation programs had started again, a pickleball tournament is scheduled for this week, registrations for fall soccer, flag football, and a youth pickleball tournament are open. He reminded everyone that it was illegal to light fireworks off in City parks.

5. Mayor and Council

C. Andersen commented that the graduation parades were a success. She said people had told her they wished they could do the graduation parades again the following year.

C. Smith commented on Harvey Park, stating that the adults were waiting in lines right along with the kids.

Mayor Rees stated that they had received their CARES Act funding and that staff was working on allocating it. Their goal was to have applications in by August and information would go out to all the small businesses on how to apply for those funds.

Mayor Rees turned time over to Cameron Bird who had a presentation on an idea for an adopt a trail program.

Cameron Bird stated that she had an idea for an annual trail cleanup that would occur the last Monday in September where they would remove garbage and clean up the trails. They would need a dumpster or dump passes for volunteer truck drivers to take debris to the dump. She commented that the adopt-a-trail program would entail a one-year commitment to adopt a quarter-mile length of trail. Adoptees would pay \$25.00/year and could only adopt one per year. The fee would go towards garbage bags and trail markers with the adoptees name. They would need permission for the annual cleanup and to post flags along the trail for adoptees.

Mayor Rees loved the idea and stated they had had a lot of discussion about the trails in the City so having a community program would be a fabulous idea. She said \$25.00 was reasonable and asked if they had investigated plaques for adoptees. Mr. Goodwin stated that he thought it was a great idea and the debris was not just litter, but sometimes overgrown areas with branches or weeds. To do the program, he stated that Cameron Bird would need to meet with staff and make a proposal to bring to Council. He said they would want to have a better understanding of what the City would need to pay for. They would need to identify which trails people could adopt and make it clear to residents who wanted to adopt. Tracy Lieberman commented that the reason that they had gotten together as a group was to discuss a section of trail with overgrown branches that were safety hazards. Mr. Goodwin commented that initially they should work with Staff and then work with the Parks and Trails Committee if they needed to.

C. Andersen stated that people could get together and take ownership of the City trails which would be beneficial to the City and the residents. Ms. Lieberman stated this would be a pilot program to see what the level of participation and commitment would be.

6. Review/Action and Public Hearing on an Ordinance amending City Code Titles 9, 10 & 11 related to the Board of Adjustment

PUBLIC HEARING

No comments.

Mr. Goodwin stated this item had gone to the Planning Commission the previous week and hoped he could clarify Staff's intent versus the Planning Commission's understanding of the

amendment. The issue in front of them was having an appeal authority of residents on the Board of Adjustment or an appeal authority as a hearing officer. An appeal authority could be one person or several and there were no resident requirements: they just needed to be trained, impartial, and credible to the decision they were making. He stated the appeal authority not only listened to variances but also the interpretation of administrative application of the ordinance. Some municipalities had more than one appeal authority and could be based on what type of decision was being made. He read from a Utah land use regulation document.

Mr. Goodwin stated the criteria for a variance was strictly controlled by State law and there were five criteria that needed to be met for a variance to be granted. It was important to get variances right because it was not tied to the landowner it was tied to the land. The City currently has a Board of Adjustment. He had been discussing with legal counsel for the last year and a half to move from a Board that was made up of five community members to a hearing officer. When this was presented to the Planning Commission the concern was that the community needed to be involved in making decisions, not a hearing officer who was removed from the situation. Mr. Goodwin disagreed with that stance in that it was not based on who your neighbor was or what you thought of someone. He added there was a real need to get decisions made on variances right.

City Attorney Hyrum Bosserman stated that he would concur with a lot of what Mr. Goodwin had said. The trend in Utah was to move away from a Board of Adjustment and move towards a hearing officer; one of the reasons for this was impartiality. Another reason was that a hearing officer was legally trained in making specialized decisions which would also allow for consistent results. He commented on costs and stated that a Board of Adjustment did not necessarily cost the City anything and a hearing officer would be paid hourly, but it could potentially save the City money by avoiding attorney fees.

Mr. Goodwin said this is a proposal to replace all mention of the Board of Adjustment in City code to a hearing officer. He stated a hearing officer would operate the same way as the Board of Adjustment and would be appointed by the mayor with the advice and consent of the City Council, and if that person did not perform the job appropriately they could be removed by Council at any point.

Mayor Rees recalled that in 2006 the land use laws changed in Utah, and prior to that the laws were such that cities had a lot of leeway to interpret these laws. When the law changed there was a greater focus on property rights and cities had to be very clear and specific in their ordinances in order to apply them, there could not be any ambiguity. She stated that as a City they had seen that their code had not been updated past 2006 which had caused an issue; however, updates had since been made. She said when it came to the Board of Adjustment she shared Mr. Goodwin and Mr. Bosserman's thoughts and since the laws had changed it would be better to have someone with professional experience make decisions to help keep the City on track. As far as cost, the Board of Adjustment did not meet very often, and all of the costs would be passed onto the person making the appeal so the City would not be spending a lot of money on it.

Mr. Goodwin said when they received applications, they made sure they addressed the five required criteria and many times the criteria was not met and did not often come to fruition.

C. Miller asked what kind of feedback they had received from the Board of Adjustment on this issue. He stated he had emailed them the previous week before the Planning Commission meeting and they recognized and supported moving to a hearing officer. Mayor Rees commented that she really wanted someone with land use expertise.

Mr. Goodwin stated he wanted to make sure it was known that this was not a reflection of the current members. He added this was a push for a best practice for the City. C. Miller stated that he supported this based on reasoning. He said it would still be based on the same standards but suggested defining legal experience and training to set a minimum standard for what the City wanted. He suggested reaching out to other cities to see who they were using and maybe get someone who was already doing it.

C. Smith stated she was in favor of this, she liked the idea of defining legal experience and would prefer it to be an attorney who specialized in land use issues. C. Andersen agreed.

MOTION: C. Andersen—To approve Ordinance No. 07-07-2020A, an ordinance amending City Code Title 9, 10, and 11 related to the Board of Adjustment, and the creation of the position of a Hearing Officer to serve as the appeal authority for the City of Cedar Hills.

Seconded by C. Smith.

Yes - C. Andersen
C. Ellsworth
C. Geddes
C. Miller
C. Smith Motion passes.

7. Discussion and Public Hearing on an Ordinance amending Title 10 Chapter 5 related to Fences

PUBLIC HEARING

No comments.

Mr. Goodwin stated this was tabled by the Planning Commission for further consideration. Staff was having the American Fork Police Department come and talk about safety as it related to trails. He recommended that they table this until that had occurred.

MOTION: C. Miller—To table this item. Seconded by C. Ellsworth.

Yes - C. Andersen
C. Ellsworth
C. Geddes
C. Miller
C. Smith Motion passes.

8. Review/Action and Public Hearing on an Ordinance amending City Code Title 10 Chapter 5 related to Driveways

PUBLIC HEARING

No comments.

Mr. Goodwin stated it had been suggested that homes with steeper driveways have code compliant steps adjacent in the event of an emergency to allow easier access for emergency personnel; however, there was not a building code that required this. It was being proposed that driveways which exceeded a 12% slope have code compliant steps somewhere attached to the public right-of-way to the main entrance. They recognized that each building situation was different and sometimes there was a necessity for a steeper driveway and this code would allow for those instances given the provision there were accompanying compliant steps. He stated there were several instances where this could be seen throughout town and this could not be retroactive. It would give the building official authority to make sure homes were being constructed more in compliance with public safety. Mayor Rees added this proposal was made in response to a request from the fire marshal.

C. Geddes asked what the discussion with the Planning Commission was about. Mr. Goodwin stated he thought they recognized the need for it but some of the concern was about the 12% grade. C. Geddes asked if it was just to cover areas where the slope was over 12%. Mr. Goodwin deferred to Jeff Maag. Mr. Maag stated the stair portion was only required where the driveway did not meet the requirements of a ramp, therefore, if the driveway could be utilized as a code compliant ramp then that would be acceptable. C. Geddes asked what the fire marshal was requesting to which Mr. Goodwin replied that it had to do with their vehicles. C. Geddes commented there currently were residences that had very steep driveways that would never be compliant. Mayor Rees said they would be grandfathered in.

Mr. Goodwin asked that they table this item for the evening and consider for further discussion and adoption at a later date.

C. Smith asked if they were only talking about new builds to which Mr. Goodwin replied yes, and it would also apply to rebuilds. C. Geddes stated that he did not think it should apply to rebuilds. There was further deliberation on the matter.

MOTION: C. Geddes—To table this item. Seconded by C. Ellsworth.

Yes - C. Andersen
C. Ellsworth
C. Geddes
C. Miller
C. Smith

Motion passes.

9. Review/Action on an Ordinance amending City Code Title 6 Chapter 8 related to Park Curfews

Mr. Goodwin said with the opening of Harvey Park they had had complaints about people being in the park both early in the morning and late at night. The park hours were 5am-11pm but switched to 5am-10pm during the school year. They had complaints from 5-7am about

pickleball noise. They had tried to line up their hours with American Fork so that American Fork police officers were enforcing the same rules. He stated they could put in some rules about specific times pickleball was allowed and that there were softer balls and paddles that existed in order to reduce sound.

Mayor Rees discussed the City's noise ordinances. She said she did not care if they changed the hours in the ordinance of the park hours themselves if they changed something to make it more consistent. C. Smith said if they were going to require residential areas to be quiet to not disturb their neighbors, they should require the same of the parks. She did not want to see people in parks after dark. Mayor Rees stated the only thing she liked about having a set time was that it was easy for law enforcement to enforce.

C. Geddes stated that he lived close to Harvey Park and took a decibel reader to the park to take an informal reading of the noise levels. From the street it was no higher than 70 decibels at most. Mayor Rees commented it was not just Harvey Park they were receiving complaints on, there were other parks as well.

C. Geddes agreed with the inconsistency of the hours. C. Andersen commented that putting their park code in line with their residential code would be a good idea for consistency.

Lt. Christensen stated that American Fork was the same way in that it was almost two separate issues. Outside of obtaining a permit for special events, any loud event was shut down at 10:30pm which gave people a half hour to disperse.

C. Ellsworth commented that he liked the idea of having a half-hour window for dispersal. There was discussion about the closing time of the park. Mayor Rees stated her concern in the evening would be the people who were there at 10:00 were not going to stop making noise. She was concerned about this because if their calls to dispatch increased by 12% in any year they had to pay more. She said even though the park closed at 11:00 people would stay until someone kicked them out. C. Ellsworth asked about the lights. Mayor Rees said at that time the lights went out at 10:45 but she had noticed that even when the lights went out people would congregate in another area and continue playing. C. Smith stated she liked the idea of 10:00. C. Andersen stated she did not mind 5:00 am but there was no need for teenagers to be in the park after 10:00 pm.

Mr. Goodwin commented on the pickleball noise and stated he had received two complaints in the first week. Mayor Rees stated their code specifically said that sports and other activities in or adjacent to a residential zone were not allowed between the hours of 10-7 so they had technically been violating their own code by allowing pickleball to be played at 5:00 am.

C. Andersen stated she would not want to change their ordinance. Mayor Rees commented there was nothing to change they would just need to start enforcing the ordinance as it was written.

There was discussion about what times should be instituted and enforced. Mr. Goodwin said they could change 11:00 to 10:00 year-round and add language that stated that from 5:00-7:00am

while the parks were open there could not be any activities that may violate the City's noise ordinance.

MOTION: C. Ellsworth—To approve Ordinance No. 07-07-2020B, an ordinance amending Title 6-8-6 of the City Code of the City of Cedar Hills, Utah, relating to curfew in parks and public properties, specifying the curfew will now be 5:00 a.m. to 10:00 p.m. year-round for the parks with reference to the noise restrictions between the hours of 10:00 p.m. and 7:00 a.m. found in section 5-2-2(d) of the City Code. Seconded by C. Smith.

C. Geddes asked about the effective date of this ordinance. It was decided this ordinance was to take effect on August 1, 2020.

MOTION: C. Ellsworth—To amend the motion to include this ordinance will take effect on August 1, 2020. Seconded by C. Smith.

Yes - C. Andersen
C. Ellsworth
C. Geddes
C. Miller
C. Smith Motion passes.

10. Review/Action on Vista Room Reservation Refunds during the Coronavirus Pandemic

Mr. Goodwin stated the Coronavirus had changed event plans and there had been limitations set by the state on the sizes of groups allowed. He said the current event center contract stated that refunds were non-refundable, and he had had staff reach out to other event centers in the area to find out what they were doing. After speaking with other venues, they found that 87% had decided to keep deposits. He said he had gone through the event list and organized them by what phases they were in. He mentioned they had strong language in their agreement about refunds, but it was up to Council to decide. In the red phase there were 8 events with a refund value of \$3775, in the orange phase there was only 1 event with a \$400 refund value, and in the yellow phase there were 8 events with a \$3500 refund value. From the events scheduled in July through September he stated he was in no way willing to refund deposits because the events could still be held, they would just need to adhere to social distancing guidelines. Of the \$9775 shown he was actually looking at about \$7300 of it. He discussed the impact this may have on the budget for the next year. He explained how the different phases allowed for different amounts of people; the orange phase allowed for 20 people and the yellow phase allowed for 50. Mr. Goodwin added he was not inclined to refund for any even that had not happened yet.

C. Smith asked if the renters who cancelled had asked for their deposits. Mr. Goodwin replied he thought only two had asked so far, his understanding was these were events that had cancelled and not rescheduled. Renters had been told that their deposit could be held for a future date, so some people had rescheduled.

C. Andersen asked about the events that occurred in the red and orange phases where the renter had no control over the cancellations. Mr. Goodwin commented he was more sympathetic to the red and orange phases but in the yellow phase the event could have occurred.

C. Miller asked if the other entities that were surveyed were public or private to which Mr. Goodwin replied they were mostly private. C. Miller asked about matching the deposit for a future event. Mr. Goodwin stated that that was an option. C. Smith commented that if they allowed deposits to be applied to a future event people could offer it to someone else. Mr. Goodwin stated he did not know what the contract said and that was why he thought they needed to filter the events out.

C. Ellsworth said the whole shutdown was government imposed and he agreed with everyone about the sympathy for red and orange phase events.

C. Miller liked the idea that Ticketmaster had used when they offered a refund or a 150% credit towards another event in the future. He stated they would keep the business and make money if they kept the event for a future date. Mayor Rees said they would need to put a time limit on it. There was discussion about what the time limit should be. It was decided that 18 months would be an acceptable amount of time.

C. Smith asked how the deposit amount was determined. Mr. Goodwin replied it was a fixed rate of \$400. C. Smith asked how much it cost for an event in the Vista Room to which Mr. Goodwin replied that for a non-resident on a Friday or Saturday night it was around \$1500-\$2000 and \$1800 for residents. There was discussion about how they wanted to do the refunds and rescheduling. Mayor Rees commented that COVID aside renters could still reschedule.

Mr. Goodwin recapped to clarify that events that were cancelled due to the orange or red phase were to be offered a refund or a match of their deposit plus \$200 and for events in the yellow phase no refunds were being given but would be allowed to be scheduled through 2021.

MOTION: C. Ellsworth—To direct staff to issue Vista Room refunds based on the following criteria: the events that were cancelled due to the red or orange risk phase will be offered a refund or match of their deposit, plus \$200 if they reschedule their event by December 31, 2021; events cancelled in the yellow risk phase will follow the standard contract policy. Seconded by C. Andersen.

Yes	-	C. Andersen	
		C. Ellsworth	
		C. Geddes	
		C. Miller	
		C. Smith	Motion passes.

Motion: C. Andersen - To go into Closed Session Pursuant to Utah State Code 52-4-205(1)(c) to discuss pending or reasonably imminent litigation, closed session held in the Community Recreation Center. Seconded by C. Smith. Vote taken by roll call. (8:48 p.m.)

Yes - C. Andersen
C. Ellsworth
C. Geddes
C. Miller
C. Smith Motion passes.

Motion: C. Ellsworth - To adjourn the Closed Session and reconvene the Council Meeting.

Seconded by C. Smith. (9:06 p.m.)

Yes - C. Andersen
C. Ellsworth
C. Geddes
C. Miller
C. Smith Motion passes.

ADJOURNMENT

This meeting was adjourned 9:07 p.m. on a motion by C. Andersen, seconded by C. Miller, and unanimously approved.

Approved by Council:
August 18, 2020

/s/ Colleen A. Mulvey, MMC
City Recorder