

**Pleasant Grove City
City Council Special Meeting Minutes
November 22, 2016
5:00 p.m.**

PRESENT:

Mayor: Michael W. Daniels

Council Members: Dianna Andersen
Eric Jensen
Cyd LeMone
Ben Stanley
Lynn Walker

Staff Present: Scott Darrington, City Administrator
Denise Roy, Finance Director
Deon Giles, Parks and Recreation Director
Mike Smith, Police Chief
Kathy Kresser, City Recorder
Tina Petersen, City Attorney
Dave Thomas, Fire Chief
Marty Beaumont, Public Works Director
Ken Young, Community Development Director
Sheri Britsch, Library and Arts Director

Others: Larry Ellertson, Utah County Commission Chair
Bill Lee, Utah County Commission Vice Chair
Nathan Ivie, Utah County Commissioner-Elect
Richard Nielsen, Cedar Hills Public Works Director
David Bunker, Cedar Hills City Manager
Gary Gygi, Mayor of Cedar Hills
Daniel Zappala, Cedar Hills City Council Member
Jenny Rees, Cedar Hills City Council Member
Rob Crawley, Cedar Hills City Council Member
Mike Geddes, Cedar Hills City Council Member
Andrew Jackson, Mountainland Association of Governments

The City Council and Staff met in the City Council Chambers at 86 East 100 South, Pleasant Grove, Utah.

1) CALL TO ORDER.

Mayor Daniels called the meeting to order and noted that Council Members Andersen, Stanley, Jensen and Walker were present. Council Member LeMone arrived at 5:06 p.m.

2) PLEDGE OF ALLEGIANCE.

The Pledge of Allegiance was led by Boy Scout, Richard Wilkins.

3) OPENING REMARKS.

The opening remarks were given by Council Member Jensen.

4) TO CONSIDER FOR ADOPTION A RESOLUTION (2016-048) AUTHORIZING THE MAYOR AND MUNICIPAL CITY COUNCIL SITTING AS THE BOARD OF CANVASSERS TO ACCEPT THE ELECTION RETURNS AND DECLARING AND CERTIFYING THE RESULTS OF THE GENERAL ELECTION HELD ON NOVEMBER 8, 2016. *Presenter: Recorder Kresser.*

City Recorder, Kathy Kresser, read the results of the General Election held on November 8, 2016.

ACTION: Council Member Stanley moved to adopt a Resolution (2016-048) authorizing the Mayor and Municipal City Council sitting as the Board of Canvassers to accept the election returns and declaring and certifying the results of the General Election held on November 8, 2016. Council Member Jensen seconded the motion. A voice vote was taken with Council Members Andersen, Jensen, Stanley and Walker voting “Aye”. The motion passed unanimously. *Please note: Council Member LeMone was not present for the vote.*

It was noted that Utah County had a 74% voter turnout this year.

Note: Council Member LeMone arrived at 5:06 p.m.

JOINT MEETING WITH CEDAR HILLS COUNCIL

5) DISCUSSION ON 100 EAST AND CANYON ROAD. *Presenter: Administrator Darrington.*

Mayor Daniels reported that there have been at least 12 years of discussion regarding Canyon Road and more information was provided on the subject over the last few weeks.

City Administrator, Scott Darrington, explained that at one point Canyon Road was a State Road. As North County Boulevard was being completed, an agreement was made between the County and UDOT for North County Boulevard to become a State Road and for Canyon Road to become a County Road. Soon thereafter, Cedar Hills and Pleasant Grove were approached by the Utah County Commission regarding the transfer of ownership for the road. This led to discussions between the two cities and a joint effort was made to apply for additional funding through MAG to help fund road improvements. It was the County’s intention to maintain Canyon Road as a standard County Road and the cities indicated that they wanted it improved to City standards. Furthermore, they also wanted the County to take care of the storm drain and safety issues.

UDOT gave the County \$3.3 million to be used for maintenance and repairs because they recognized the road was in poor condition. The County had excess money from the North County Boulevard Project, \$1.5 million of which was to be earmarked for the Canyon Road project. Therefore, in total the County had \$4.8 million to address the needs of Canyon Road. The cities used that amount as a match with MAG in order to obtain the additional grant funds. In the meantime, after the grant funds were awarded both cities took steps backward to reassess whether they want to assume ownership and the responsibility of the road. Soon thereafter, the County indicated that while they would still be willing to make the improvements, they would want both cities to eventually take ownership of the road.

The County Commission, Mayor Daniels, Mayor Gygi, Administrator Darrington and Cedar Hills City Manager, David Bunker, held several meetings to discuss parameters. During the meetings staff was given direction to meet with the County to draft an agreement. The original agreement was for cities to assume ownership of the road after 30 years as long as County makes improvements during that time frame. The agreement also said that the road had to be turned over to the cities with a minimum PCI of 70 at the end of the 30-year period. It would also be the cities' responsibility to take care of smaller maintenance needs, particularly snow plowing, potholes, signage, and striping. The County would take care of overlays and surface treatments for 30 years.

Staff from both cities deferred the decision back to their respective City Councils. Cedar Hills voted against the proposals, whereas Pleasant Grove tabled the issue. Once Cedar Hills determined that they were not going to be party to the agreement, Pleasant Grove City and the County created a separate agreement regarding the funds that would be used for just the Pleasant Grove side of the road, for which they would take ownership after 30 years. This second agreement between Pleasant Grove City and Utah County has been on the table for a few weeks. The previous week, Cedar Hills Council Member, Jenney Rees, appeared before the Pleasant Grove City Council and requested tonight's joint meeting take place. There was a sense of urgency because if they wanted the project to take off next summer then the County should proceed with the design phase as quickly as possible. The County's representation indicated that they missed the window for a spring start and were quickly approaching the deadline if they want to begin next summer.

Mayor Gygi recalled the reasoning behind why Cedar Hills made their decision. He explained that they all were in agreement that the road needed to be fixed. However, they want to talk to the County about using the \$9.3 million from MAG and doing the improvements first, then approaching the cities about eventual ownership. There were some elements in the contract that Council Member Rees, in particular, did not like such as the ability the contract provided for the County to cancel the contract within a relatively short period of time. She was concerned about future Commissioners possibly facing a budget crunch and then pulling out of the agreement and not taking care of the road any longer, which would then turn the responsibility over to the cities. Mayor Gygi recalled that the Council was split on a couple other matters as well. Cedar Hills Council Members Zappala and Geddes indicated that at some point they would like the road to be owned by the cities, while others felt it was the County's responsibility to continue ownership and responsibility of the road indefinitely.

Mayor Daniels recapped Mayor Gygi's remarks. Pleasant Grove City Attorney, Tina Petersen, clarified that according to Section 5 of the interlocal agreement, which originally included both

entities, if the entities decide to terminate the agreement the roadway would transfer at the time they decided to no longer participate in the agreement. If the County terminates the agreement, the entities and the County will negotiate in good faith the value that the entities would be paid to uphold the full financial responsibility for the right-of-way and roadway maintenance requirements for the remaining term of the agreement. In the event that the parties cannot reach an agreement, they agree to hire a consultant to determine the amount. Attorney Petersen stated that while the agreement could be interpreted as it was by Council Member Rees, the language in the agreement itself states that if the County decides to back out of the agreement, they would not be able to simply walk away from the financial responsibility and they will still be held responsible for the maintenance that was left undone.

Council Member Rees stressed that there were a number of unknown factors when considering the agreement. One was the cost of a third-party consultant as described by Attorney Petersen. Additionally, they were concerned about the clause in the agreement that states that if the project amount exceeds \$9.3 million the cities would be responsible to pay for any overages. Mr. Bunker estimated that the costs would be around \$15,000 to \$20,000 per year from the time the repairs on the road are completed. Furthermore, they would not get curb and gutter on the entire road, thus perpetuating existing drainage issues. Cedar Hills was also concerned about being responsible for ongoing maintenance needs, which bring with it additional unknown costs. Council Member Rees stated that Cedar Hills does not have \$20,000 in their annual budget and they would either have to raise taxes or cut services to pay for maintenance of a County road.

Mr. Bunker reiterated Council Member Rees's concerns. He added that there are safety issues when it comes to storm water. There are many homes along the Canyon Road corridor that get flooded every year, which has prompted several calls from Cedar Hills residents. Since the road is a County Road they are not responsible to address those issues; however, they would become responsible if they assumed maintenance and later ownership of the road. There was further discussion regarding storm drainage along Canyon Road. A comment was made that the needed repairs and improvements could likely exceed the \$9.3 million budget, thus adding more unknown financial burden on the cities.

Cedar Hills Council Member, Daniel Zappala, explained that Cedar Hills was also concerned that the agreement called for Cedar Hills to take the road north of the Murdock Canal. Several homes along Canyon Road are in Cedar Hills while others are in Pleasant Grove. They weren't sure what that would mean going forward in terms of sewage hookups. Furthermore, the line of sight along Canyon Road is poor, and worsens traveling north. Where there are intersections and signals in Pleasant Grove, there are portions of the road in Cedar Hills without signals. The road would need more signals and roundabouts, especially where cars need to turn left onto a road with a speed limit of 45 MPH. He stated that the responsibility of the road has been transferred from the State to the County, and is now being pushed to cities that have smaller budgets. Cedar Hills also had several philosophical discussions about what role the County should have in terms of the road, especially regarding standards for maintenance and improvements. From their perspective, they are paying taxes to the County and as such they should expect good roads that are safe, have proper drainage, and other improvements.

Commissioner Lee inquired as to what the cities' expectations were in terms of a financial commitment from the County on the road. Council Member Zappala stated that they could not quantify an exact number. They felt the County should expend the money necessary to maintain the road using taxpayer dollars already being paid to the County. Cedar Hills was also concerned because there wasn't a conceptual plan to review showing what exact improvements are proposed to be included in the \$9.3 million.

It was noted the plan included curb and gutter on the west side of the road from Cedar Hills Drive and some areas on the east side. Mayor Daniels introduced Pleasant Grove's Public Works Director, Marty Beaumont, who worked for JUB Engineers when the project was designed. Council Member Rees clarified that Cedar Hills is asking the County to use the \$9.3 million that is available to make the road safer. An overlay does not fix the drainage or many of the safety issues that Utah County residents are facing. Furthermore, she noted that Snowbird is interesting in expanding the canyon, which would likely put more traffic on Canyon Road.

Mayor Daniels asked the Cedar Hills City Council if they had had a chance to review the plan as the contract is current written. Mayor Gygi thought they had, but Council Member Geddes indicated that this is the first he had seen it.

Director Beaumont stated that the \$9.3 million was a number the County had indicated they were willing to spend. The original project estimate was around \$9.2 million, which included some contingencies. It was originally proposed to be funded with federal funds as received by MAG, and there was a 65/35 split on the funding. MAG approved the project but said they weren't going to use federal funds. Instead, they were going to trade the County on funding so they could use the federal funds on their projects. The County would then use sales tax to fund the project, which meant that this project took an 18% cut from the budget, the amount of which was approved. In the original agreement, a portion of the funding would come back to both cities to pay for future road maintenance. About 10 years of maintenance was estimated above the overall project amount. The original estimates were made three years ago, and the County has since had JUB Engineers update their cost estimations on the project. After doing so, JUB Engineers determined that the originally proposed project was still viable. Director Beaumont further explained that the maintenance contingencies that were built into the plan. While there would be financial responsibilities, the County would assume the responsibilities for 30 years, and thereafter the City could still turn to MAG as a viable resource for funding ongoing needs of the road.

Mayor Gygi asked Mayor Daniels if Pleasant Grove has budgeted for the maintenance going forward. Mayor Daniels answered in the negative. Mayor Gygi stated that Cedar Hills also had not budgeted for maintenance needs, thus alluding to Council Member Rees' previous remarks. He explained that the MAG money automatically has a 10% contingency for which cities can apply. As such, there is close to a \$500,000 that is specifically earmarked for maintenance. If they combine forces as cities and apply for the funding through MAG, then they would still be about 10 years out from having to contribute money from their own budgets to pay for maintenance. County Commissioner, Bill Lee, did not believe MAG funding could be used for maintenance. He believed it had to be used specifically for projects. Mayor Gygi explained that the funds still need to go back to the Committee to be approved by the Mayors and Commissioners. The 10% was still available if the size and scope of the plan increases. There was continued

deliberation on the matter. County officials stressed that their intention was to partner with the cities in the agreement. They were trying to meet the cities partway to ensure that all needs are met. The agreement was an option that would empower all the entities to work together to make much needed improvements to the road.

Council Member Rees explained that this was a unique situation because Canyon Road was not in an unincorporated part of the County; however, the County still made the trade knowing that Canyon Road is a regional road in a busy area. From Cedar Hills' perspective, while the County would not put in improvements that were comparable to City standards, they would still improve the safety of the road. She stressed that asking a city of their size to immediately find \$20,000 in the budget the first year alone, in addition to eventually assuming ownership of the road in later years, was significant. Cedar Hills hoped to reach an agreement with the County where they would recognize that there are significant safety issues on a non-unincorporated County Road that they own and fix some of the issues that need to be addressed. She stated that Cedar Hills is not in a position to raise taxes or cut services to maintain a County Road.

Commissioner Ellertson posed the question that if there is money left over in the 10% contingency and it goes toward overall maintenance of the road, whether it would help alleviate some of the financial burden. Mayor Gygi answered affirmatively. Commissioner Lee argued that their portion of maintenance would be much more than what the cities would pay when comparing the cost of seal coating and overlays to snow plowing and striping. Council Member Zappala appreciated the County seeking to understand all sides of the issue. He explained that from Cedar Hills' perspective, there has been \$9.3 million allocated to a project that MAG supported and it appeared to them that the County will not spend the money to fix the road unless cities agree to take ownership of it in 30 years. He stated that this is a lot of pressure to put on small city like Cedar Hills. He noted that Cedar Hills is at 97% build-out as far as residential development is concerned and they only have two or three lots available for commercial development. Therefore, Cedar Hills will not see much growth in 30 years to plan for the impending financial responsibility.

Mayor Daniels explained that as mayors discuss projects that will receive MAG money, they look at what projects are underway in different areas throughout the County. Currently, most County Road projects are in the southern and western regions of the County. There are fewer projects in the north and he expected this same discussion to come forward again in the future.

Council Member LeMone asked Director Beaumont what Pleasant Grove's estimated expenses would be for annual road maintenance. Director Beaumont noted that snow plowing was the greatest expense. Storm drain was less of an issue so staff did not calculate storm water into their annual expenses. They estimated that it will cost Pleasant Grove about \$4,000 a year for their snow plowing costs. Mayor Gygi mentioned that Mr. Bunker's estimates were significantly higher than that and asked that staff should meet to determine the cause for the disconnect. Director Beaumont reiterated that storm drain was not included in his estimates. Mr. Bunker mentioned Cedar Hills would be adding a major storm drain facility, which was probably where the increased cost was attributed.

Council Member LeMone asked if the clause in the agreement requiring the County to maintain the road at a minimum PCI of 70 would prolong the life of the road, and thus extend the time frame

by which cities would be affected financially as a result of their ownership. Director Beaumont answered affirmatively but said it was difficult to determine the road's needs after 30 years. There was further discussion regarding the details of the proposed contract.

Council Member Jensen said there had been a rumor regarding the cities calling a bluff on the County's part. He asked the County Commissioners if the County would use the money and do the repairs anyway. Commissioner Ellertson said they would fix the road based on County standards, which would be mill and fill for \$3.3 million and not the entire project for \$9.3 million.

Council Member Rees stressed her previous points regarding Cedar Hills' interest in reaching an agreement with the County to do the improvements prior to negotiating any transfer of ownership. She explained that this would allow their city time to discuss what options would work for them. In the meantime, the County knows the road is unsafe and has funding available to make the needed improvements. They felt it was a compromise to ask the County to do some of the basics and then go back to the drawing board to renegotiate ownership of the road.

Commissioner Ellertson inquired as to what the cities' expectations are in terms of ongoing maintenance and restated the County's position as previously described. Along Mayor Gygi's point, Commissioner Ellertson said he would not mind seeing what could be done with the extra 10% contingency funding. Council Member Rees said they have been told that if the cities don't sign the agreement by the end of the year, the deal will be off the table and the County will proceed to only do a mill and overlay. Commissioner Ellertson said that the longer they wait to fix the road, the more expensive repairs would get. The County wanted to get an agreement in place so they could move forward.

Council Member LeMone inquired as to why the State handed the road over to the County in the first place and why the County now wants to turn the road over to the cities. She asked if this was becoming a common occurrence in other counties. Commissioner Lee recapped Administrator Darrington's previous remarks regarding North County Boulevard. In order to get right-of-way money to help offset the cost of the road, the County needed North County Boulevard to be a State Road. Therefore, they negotiated with the State to have the State take North County Boulevard, which gave the County access to the corridor preservation money. This negotiation took place after discussions with both cities, so the County went ahead with the transaction with the hope that the County would be able to eventually turn the road over to the cities. Both cities were involved with the concept of this discussion.

Andrew Jackson, representing MAG, stated that the State Transportation Commission meets each month, and six out of the 12 meetings have a jurisdictional transfer when transferring State Roads over to new entities such as a County or City. As the State builds additional roads and lane miles, they often negotiate mile-per-mile swaps. He explained that to get funding for North County Boulevard the money had to be used on a State Road, or a road that was likely to become a State Road.

Council Member Andersen inquired as to when the last mill and fill would take place in the event that the cities assume ownership of the road in 30 years. Commissioner Lee answered that typically the process occurs around the seven-year mark. He explained the timeline of project

construction. Council Member LeMone asked about the timeline moving forward if Pleasant Grove decides to move forward with an agreement independent of Cedar Hills. Commissioner Lee stated that the best-case scenario would be to go to bid by next August. He recommended they wait to bid the project until next fall to get a more competitive offer.

Council Member Andersen wished the State could be present for local discussions on roads, as it is a major issue. She said that Pleasant Grove plans to add 10,000 homes in the next 30 years and the road is already failing traffic wise. She asked Council Member Rees what they feel will not be included in the \$9.3 million budget. Council Member Rees said that drainage issues would still be present, as curb and gutter would only go in certain portions of the road. The Cedar Hills City Council reaffirmed their position that they felt Canyon Road was a County Road, and there was further deliberation on previously stated arguments.

Andrew Jackson explained that with the one-third of one-quarter of one cent increase, there were modifications made a few years ago, that allowed for maintenance to be part of the expense out of the third quarter. He explained that there is a risk associated with delays in that they are expecting major construction to go on at the State level. It will be to their advantage to move quickly on the issue.

Representatives from Pleasant Grove City, Cedar Hills City, and Utah County each took a moment to summarize their respective positions on the matter.

Note: Council Member LeMone and Commissioner-Elect Ivie were excused from the meeting at approximately 6:45 p.m.

Mayor Daniels thanked everyone for their attendance. He stated that Pleasant Grove is definitely interested in pursuing the matter further with Utah County. He indicated they had a long history in working with the County as they were part of the North County Boulevard negotiations. Pleasant Grove will have their own discussion and decide whether to move forward with a contract independent of Cedar Hills. Mayor Daniels stated that Pleasant Grove was more than willing to work with Cedar Hills and share some of the maintenance responsibilities of the road.

Council Member Stanley stated that there have been good arguments from both sides and that Pleasant Grove has not been unanimous in their position. He agreed that the ongoing maintenance costs in perpetuity of a road far exceed the MAG budget of \$9.3 million. Furthermore, it was a deteriorating, expensive asset and in his opinion is not in the best interest of the cities to assume responsibility. He was inclined to side with the position stated by Cedar Hills.

The City Council Special Meeting adjourned at 6:56 p.m.

The Minutes of the November 22, 2016 Special Meeting were approved by the City Council on December 13, 2016.

Kathy T. Kresser, City Recorder, MMC

Colleen Mulvey, Cedar Hills City Recorder, MMC

(Exhibits are in the City Council Minutes binders in the Recorder's office.)