

CITY COUNCIL MEETING AND PUBLIC HEARING

Tuesday, March 20, 2012 7:00 p.m.

Public Safety Building

3925 W Cedar Hills Drive, Cedar Hills, Utah

Present: Mayor Eric Richardson  
Council Members: Gary Gygi, Stephanie Martinez, Jenney Rees, Trent Augustus, Scott Jackman  
Konrad Hildebrandt, City Manager  
David Bunker, City Engineer  
Kim Holindrake City Recorder  
Danny Lambourne, Recreation Director  
Brad Kearl, Chief Building Official  
Courtney Hammond, City Meeting Transcriber  
Others: Sam Liddiard, Ken Kirk, Diane Kirk, Craig Frank, Marisa Wright

**COUNCIL MEETING**

1. This meeting of the City Council of the City of Cedar Hills, having been properly noticed, was called to order at 7:10 p.m. by Mayor Richardson

Invocation given by C. Augustus

Pledge of Allegiance led by C. Rees

2. Public Comment (7:12 p.m.)

Ken Kirk: Mr. Kirk stated that he is concerned about the Provo river canal enclosure project and the amount of the bill that has been submitted for payment. Last June a \$215,000 bill was submitted. The original estimate was a little less then \$60,000. Now, the new modified bill is for \$198,000. Provo River is quoting an agreement from 1996 that states that maintenance and repair of the canal is the responsibility of the City. Demolishing and rebuilding a canal is not maintenance or repair. Much of the additional costs were based on input, decisions, and plan changes made by American Fork City and Timpanogos Special Service District (TSSD). Ames Construction has an obligation to inform bill payers for increases along the way. Citizen tax dollars can be better spent than paying for American Fork and TSSD decisions.

Marisa Wright: Ms. Wright stated that many promises were made during the election in November. Residents have a lot of expectations for the elected Council members. She is impressed with the efforts of the Council, specifically with C. Rees's reports on the Council meetings, C. Augustus's help and insight in the building processes, C. Gygi's initiative to get businesses to Cedar Hills, C. Jackman's commitment to accurate financial information, and C. Martinez's new ideas for the Family Festival.

**CONSENT AGENDA**

3. Minutes from the March 6, 2012, City Council Meeting (7:22 p.m.)
4. Resolution Adopting Amended City Council Procedure Policies (7:22 p.m.)
5. Amendments to Title 3 of the City Code Regarding Business Licensing (7:22 p.m.)

**MOTION: C. Martinez - To approve the consent agenda, Minutes from the March 6, 2012, City Council Meeting; Resolution Adopting Amended City Council Procedure Policies; and Amendments to Title 3 of the City Code Regarding Business Licensing.** Seconded by C. Augustus.  
Vote taken by roll call.

Yes - C. Augustus  
C. Gygi  
C. Jackman  
C. Martinez  
C. Rees Motion passes.

**MOTION: C. Augustus - To move item 8, Presentation on the Transparency Award – Sutherland Institute, above item 6, City Reports.** Seconded by C. Martinez.

Yes - C. Augustus  
C. Gygi  
C. Jackman  
C. Martinez  
C. Rees Motion passes.

#### SCHEDULED ITEM

8. Presentation on the Transparency Award – Sutherland Institute (7:24 p.m.)

See handouts.

Danny Lambourne introduced Derek Monson and Kevin Stratton of the Sutherland Institute. In 2011, the Sutherland Institute awarded the City a B- for website transparency. Sutherland Institute gave the City a list of things to work on. The City made changes, and in 2012 the City received an A+.

Derek Monson stated that he is impressed by the changes that were made, specifically the simple yet informative tax breakdown, the contract information that is available online; and the efforts of the City is working to put all GRAMA requests information online. The state average is in the C-range. He congratulated Cedar Hills for their A+ grade.

Mayor Richardson stated that he remembers when he received a call from the Tribune asking for a comment on the B- grade. The Tribune mentioned that a B- was a good grade for a small city. Even so, Mayor Richardson felt it wasn't good enough. He stated that he appreciates staff efforts to improve the grade.

#### CITY REPORTS

6. City Manager (7:32 p.m.)

- Representative Craig Frank gave an update on the legislative session. See handout. There have been a number of significant issues addressed by the legislature, including SB 180 that allows for political subdivisions to create ethics committees, gives provisions for creating the framework by

which these commissions can function, gives an appellate structure, and gives citizens the ability to bring forth ethics complaints to the commissions. The goal is to ensure that determinations are fair. While he felt the first iteration for the bill was horrible, he is comfortable that the version that passed is fair and equitable. The State of Utah has appropriated funds for \$13 billion. The state of Utah has been able to maintain its AAA bond rating, despite the economic downturn. The fireworks bill has been adjusted, reverting to the way it was two years ago with tighter restrictions on hours and days allowed. It has been a treat for him to serve the people in the district.

C. Gygi stated that he was at a debate where people mentioned “explosive growth of state government.” He asked Representative Frank how much of Utah’s government growth is a result of federal funds from the stimulus package and how much from state decisions. Representative Frank stated that the state government has not grown that much. Utah has kept state government growth at a small margin as revenue has grown through sales tax. The state of Utah did not accept any stimulus money that had strings attached; it didn’t take half a billion dollars that it was offered.

C. Augustus asked Representative Frank how residents and state delegates can be involved to make sure that county and state governments are not too controlling on a local level. Representative Frank stated that political subdivisions—the counties and cities—are subdivisions of the state. The state is the big brother. It’s a tricky balance.

- The Community Recreation Center is scheduled to be completed on April 11.
- The Utah League of Cities and Towns Conference is coming up in April.
- There may need to be a second meeting in April scheduled to discuss the budget.

7. Mayor and Council (7:57 p.m.)

C. Rees reported that the Beautification Committee is looking for more volunteers. She looked into the Book Mobile program; but given their schedule, it didn’t make a lot of sense for Cedar Hills. She is excited to attend the social media presentation at the Utah League of Cities and Towns conference and wants to get started with that in Cedar Hills.

C. Augustus reported that Harts got preliminary approval from the Planning Commission. They are anxious to move forward, and an additional meeting in April may be necessary to keep the forward movement. He has done some research on possible locations for flagpoles at the Community Recreation Center. See handouts. The proposal is to do a flag trio. To leave them up overnight, the flagpoles need to have lighting. It would be best to ensure a power source as the landscaping is done. The area needed for a flag trio needs to be 32 feet wide. Mayor Richardson’s preferred location is one where it can be viewed from the entire city. C. Rees will present the options to the Beautification Committee. Marisa Wright suggested a flag pole at the roundabout.

C. Martinez reported that the tot soccer signups are ongoing. Lacrosse and summer tee ball and Lego League sign ups will be available soon. She met with Midway West about carnival rides for the Family Festival. There will be 12 rides and 8 carnival games. There will be additional carnival games offered by the Youth City Council. The Youth City Council is also going to sponsor a ducky derby with proceeds going to Santa’s Workshop. There are sponsors for the

Easter eggs for the teen hunt. The teen hunt (ages 11-14) will be Friday, April 6, starting at 8:30 p.m. with flashlights. The child (ages 0-10) Easter egg hunt is at 11:00 a.m. on Saturday, April 7. The ribbon cutting for the Community Recreation Center will be on May 5, followed by an open house.

C. Jackman reported that the financial committee is looking at ways to reduce the cost of the debt, and will be presenting options soon.

**MOTION: C. Jackman - To move item 13 next.** Seconded by C. Gygi.

Yes - C. Augustus  
C. Gygi  
C. Jackman  
C. Martinez  
C. Rees

Motion passes.

#### SCHEDULE ITEMS AND PUBLIC HEARINGS

13. Discussion on an Agreement with the Provo River Water Users Association for the Sewer Relocation on 4500 West (8:21 p.m.)

See handouts.

#### Staff Presentation:

David Bunker stated that Provo River Water Users Association has prepared a packet that summarizes the sewer work on 4500 West. As part of the canal enclosure project, the sewer had to be relocated. The sewer main was initially designed to go from north of the canal to the first intersection in American Fork. Due to the depth of the proposed pipeline and other utilities in the area, the entire sewer line was dropped in depth and rerouted with a new sewer metering vault. The initial bid was \$60,135. The amended cost is \$198,963. It is difficult to look at this bid and see a fair value, because much of the bill is hours worked, which Mr. Bunker doesn't include in bids. There are additional costs, and the City wants to pay what is fair. His estimation of a fair price is \$50,000 over the initial bid. Provo River has proposed to pick up 25% of the cost of the project. The difference between David's estimate of \$110,000 and the amended cost of \$198,963 plus the Provo River discount is around \$37,000. In David's opinion, the changes to the project are legitimate. The project is Provo River Water's; but according to the license agreements, Provo River can pass the costs along to the City.

Steven Cain of the Provo River Waters Association stated that there are two major areas of concern: legal and engineering. The canal is owned by the United States. Provo River is an agent operating the canal. Statutes and limitations govern the license agreements to cross the canal, or any land owned by the United States. The language is historic and is mandated by statute from the Bureau of Reclamation. Challenging the meaning of the language in the license agreement would set a precedent that may then apply in land across the country. The Bureau of Reclamation would challenge that aggressively. The changes that were made were necessary, and Provo River has done a lot of things to take the edge off the cost that is passed along to the cities, including paying 25% of the cost and giving cities three budget years to pay off the costs. The changes were made after the process started, and stopping the pipe crew was expensive. For that reason,

many of the costs were not evaluated up front. If the City rejects the offer to work with Provo River, then he is prepared to give the City an invoice for the entire amount due in 30 days and will take action if the bill is not paid. Provo River's license agreement is with Cedar Hills not with Timpanogos Special Service District (TSSD). Cedar Hills is the entity that has an agreement with TSSD. TSSD's responsibility for the costs is between Cedar Hills and TSSD. Provo River anticipated that there would be changes along the way. The initial bid of \$60,000 was a start, and while Provo River tried to hold them to that, they did anticipate some additional expenses. For that reason the 25% forgiveness and three-year payment plan was proposed. The crossing in Cedar Hills was tricky and did require an unusual number of man hours because it was discovered and changed after the pumping had started. Cedar Hills has three choices: (1) consider the utility relocation agreement that allows the City to pay less over three budget periods and allows the City to enter a process to work through the costs with Provo River, (2) not approve the agreement and revert to the language of the license agreement and pay in full in 30 days, (3) not pay anything, which would involve the Bureau of Reclamation.

Konrad Hildebrandt stated that the City's frustration is that the bill is for 320% more than was bid and is being passed along to the City based on a generic license agreement signed back in 1996 without any control over the process and little updates on what the changes would cost along the way.

Council Discussion:

- C. Jackman stated that the license agreement talks about maintenance and repair. He doesn't view these changes as maintenance and repair. These changes deal with more than maintenance and repair. The essence of the debate revolves around TSSD and what authority they had to make changes. The City owns the metering facility, and it should be the City's decision to change or update the facility. TSSD made that determination without the City's input.
- C. Augustus stated that the City never approved these changes or the increased costs. At the end of the day if the City is going to pay this increased bill, the Council should be clear on why they are justified.
- Mayor Richardson stated that TSSD was not a licensee with Provo River. Provo River should have come to the City with TSSD's proposals before making them. He is willing to accept that the federal government is telling the City that the cost is their responsibility; he is less willing to accept the number, which has jumped around over time and reflects other entities' mistakes and other entities' decisions. He expressed appreciation to Mr. Cain for the effort he put into putting the summary together.
- C. Rees requested a copy of the City's contract with TSSD.

Break (9:21 p.m.)

Reconvened (9:38 p.m.)

**MOTION: C. Gygi - To move items 10, 11 and 12 above 9.** Seconded by C. Augustus.

Yes - C. Augustus  
C. Gygi  
C. Jackman  
C. Martinez  
C. Rees

Motion passes.

10. Public Hearing/Review/Action on Amendments to the City Code, Title 10, Regarding Flagpoles (9:40 p.m.)

See handouts.

Brad Kearl stated that this amendment takes flagpoles out of the ordinance, which were together with chimneys. Flagpoles are now defined, limiting flagpoles to 35 feet from finished grade, placing them 10 feet back from sidewalk, curb or streets, and allows for increased height in parks, public buildings, and commercial buildings by site plan approval.

**MOTION: C. Augustus - To approve an ordinance removing the term flagpole from section 10-4A-8 C.2, 10-4B-8 C.2, 10-4D-9 D.2, 10-4G-6 C.2, 10-4H-6 C.2 , and to add section 10-5-36, titled Flagpoles and requirements to the Supplementary Development Standards, Ordinance No. 3-20-2012B.** Seconded by C. Rees. Vote taken by roll call.

Yes	-	C. Augustus	
		C. Gygi	
		C. Jackman	
		C. Martinez	
		C. Rees	Motion passes.

11. Public Hearing/Review/Action on Amendments to the City Code, title 10, Regarding Signs (9:45 p.m.)

See handouts.

Brad Kearl stated that this amends the definition of a-frame signs that are currently prohibited. The spirit of the sign was to prohibit the large a-frame signs that obstruct views and corridors, not the small a-frame signs that advertise enrichment nights and such. This amendment allows small a-frame signs less than three feet in height and three feet in width.

**MOTION: C. Jackman - To approve Ordinance No. 3-20-2012C, amending section 10-5-26: Signs: A-Frame Sign, by adding to the definition, “over three feet in height and three feet in width from sidewalk grade.”** Seconded by C. Martinez.

Further Discussion:

- C. Augustus stated that he would like to see a change “from sidewalk grade” to “from grade.”

**AMEND MOTION: C. Augustus - To change “from sidewalk grade” to “from grade.”** Accepted and seconded by C. Martinez. Vote taken by roll call.

Yes	-	C. Augustus	
		C. Gygi	
		C. Jackman	
		C. Martinez	
		C. Rees	Motion passes.

12. Review/Action on Fee Schedule (9:49 p.m.)

See handouts.

Staff Presentation:

Brad Kearl stated that he did an analysis of neighboring communities on the temporary use permits. The proposed temporary use application fee is \$40 and the inspection fee is \$47. The plan check deposits have not changed at \$400 for residential and \$1000 for commercial, though they were never in the fee schedule. This amendment places the deposit fees in the fee schedule.

Council Discussion:

- C. Gygi stated that he wants to cover the City's costs on plan check deposits and no more.

**MOTION: C. Jackman - To continue this item until the next meeting and estimate the average cost for each of these so that we can approach the actual cost for plan check deposit.** Seconded by C. Gygi.

Yes - C. Augustus  
C. Gygi  
C. Jackman  
C. Martinez  
C. Rees

Motion passes.

9. Discussion on Recreation Programming at the Community Recreation Center (9:58 p.m.)

See handouts.

Staff Presentation:

Brad Kearl stated that he sketched the basement of the Community Recreation Center with a cardio room with rubber matting (\$4000 for 1600 square feet), a hallway with painted concrete and a multipurpose room with a specialized hardwood floor like installed for basketball courts (\$10/square foot). There will be a man lift near the stairs.

Danny Lambourne presented current programming for the recreation center. He stated that the 10:30 a.m. to 4 p.m. time period cannot be filled with fitness classes without a daycare. It is also the time for golf tournaments. The City will advertise the classes through the newsletter, a Facebook page, and website. The instructors will also be advertising. The plan is for instructors to be paid per class with an option of getting a percentage for more than ten participants.

Council Discussion:

- C. Martinez stated that the City has gone over the top on the upstairs portion of the Community Recreation Center, and she does not want the basement to have a cheap feel.
- C. Gygi stated that he would prefer the responsibility for the classes to be the instructors with the onus of attracting participants on them with support from the City. He would prefer to set it up as

a percentage from the beginning without the City paying them a base fee. He would like to approach the instructors as entrepreneurs rather than employees.

- Mayor Richardson stated that his preference with the instructors is that they pay the City a fee/portion of profits.
- C. Jackman stated that he would like to consider what type of rental fee is appropriate. A recreation center is different than a park or field, and he feels a rental fee is appropriate. It is a complex issue and he wants to spend more time on it.

**MOTION: C. Jackman - To continue this item until next time.** Seconded by C. Gygi.

Yes - C. Gygi  
C. Jackman  
No - C. Augustus  
C. Martinez  
C. Rees

Motion fails.

Further Discussion:

- Danny Lambourne presented a list of instructors, class descriptions, and layout for the cardio room. He will have prices on the equipment in the cardio room at the next meeting. He feels like the kiosk downstairs needs to be staffed, and there should be cameras in the cardio and multipurpose room. He manned a booth at a wedding expo and had a lot of interest for the Sunset Room. He suggested that before the next expo in April, the Council decide on whether the Sunset Room will allow alcohol.
- C. Martinez stated that she doesn't like the idea of painted concrete in the basement hallway.
- Mayor Richardson stated that he would like to see more universal machines and less specialized weight machines. There needs to be further discussions about policy issues, specifically how instructors will be compensated, which will be on the next agenda. He would prefer for the cardio room to be free and would like to see a cost analysis to justify any charge. He does not want to implement a fee that covers the cost of implementing the fee.

EXECUTIVE SESSION

14. Motion to go into Executive Session, Pursuant to Utah State Code 52-4-204 and 52-4-205

**MOTION: C. Martinez - To go into Executive Session, Pursuant to Utah State Code 52-4-204 and 52-4-205 to discuss competency of an individual.** Seconded by C. Augustus.

Yes - C. Augustus  
C. Gygi  
C. Jackman  
C. Martinez  
C. Rees

Motion passes.

15. Motion to Adjourn Executive Session and Reconvene City Council Meeting (11:54 p.m.)

**MOTION: C. Jackman - To Adjourn Executive Session and Reconvene City Council Meeting.**  
Seconded by C. Rees.

Yes - C. Augustus  
C. Gygi  
C. Jackman  
C. Martinez  
C. Rees

Motion passes.

ADJOURNMENT

16. Adjourn

This meeting was adjourned by 11:55 p.m. on a motion by C. Jackman, seconded by C. Martinez, and unanimously approved.

Approved by Council:  
April 3, 2012

/s/ Kim E. Holindrake  
Kim E. Holindrake, City Recorder