

CITY COUNCIL MEETING
Tuesday, December 3, 2019 5:00 p.m.
Community Recreation Center
10640 N Canyon Road, Cedar Hills, Utah

Present: Jenney Rees, Mayor, Presiding
Councilmembers: Denise Andersen, Ben Bailey, Ben Ellsworth, Brian Miller
Absent/Excused: Mike Geddes
Chandler Goodwin, City Manager
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 5:06 p.m. by Mayor Rees. The Pledge of Allegiance was led by C. Andersen and the invocation was given by C. Miller.

2. Approval of Meeting's Agenda.

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

Yes	-	C. Andersen	
		C. Bailey	
		C. Ellsworth	
		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.

There were no public comments.

CITY REPORTS AND BUSINESS

4. City Manager

Mr. Goodwin reported that the golf course was closed to golfers and sledding. He thanked the Beautification, Recreation, Parks and Trails Committee for coordinating the City's annual night with Santa. He stated that there was no on-street parking during snow events or overnight as it made it more difficult for the snow plow to clear the streets.

5. Mayor and Council

C. Andersen added that people should also not snow blow into the street. No other reports were made.

6. Review/Action on a Resolution Supporting the Improvement of the available Monarch Butterfly Habitat in the City of Cedar Hills

Mayor Rees opened the floor for public comments.

The Cedar Ridge Elementary School third grade class wished to express their opinions and offer suggestions related to Monarch Butterflies and what the city and residents can do to help save their habitat. Third grade teacher, Annette Stephens and the following students offered comments:

- Audrey Thornton
- Dax Black
- Everlee Mann
- Lacey Tualii
- Mercedes Holley
- Davis Chase
- Hannah Flake
- Ashton Loy
- Stetson Vincent
- McKenzie Lodan
- Mary Hansen
- Rylie Ashby

Mayor Rees said the Council received several letters from Mrs. Stephens’s class about this issue. They provided the class with a map of the Cedar Hills where milkweed could be planted. One of the things the City promised was to pass a resolution in support of this effort from the class.

C. Andersen was proud of the class for coming and teaching the Council about the monarch butterfly. Her favorite butterfly was the monarch and she grew milkweed in her yard.

C. Miller also thanked the class for teaching the Council about Monarch butterflies.

MOTION: C. Ellsworth—To approve Resolution No. 12-03-2019A, a resolution of the City Council of the City of Cedar Hills, Utah, supporting the improvement of the available Monarch Butterfly habitat in the City of Cedar Hills. Seconded by C. Miller.

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

Note: The group took a five-minute break.

7. Review/Action and Public Hearing on Amendments to Plat K Canyon Heights at Cedar Hills Subdivision

Mr. Goodwin said this item came before the Council two months ago. One of the issues that had not changed until after the plat had been recorded was that this lot had a nonstandard setback making it difficult to build on. There was a joining of two plats that was identified as a non-buildable area. This was a proposal for an adjustment to be made to the nonstandard setback. The City engineer reviewed this project and he requested a geotechnical report to be conducted. They had not yet received the geotechnical report, but this item was noticed as a public hearing.

Public Hearing

There were no comments.

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

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

8. Review/Action on Granting an Exception for the Driveway Slope located at 10090 N Lakeshore Drive, Lot 3 Plat A in the Lakeshore Trails Subdivision

Mr. Goodwin said the home on this land was built higher than approved, and as a result the driveway is higher than allowed by City Code. He was concerned about the slope of the driveways and about public safety access during the snow season. The fire marshal went out on site and reviewed it. The City raised this concern with the homeowners. However, there was no City code requirement that said the driveway had to be a certain percentage of slope to require steps, so they could not legally require steps. The Council could recommend steps for this property, because it presented a unique challenge to public safety personnel. However, they asked the Council to grant an exception to allow this driveway and the City staff would then work on modifying the code in terms of slopes, and possibly requiring steps for public safety personnel entering the property in case of emergency during imminent weather. There was further discussion pertaining to the fire marshal's findings.

C. Bailey asked how close the house was to the street. Mr. Goodwin said it was a standard setback. C. Bailey stated that the fire marshal had jurisdiction over clauses regarding safety issues and anything deemed a hazard, so he could require certain things to make the place safe for the residents. Mr. Goodwin said he would reach out to the fire marshal. This connected to the larger issue regarding the number of buildings on hillsides, and the City needed to have a way for the building official to say they could have a steep driveway under certain circumstances compliant with a code, which did not currently exist. This was the logical follow-up: a code change.

Mayor Rees said the fire marshal was fine with the City granting this exception as long as it was written in the building file that he had told the owners that in certain circumstances his personnel may not be able to get into the property for emergencies, which the owners also accepted.

C. Bailey said as a previous fire marshal, this was not good enough. The City had a duty to respond to homes and if they could have a compromise, it would be better. He suggested a compromise of building the stairs and was fine on property with a 30% incline. He felt it could not go both ways

Mayor Rees said one of the other struggles was that they already had other homes in the City in the same situation that did not have stairs. The problem with that was the owners had indicated they were willing to battle this because there was no code the City could enforce.

Mr. Goodwin explained that the chief building official did not currently have the ability to indicate whether or not a resident did or did not meet code. Mayor Rees concurred that this was the case.

Mr. Goodwin was willing to talk to the fire marshal in terms of enforcement on the homeowner.

Joel Wright said if the City had a law and they did not enforce it, then this became difficult. In this instance where there was not a code, there was more flexibility. There needed to be changes for City liability. The resident was also aware of the Council's concern and had indicated they would challenge the City. He felt the cost would be substantial.

Mr. Goodwin added that the homeowner indicated a willingness to accept the limitations of possibly imposing a code. His one concern was that if this was not addressed by the current owner, that future homebuyers had the ability to assert the same concern.

C. Bailey stated that if his house caught fire, the last thing he wanted to do was to have the fire department down to put it out. He would rather it burn down and get a brand-new house rather than rebuild part of a burned house. So, if these individuals could not have the fire department respond in their full capacity, then he as a citizen should be able to say that that if his house caught fire he would let it burn, because that was what he was hearing from the group. The City would allow somebody to waive the ability for EMS, police officers, and the fire department to come into the property. Mayor Rees said the hard part was that the City had other homes in similar positions.

Jeff Maag added that City liability was the issue. If a home was to catch fire, and the compromised properties to the sides of the home caught fire as well, was the City was going to be liable for those damages because they knew about the difficulty of accessing the home with the incited fire.

C. Andersen wondered how many times this circumstance happened. The residents wanted to be in and out of the driveway and as a result would keep it cleared of snow. If they were taking on that liability, there was a chance that emergency vehicles may not fit, so they were probably going to keep their driveway cleared.

C. Bailey said accidents and responses could happen 24/7, 365 days a year. A person never knew when something was going to happen. Mayor Rees said the question was whether or not they were willing to fight today on this issue. If the residents were willing to take the liability on themselves, and make the exception, the City did not have a code that prevented them from doing so. C. Andersen added she thought the residents understood the liability on the issue. There was further deliberation on the matter.

Mr. Goodwin said this was the first time this had come to a head. Just because the City made a mistake in the past did not mean they had to keep repeating it. When the City knew it was making a mistake, they could draft a code to rectify it and get staff the tools necessary to address these situations. He did not think that the current code lent itself to the hillside developments. It did not give staff the strength to tell residents what they could and could not build.

C. Bailey said he respected everybody's decision and supported what the result was, but based on his background he could not support this. He could not vote knowing that there was a house built that could be an issue for responders like EMS and fire or police.

Mr. Goodwin asked C. Bailey if he had a solution. C. Bailey said he had been in situations when seconds counted. His solution was to build the stairs as a compromise. Mr. Goodwin said the concerns were same with C. Bailey, staff, and Council. Everyone was concerned about safety in the home. His hesitation was that he had no tool that said a resident had to build steps.

MOTION: C. Andersen—To approve an exception for the driveway slope located at 10090 N Lakeshore Drive, and direct staff to propose a code amendment to address driveway slopes. Seconded by C. Ellsworth.

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

9. Review/Action on Request for Qualifications (RFQ) for Legal Services

Mr. Wright recused himself from this item.

Mr. Goodwin said the City received seven responses to the RFQ and narrowed them down to four. The candidates were Bennett Tueller Johnson & Deere (BTJD), Cowdell & Woolley, Kirton McConkie, and Jones Waldo. A subcommittee formed and interviewed the candidates and discussed their observations of each candidate. He thought all four were well qualified to represent the City in terms of municipal law. It came down to two items: 1) financial impact on City's budget and 2) how comfortable he felt the staff would be able to work with the proposed attorney. Two firms presented themselves well: Kirton McConkie and BTJD. Both had similar backgrounds.

C. Miller said all responders seemed qualified to do the job. The group narrowed it down to Kirton McConkie the current provider who had experience. With BTJD, Mr. Call had done a lot of research and knew a lot about Cedar Hills. The Council discussed the service the City would receive was of equivalent cost. The subcommittee tipped more towards a recommendation of BTJD based on an understanding that more was included in their retainer fee.

C. Andersen added that BTJD gave the option to access more down the road. They were flexible and she appreciated that.

Mayor Rees added that it was clear this was not a concern with the quality of the current company or any relationship concerns. The City was fortunate to have had their past relationship. For the City, it came down to recognizing that the budget was getting tighter. It was a question of what the City could justify to their residents.

Mr. Goodwin said when the City switched in 2015 they negotiated a rate based on twenty hours a month. The City's utilization of that twenty hours was far beyond. If the City went with a group that was based on an hourly pay scale, they needed to be cognizant of the time allotment. It would be a matter of prioritizing what actually needed to go before the attorney.

Mayor Rees said the original agreement was for \$3,600. It was bumped up because of disagreements with a former council member continually getting involved, which was something they needed to address going forward.

Mr. Goodwin said the financial aspect needed to consider how that twenty hours was to be used. C. Bailey said he really appreciated Kirton McConkie. The City had gone through other attorneys and he was not impressed. The City needed good litigators if they were to pay more for same amount of services.

C. Ellsworth wanted to thank the committee for giving a good recommendation for the City. Mayor Rees echoed that sentiment.

MOTION: C. Andersen—To award a professional services contract for Legal Services to Bennett Tueller Johnson & Deere (BTJD) and authorize the Mayor to execute said contract.

Seconded by C. Miller.

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

10. Review/Action on an Ordinance Setting the Time and Place of the Regular City Council Meetings for 2020

Mr. Goodwin presented the proposed schedule from the Council packet the meetings would be held the first and third Tuesday of the month.

MOTION: C. Bailey—To approve Ordinance No. 12-03-2019A, an ordinance setting the time and place of the regular meetings of the City Council of the City of Cedar Hills.

Seconded by C. Miller.

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

Mayor Rees thanked C. Bailey for his last four years of service.

ADJOURNMENT

This meeting was adjourned 6:13 p.m. on a motion by C. Bailey, seconded by C. Ellsworth, and unanimously approved.

Approved by Council:
January 7, 2020

/s/ Colleen A. Mulvey, MMC
City Recorder