

CITY COUNCIL MEETING

Tuesday, November 19, 2019 7:00 p.m.
Community Recreation Center
10640 N Clubhouse Drive, Cedar Hills, Utah

Present: Jenney Rees, Mayor, Presiding
Councilmembers: Denise Andersen, Ben Bailey, Ben Ellsworth, Mike Geddes,
Brian Miller
Chandler Goodwin, City Manager
Charl Louw, Finance Director
Greg Gordon, Recreation Director
Jeff Maag, Public Works Director
Joel Wright, 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 7:01 p.m. by Mayor Rees. The Pledge of Allegiance was led by Mayor Rees and the invocation was given by C. Bailey.

2. Approval of Meeting’s Agenda.

MOTION: C. Andersen—To approve the agenda. Seconded by C. Geddes.

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

Tyler Gardner, 10218 North Oak Court, commented on item #8. He thanked the Council for reviewing this issue again. He gave an updated overview from the last time they met. On October 18th, 2018, he received a letter regarding the removal of new encroachments in the common area. While they were in the process of reviewing options, they observed that the County had changed the ownership designation from CAT Properties to a common area. They were informed of the state law 10-9-80-6.6 which was included in the agenda notes. Because of this law they invited the County and the City to settle this issue with him to follow the steps and law that modified the property which were to receive about 60% of the voting interests in the area and to get it passed by the local government. He petitioned and received the appropriate signatures to annex the encroachments into their properties. These encroachments were to be maintained by the property

owners for many decades. In the agenda they included a survey and description of the area to make it compliant with Utah Law.

Ray Layne, 4279 West Oak Road, said he was there to finally solve this issue with the common area. The land was given to the neighborhood in Plat I. Over the last year they worked together one-on-one and discussed different options. They appreciated the gift of the land. The overwhelming majority agreed that the best solution was to have borders on the land. He hoped this would resolve this issue.

Cheri Condie, 4221 West Oak Road, thanked the Council for this opportunity to discuss the boundary adjustment petition Plat I. She asked the Council to deny this request. She reviewed the history of the property and stated that this petition was not just a pure resettlement issue. The City had the final say because the law gave them the authority to make the decision about it. With the City's approval, the City would give chunks of open space away, after the public has been told for decades that this land would be used as parkland. The last few years, the City was in charge of the zoning petitions. Now they were in charge of what happened to the common area. They would be better served politically to keep the parcel intact with the full acreage it contained. It would allow more flexibility for future City Councils to use the land for other uses. They would give the public an opportunity to act on what the community might need in the future. Cutting off parts of the common area were motivating other adjacent property owners to do the same. There was a great deal of interest around the other plot owners to spit up the open space entirely and annex it to the adjoining lots. The City must not let this happen as the open space will be lost forever. The City would put the land at risk to be subdivided or filled with developments totally unpaired with the neighborhood, which would impact the affordable housing gap. Privatizing the land would not be compatible with the intent and purpose of the General Plan, either. As much as she loved admiring her neighbors, she still felt that the rewarding encroachments with free land was not beneficial for the public, especially when a request for nearly an acre of additional land was so unreasonable. She proposed that the encroachment issue be resolved through a permanent easement.

CONSENT AGENDA

4. Minutes from the October 1, 2019 & the October 15, 2019 Work Session and City Council Meetings
5. Appointment of Mary Lou Broadhead to the Beautification, Recreation, Parks and Trails Citizens Advisory Committee

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

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

Motion passes.

CITY REPORTS AND BUSINESS

6. City Manager

Chandler Goodwin reported on closing the golf course next week for the year. He wanted to thank the staff for their tremendous year regarding tournaments and increasing play. Junior Jazz and the Ski Bus registration are open. The annual Night with Santa was scheduled for Dec. 2 at 6:00 p.m. It was a free event open to the public, and they encouraged the public to come with children. Finally, they were projecting snow in the next week so they would like to remind people to abide by the City rules in terms of on-street parking. By keeping cars off the street, they were making a safer environment for plow drivers.

7. Mayor and Council

C. Andersen attended the Central Utah 911 meeting. They discussed the new radios that responders will use. She asked Lt. Christiansen if in his department they had decided if they will be using the Hansen radios. Lt. Christensen said yes. The new repeater system was more encrypted, and they had to have a certain type of radio to even be on that system. They had a good start on replacing those, so they were in good shape as well at the Fire Department overall for the next five to ten years. C. Andersen said they were trying to improve the cell towers and public communications. She also gave an account of a conversation she had with resident who was upset with a sign that was placed in her yard.

C. Geddes asked if there was an update on the service level cell towers at Tibble Fork. Mayor Rees said they were still working on it and had no update. Lt. Christensen added that they were almost a year out.

8. Review/Action on Cedar Hills Subdivision Plat I (Oak Road) Common Area Parcel

Mr. Goodwin went through the history of the area. Essentially this plat was part of greater Cedar Hills subdivision that was acquired in 1977. Some of the subdivision plat signatures were approved by the County Commission and some approved by the Council. This particular plat was approved at the birth of the City. Lot 26 open space was what the City was looking at currently. Typically, there was a clear dedication of who the ownership of a particular plat would be. In this case, though, it was not really clear who the owner would be. In 1983 the company had to stop paying taxes on the plat because the City did not take over the plat in 1977, and it went up for tax sale at an auction. The City did not buy it. It changed hands from the original owner, the developer, to a private owner. From 1983 until about last year, it remained in private hands, having changed hands two or three times. However, ultimately it ended up in the hands of Mr. Parsons. A couple of years ago there was a proposal to put a home on the lot next to the adjacent homes, which was when the issue of encroachments came up. As of last year, Mr. Parsons did not make property taxes on the property and county attorney's office flagged it. State law changed in 1983 when it was originally sold, indicating that common area/open space could not be held in private hands. Title 10-9a-606 of State Code noted that that a person may not separately own, convey, or modify parts of area designated as common area or common area facility. Therefore, the land in question cannot be owned by a private individual. Mr. Goodwin further elaborated on the matter.

Mr. Goodwin then presented an aerial map of the plat, showing that it sloped drastically and was not particularly accessible. Ownership changed from private owner to common area. It was staff's recommendation that the City take the plat out of the capital facilities plan because it was not their land and could not be their land. Mr. Goodwin noted that in 2015, the land was rezoned to public facilities with the understanding that this would be a park one day. He believed that this would not become a park, as per this designation. HOA common areas the City did not dictate. He explained that the petition presented to the Council sought to formalize encroachments by changing the boundaries of the common area. There was subsequent deliberation on the matter.

C. Andersen asked how the property taxes were handled, to which Mr. Goodwin explained that when it was privately owned, they were paid for by the individual owner. The total property tax assessment was just under \$20 annually. Taxes were currently split evenly among everyone on the border of the plat.

C. Bailey asked if this matter had been reviewed by legal counsel, to which Mr. Goodwin answered affirmatively.

C. Bailey asked if Mr. Parsons had a claim to this at all. Mr. Goodwin said there were two parcels in question, and this only affected one of them: Parcel 26. There was another parcel that was an odd shape that was still privately owned.

Mayor Rees asked if the amount requested was larger than the existing encroachments. Mr. Layne said yes and no; in this case, it was larger than the encroachment. Mr. Goodwin added that he did not think there were encroachments in the crosshatched area presented on the plat, but there were a number of others on the other two lots.

Mayor Rees said if it was turned over to the City, it would have to be 67% of those landowners who agreed to give it to the City; the City could not just take it. Mr. Goodwin said this was correct.

C. Geddes said the Council reviewed this issue in 2018. There was never a strong desire for the City to own this because it was very unusable. He said there was a developable lot in this open space. He suggested that the homeowners get together and agree to sell the lot, thereby putting that money into a perpetual fund that would then fund an open space. They could use the funds from the sale to maintain it as private open space, since they were the ones who benefitted from it. Mayor Rees said the issue was that the City could not require the owners to move forward with that type of negotiation. There was further deliberation on the matter.

Mr. Goodwin said the maintenance of the property had been a concern, and something that concerned the whole neighborhood, the property owner did not maintain it. His big reservation was that from a City standpoint, in its current form with encroachments, they could not do anything with this property. The City could not create a trail that walked through it safely with a fence because at some point it was too narrow. He stated that with enough engineering money this could be changed, but it would be expensive. Secondly, since it was not on the capital projects plan, and there was not a plan to add it in the near future, that maintenance would fall on the City. He did not know that he would want it at that point. So right now he was not in favor of this becoming

City property. He was perfectly content with it remaining in its current form as open space. He stated that he had hesitation with the City owning this property in its current form. He recommended to the Council and to the Planning Commission that this be placed back in the R1 11,000 zone. He reiterated that this was not buildable space; however, it was still open space.

MOTION: C. Geddes—To table this item to a future meeting. Seconded by C. Ellsworth.

Yes	-	C. Andersen	
		C. Ellsworth	
		C. Geddes	
		C. Miller	
No	-	C. Bailey	Motion passes.

9. Public Hearing on Amendments on an Ordinance Amending Title 10, Chapter 5-39 related to Tobacco Specialty Businesses

Mayor Rees gave a background of the issue. Since the Planning Commission met, the State had since changed their ruling, so this was a moot point, but this item was noticed as public hearing.

Mayor Rees opened the public hearing. No comments were made, so she closed the public hearing.

Mr. Goodwin said the concern was that these tobacco specialty businesses were skirting the laws.

10. Review/Action and Public Hearing on an Ordinance Amending Title 10, Chapter 5-5 related to Driveways

Mayor Rees opened the public hearing. No comments were made, so she closed the public hearing.

Mr. Goodwin said there were a number of secondary driveways in the City. This would formalize an ordinance that would allow a section of the curb path, but also allow for driveway. The limit to the driveway was 20 feet. The City, with this new ordinance, would allow for up to 30 feet primary driveway, the one secondary driveway could not exceed 20 feet, and corner lots could not exceed 50% of the front yard/side yard. A resident would still have to maintain their landscaping requirements.

MOTION: C. Andersen—To approve Ordinance No. 11-19-2019A, an ordinance amending Title 10, Chapter 5, Section 5 of the City Code of the City of Cedar Hills, Utah related to driveways in setback areas. Seconded by C. Geddes.

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

11. Review/Action and Public Hearing on an Ordinance Amending Title 10, Chapter 5-9 related to Recreational Vehicles and Mobile Homes

Mayor Rees opened the public hearing. No comments were made, so she closed the public hearing.

Mr. Goodwin explained that this action dealt with a verbiage change. The code stated that a person could not occupy a recreational vehicle or mobile home on any lot or parceled land in the area covered by the zoning map and/or to use the same for human habitation. The City did allow people to park their RVs and mobile homes on their plots, but what they did not allow was to use that for habitation. The “and/or” language was problematic.

C. Geddes asked if they City defined habitation, to which Mr. Goodwin said no; he didn’t think they used it. He thought it was any amount of time. The “and/or” became problematic because it prevented parking and living, so they wanted to scratch “the.”

C. Miller asked if this addressed guests coming for a weekend who may stay there, and the answer given was no.

C. Bailey recommended that the Council address the habitation definition. Various times when someone came in for a weekend, he personally did not see any problem with them staying there, or if they brought their own RV etc. He did not see a problem for up to seven, fourteen days, just like campsites. Mr. Goodwin said if that was how the Council felt, he was willing to do some research on the definition of habitation and length of time. But right now, he did not read that the City had any code that regulated this, so any habitation would then be considered habitation.

Mayor Rees said the City had complaints from homeowners about habitation that had occurred. C. Geddes appreciated what C. Bailey said, but he thought it would be better to be lose the definition of habitation. They were not going to get a notice of complaint from neighbors staying for a weekend. If they were staying there week after week that was different.

Mayor Rees said in that case, she might prefer to leave the definition as was, because the City only enforced it if someone called and complained, and if someone called and complained, then there was probably a reason it occurred. She thought the City should address the issue when there were complaints. Joel Wright commented that defining this term was almost like baiting. There was brief discussion on this point.

MOTION: C. Bailey—To approve Ordinance No. 11-19-2019B, an ordinance amending Title 10, Chapter 5, Section 9 of the City Code of the City of Cedar Hills, Utah related to recreational vehicles and mobile homes. Seconded by C. Andersen.

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

12. Review/Action and Public Hearing on a Resolution Adopting Fiscal Year 2019-2020 Budget Amendments

Mayor Rees opened the public hearing.

Public Hearing

Cheri Condie, 4221 West Oak Road, said she admired the City Council for the work that they did, especially when it came to the budget. With regards to Harvey Park, she was there to ask the City to please reinstate the Oak Road Parkland development project back into the budget. With all the fiscal focus on newer neighborhoods, she would like to remind the Council of the residents of original homes. For several years this City had generated and supported homes for what was known as the Hillside Parcel in the General Plan. Now this plan seemed under threat to be split up among private parties, losing forever the possibility of keeping it open space for the community.

Mayor Rees closed the public hearing.

Charl Louw said in the original budget for park maintenance, they were going to have golf staff supervise seasonal workers. They had done some research and found Alpine City had one employee who handled all the landscaping maintenance, another employee who worked on bathrooms etc., and the rest of the staff were seasonal. What they were proposing was two dedicated full-time employees who would report to Mr. Anderson, the Assistant Public Works Director, and then the City would also hire a permanent part-time position and hire more seasonal workers in summer. This would save about \$10,000 for the rest of the year and would save close to \$100,000 next year. That was the main budget adjustment.

Mr. Louw also noted that they had to do some renovations to the fire station security system. This cost about \$6,000 more than was planned, because they did not know about the security system improvements at the time the budget was made. With the commercial area, they had had significant observation costs, which were approximately \$100,000. Mr. Goodwin asked if this was also for Cedar Canyon Subdivision, to which Mr. Louw responded in the affirmative.

Mayor Rees asked if the security system was on the entire building. Mr. Goodwin said no. They identified a number of key doors to put some pad locks on, both externally and internally. There was an ambulance now, so they have medicine on site and wanted to keep it on lock and key, so the new security system tracked who went in and out.

C. Andersen asked if there was a yearly expense for that. Mr. Goodwin said no, it was a one-time thing.

C. Geddes asked if the assistant positions were both part-time. Mr. Louw said no. There would also be two full-time positions. C. Geddes asked what the employees would do during winter when everything was closed. Mr. Louw said Mr. Anderson and Mr. Maag would have assignments for maintenance in the parks. C. Geddes asked if they could also be Public Works technicians. Mr. Goodwin said yes, but ideally, they would be focused on parks. In the chance the new employees had more time, they would be used as technicians.

Mr. Maag said they had tracked the hours and would typically spend about 300 hours a month in winter for park maintenance. During the winter hours they seemed to spend at least as many as they did during summer without the landscaping. Now they were projecting more maintenance

repairs, more small equipment maintenance during the off season to be ready for the mowing season. They also needed to do all the ordering/planning. There was minor tree pruning and removal. When they went through and analyzed the hours, he thought there was more than enough work, and being part of Public Works, they had work for them when it was needed. They would still be participating in snow plowing and typical winter Public Works projects.

C. Geddes asked when staff anticipated hiring these new employees. Mr. Goodwin said they were posting notices soon and hoped to hire no later than January. Other expenses in the budget were then discussed including the purchase of a trailer, fertilization, and the hiring of golf course employees.

MOTION: C. Ellsworth—To approve Resolution No. 11-16-2019A, a resolution adopting Fiscal Year 2019 – 2020 budget amendments for the City of Cedar Hills, Utah. Seconded by C. Andersen.

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

13. Review/Action on an Ordinance Amending Title 6 related to Motorized Vehicles on Public Trails

Mr. Goodwin explained that the code did not allow for motorized vehicles to be use on public trails. Staff was proposing that electric bikes be allowed on City trails. The proposed language read as “electric bikes being operated at speeds lower than 20mph.” Additionally, the amendment would state it was unlawful to operate an unlicensed vehicle excluding electric bikes. The City would need to fine tune this.

C. Geddes asked if it would not allow the use of lime scooters or anything similar on the trails. Mr. Goodwin said no. He did not have a good definition for scooters; however, he thought about adding some language for them. C. Geddes explained that electric bikes would open up a whole new world for people. Mayor Rees said that was the big push: to provide more opportunities for families to recreate together. C. Ellsworth said at some point the City did need to look at language around scooters and electric scooters.

MOTION: C. Andersen—To approve Ordinance No. 11-19-2019C, an ordinance amending Title 6-5 and 6-8 of the City Code of the City of Cedar Hills, Utah relating to the use of electronic bikes and pedal assisted bikes on the City trail system, excluding Class 2 electric bicycles. Seconded by C. Geddes.

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

14. Review/Action on Approval of a new Golf Cart Lease

Mr. Goodwin reported that the golf course had lithium ion battery golf carts, however, there were a number of issues with the carts. Staff had been diligent in working with RMT equipment to address the issues. They were pigeonholed into using RMT because the carts had a braking system that the course required. They agreed to extend the agreement. This was a new five-year lease agreement. The agreement and warranty were same as the ones the City signed two years ago; this action was an extension of that agreement.

MOTION: C. Geddes—To approve the lease agreement between Cedar Hills Golf and RMT for the lease of 78 carts for the period of 60 months. Seconded by C. Miller.

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

15. Review/Action on Release of the Performance Bond and Start of Durability Period for Cedar Canyon Subdivision

Mr. Goodwin explained that the Cedar Canyon Subdivision developers were ready to start building. They still had a few things they needed to do. There was some confusion on their end about streetlights, so they weren't ordered in time. Now the streetlights were on order. Street signs still needed to be done, and the concrete and asphalt repair needed to be done. The City was proposing two bonds. One was a performance guarantee that the outstanding public improvements would be done. They had provided an amount, that amount was reviewed by the city engineer, and there were still some questions as to whether that amount was sufficient. They asked that the Council approve the bond performance guarantee, pending approval by the City Engineer. The performance guarantee had to be 125% per City code value in approvals. The durability bond was 10% of value for one year. In the current plan there would be two simultaneous durability bonds. One would expire before the other, but they would both be under a year long.

MOTION: C. Ellsworth—To approve the performance guarantee and the durability guarantee related to the public improvements for the Cedar Canyon Subdivision, subject to the following conditions: That the performance guarantee be valued at 125% of the cost of the outstanding public improvements, and be signed off by the City Engineer; that the durability guarantee be valued at 10% of the cost of the completed public improvements, and be signed off by the City Engineer; that the yearlong durability period does not begin until a bond is recorded, satisfying the conditions of this motion. Seconded by C. Bailey.

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

16. Discussion on the City's Snowplow Policies and Procedures

Mayor Rees explained this issue came to City Council because residents expressed frustration in the past regarding snow plowing. The City wanted to finalize the snow policy and share it with the public to help them better understand what the City was doing.

Mr. Goodwin said he met with the Public Works Department and looked at the current policy, which was on the website, and discussed the language in the policy. They had changed some of the language to clarify issues. The old policy said where the main areas for maintaining for snow removal, ice control, and salting by Public Works Department were, and said they would be maintained from November 1st to March 31st. Since the Council did not know when the snow could hit, there was flexibility around the dates. Service was provided 24 hours a day 7 days a week, and he wanted to cross that out because even though the City had people on call all the time, sometimes it was more difficult to get a City employee at 3:00 a.m. than it was at 5:00 am. They changed the language to read "...although after-hours service they may be limited unless a snow emergency was declared, road conditions are monitored 24 hours a day 7 days a week." The City did always have someone on call in case of a snow event.

Mayor Rees asked who declared a snow emergency. Mr. Goodwin said the Mayor could, but that he thought it was the State. The City's policy regarding snow plowing was that the streets would be cleared according to priority, beginning on the streets that had accumulated a minimum of two inches of snow, or that the City determined conditions for response. Not all streets were treated equally when it came to snow plowing. The City needed to discuss priority. There were a number of HOAs in the City that had private roads that the City did not plow.

There was discussion regarding the roads the City plowed. The biggest goal was to make sure the City could clear roads to create free flow of traffic. The Council had identified the major arterial roads, collective roads, and prioritized roads, which depended upon the type of movements on the road. The circumstances classifying a snow emergency were then discussed.

ADJOURNMENT

This meeting was adjourned 8:34 pm on a motion by C. Miller, seconded by C. Ellsworth, and unanimously approved.

Approved by Council:
January 7, 2020

/s/ Colleen A. Mulvey, MMC
City Recorder