

CEDAR CITY PLANNING COMMISSION
MINUTES – April 15, 2025

The Cedar City Planning Commission held a meeting on Tuesday, April 15, 2025, at 5:15 p.m., in the City Council Chambers, 10 North Main, Cedar City, Utah.

Members in attendance: Councilmember Robert Cox, Adam Hahn, Tom Jett, Jennifer Davis, John Webster, Jim Lunt, Wayne Decker

Members absent: Adam Hahn, Jennifer Davis, Jim Lunt

Staff in attendance: Kent Fugal-City Engineer, Randall McUne-City Attorney, Donald Boudreau-City Planner, Faith Kenfield-Executive Assistant

Others in attendance: See attached.

ITEM/REQUESTED MOTION LOCATION/PROJECT APPLICANT/PRESENTER

- Pledge of Allegiance – The pledge was led by Tom Jett.

I. REGULAR ITEMS

1. Approval of Minutes (dated April 1st, 2024)
(Approval)

Cox motions to approve the minutes from the April 1st meeting; Decker seconds; all in favor for a unanimous vote.

2. PUBLIC HEARING Section 32-9 Pertaining to Randall McUne
Ordinance Text Amendment The Northwest Reimbursement Area
(Recommendation)

Randall McUne: This is one that the council has been discussing. Some areas of town don't have adequate fire flow. The city has had to start saying no to certain developments in those areas because there is just not enough fire flow to keep it safe. Tim Watson came in requesting that the council consider assisting with correcting these problems. Some of the problems are expensive to fix. Estimates are 800,00 to 1.2 million. I don't know exactly what they are bringing forward, and a lot of them relate to issues that have existed for a while. The council has unofficially agreed on this point to assist in part of the process to make that work. The city would end up having to pay for at least the majority. I don't know if all is yet because that has not been decided upfront, and to seek reimbursement from those developments. Whether residential, industrial, or commercial, in that area. The agreed-upon amount was \$1,500 per resident or residential equivalent. They have ways to calculate that already. It has already been approved by the council for purposes of the dollar amount, but the details you have before you. We did the dollar amount by resolution in the fee schedule. What you have here is the specific language that I am proposing. Staff has reviewed it. There were no corrections to be made other than a minor one in B, where it was initially said a \$1,000 when I drafted it. The council moved it to \$1,500. Also, you will know what I have in

the council's packet, thanks to Don's suggestion, it does not say \$1,500 in it. I say per the fee schedule. That way, if the council ever changes it, we don't have to have both an ordinance and a resolution. We can just do a resolution. Now, if the council eventually eliminates this, which would be the intent if we ever started reaching the amount we paid for it. They would likely just eliminate it at that point. That would require an ordinance, but just a change in the amount, \$1,500, \$2,000, \$1,200. Whatever comes out, once we know how much it costs to do all we are going to do. That could change a lot easier without full ordinance. Other than that, the only thing I would note here is that it is a little different. This has a sunset period, which effectively says that in 15 years, this will no longer be effective. We are limiting ourselves to 15 years for this reimbursement area. The other oddity is that most of the time, when we do reimbursements, it is either going to pay back the developer, either because they have paid for are upsizing for a master plan, or because they paid for infrastructure that went across somebody else's private property. This is entirely to reimburse the city for the expense that we are incurring. The goal is the same. The recipient is different. We are treating ourselves mostly the same as others. We are doing 15, they usually get 10. Part of that is because it is benefiting a large group right now who are already in the process. Any other questions that you have? The rest hopefully is self-explanatory.

Open Public Hearing

Phil Schmidt: Just a question about this. What exactly is this going to pay for?

Cox: A pipeline from 1600 North to possibly Port 15 and tied into the water conservancy district. So, we have fire flow.

Phil: It has nothing to do with lowering the pressure on Highway 56.

Randall: I can't say that they won't be somewhat combined, but it will not be paying for the pressure reduction is what my understanding is.

Cox: That is going to be in the budget that is going to be approved here. Randall: Correct.

Phil: Us that are out here, didn't have to pay for that?

Randall: Correct, this entire goal is to get it so you have adequate fire flow so that your future developed properties out there have enough to be safe. The pressure reduction, again, I won't say they won't be discussed together because they have been, but financing is separate.

Kent: Right, this would be for that secondary feed into that part of town. It would not be for any of the booster pumps, tank, or anything that would be part of the overall plan to reduce those pressures in at Highway 56 plans. This would be to get the secondary feed.

Phil: Now, is there anything on the table to change the vault that is currently on Lund Highway that takes the 16 in down to the 8 in and then comes back up?

Kent: That is something that is being looked at being a maintenance issue. Whether we go in and replace the guts of that upsize or not is something being looked at from a maintenance standpoint. That would be independent of this reimbursement.

Cox: The issue there is not as critical if we get the pressure reduced, but it is still a good idea to do. Because you are necking down and then necking back up. It is not a good start.

Phil: Pretty tough on the PRV. It would be a lot better if it were 15 in. all the way through.

Close Public Hearing

Cox motions Positive Recommendation for Section 32-9 Pertaining to the Northwest Reimbursement Area Agreement; Webster Seconds; all in favor for a unanimous vote.

3. PUBLIC HEARING
Development Agreement
(Recommendation)

Amber Industrial Ph 3

Schmit / Platt & Platt

Phil Schmidt: We talked about this at the last City Council meeting. Randall and I have discussed this. The last planning and zoning were brought up. What this is, it allows for the wall to be built along the east side of 3700 down. It does allow access through 800 and does allow an access service on the far side. To service the sewer line and the pond. This allows that to happen with no access through the wall. We have talked about this, and we told them that this is what we would like to do.

Jett: Well, I know I have gone over it, and I am in awe of the wonderful project you are creating out there. This can be a game changer.

Phil: I hope so. Pretty soon. Heavy-duty pocket, I will tell you that.

Open Public Hearing
Closing Public Hearing

Decker: I have a general question. This question has been answered, but maybe not to my satisfaction with the gentleman with the Development Agreements. When I see a development agreement and I know the person I know that the person will abide by the development agreement. In general, how are the Development Agreements enforced?

Randall: It depends on what the conditions are. In this case, any permits that come through the city, we would review this and say it does or does not meet it. If it is still in the permitting process, enforcement is easy. 10 years from now, Phil's already handed it off, somebody else is running it, and they have sold it to someone else. Enforcement is more difficult outside of permitting. In this case, it is what the current owner wants and likely what the next owner wants. After that, it depends. We can stop them in other permitting, and if I have backing from the council and administration, we could sue, but that is not the current occurrence in the city. You do want to be careful with Development Agreements. Deferral agreements are the same enforcement is extremely difficult later.

Cox: The only scenario where this wouldn't happen is if we went and had no development. Because the first one that goes there wants to get the certificate of occupancy, this stuff must be done.

Decker: Can I comment on that? I understand the process with the CO, but I have also dealt with hundreds of inspections. I am not sure the inspector is familiar with what the development agreement is. Therefore, he may not hesitate to offer the CO, and that concerns me a little bit. I am all for the smaller government, but at the same time, if there is a Development Agreement in place. I wonder when it comes down to the nuts and bolts of it, if it is enforceable. They would do it.

Cox: They would pull the permit at that point, right?

Decker: In practice, does that happen?

Don: Yeah, to Randall's point, it can be difficult. Especially if you lose some institutional knowledge and folks who know these projects and have been around. What we try to do is make sure we catch it. We can flag permits. We do have a tracking system on our GIS. Where we can see that there is a Development Agreement there. We would enforce that at the stage of the plan, before the permit is issued. We would get that wall on that plan before permitting issuance. That is the best way to do it.\

Jett: Maybe the question is, and I don't want to beat this to death. It is a good point he brings up because there are going to be more development agreements. Rather than just give people carb blanch and then

them not living up to their word. Is there anything we can do, such as a deed restriction? Cox:
It is attached to the deed.

Randall: These would have an equivalent of a deed restriction but again it comes down to that question of teeth and backbone to enforce it. It is usually like, and you have the council and planning commission have heard me discuss it before of being careful with some these because our ability to enforce it later is often a lawsuit. So, I must have a council at that time who is willing to spend the money, time, and maybe some political hits if it means anything there. Now I am not worried about this because it is for them to put them in a fence. Okay, they don't always ask us but if they are going to start putting in extra driveways and things like that. That is typically something that will hit us. When you start talking about occupancies, things like that. No how many homes can we approve, but how many tenants can be in that home. I will tell you right off the bat, we do not have a system to enforce something like that. I would ask you to be careful with a lot of development agreements to be careful that we don't put too much language like that. We have great enforcement at the permitting stage. We have horrible enforcement after that. It is that simple.

Cox: How many in the history of Development Agreements to your knowledge have gone bad? They haven't lived up to what they said they would do.

Randall: In Cedar, I don't know of a whole lot but that is partly because Tyler Romeril was here, he kept us to development agreements that dealt with density, and again that is at the permitting stage. So, it is easy to enforce. Matt Church is one of the most frequent private attorneys that we use in private litigation, and he has done training, after training he doesn't like Development Agreements at all. They put the city in a much worse position legally than if we just enforce our ordinance. We have a lot of protections when it comes to zoning and things like that. They give us some immunity. Contracts are like anybody else and contract disputes come out and we have no more protection than any other citizen. Development Agreements are always a risk. For example, he would encourage cities to never use them. In some cases, like this, we have an odd situation were.

Cox: We certainly wouldn't want to make an ordinance that required a wall on a X. That is what you will have to.

Randall: You do have some of these odd situations. I at least don't stress as much about development agreements that I can enforce at permitting. Anything that is passed permitting, the deferral agreement that is going to come back on 4B that is not on our topic. I won't go to far into it. That one becomes very difficult once he no longer wants a permit. If he no longer needs a permit, I have no enforcement left other than a lawsuit. I look at our current administration, council, and I doubt they would support me in expending potentially six figures of city dollars to have that lawsuit go forward. This once again, because it is based on almost a tradeoff. They get a wall where nobody gets one. Everybody else must have a setback and waste 10 feet of their property or more depending on what kind of build they have. They get benefits. The tradeoff is probably one that will stay active even after the permitting stage and even after we change owners. On some of these I am nervous. I will tell you right off the bat, I am nervous.

Phil: Doesn't allow access to through there.

Randall: Correct. And if they ever come in seeking that access, that is when the permitting process would kill it.

Kent: Can I comment? One thing I did not think about when I reviewed this, and maybe this is getting too far down into the details. Phil just put it on your radar. When we get to the intersection of 3700 West and 800 North, we want to make sure we don't build that wall in a way that obscures sight distance for the intersection. Probably will need to angle that back or something there at the intersection.

Phil: We will put it under the city code. We don't want it to block traffic.

Kent: Randall, is that something that would be worth mentioning in the wording here, or if just deal with that

the permit stage?

Randall: I think you could easily add some language there except for required sight distances at the intersection intersections.

Kent: I think that it would be good if we could do that. Jett:

Phil, do you have any issues with that?

Phil: I think that is great. If we built the wall, there would be recks there, you would be blind. Suggest that change.

Randall: If you do make a motion in support of it, suggest that change if you would.

Jett: Thank you.

Cox motions to make a Positive Recommendation on the Development Agreement at 800 North 3700 West with the addition of the language, that the block wall meet line of sight and the city ordinance at the intersections. Wayne seconds; all in favor for a unanimous vote.

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| 4. Vacating Public Easement
(Recommendation) | Main Street, North of
Canyon Center Drive | JMT Enterprises/Watson
Engineering |
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Dan Roberts: I represent JMT. This is a simple thing that we are trying to do. Out North on Canyon Center Drive. DOT put up some surplus property mounted to be about 30 to 50 feet depending on where it was. We are asking to vacate the old easement along Main Street and move it where it should be. The public utility easement on next to Main Street. It is vacating one and to my knowledge, there is not anything in that easement.

Kent: I zoomed in on a portion of this, so you see it a little better. The line right along here, if you can see where my mouse is pointing, was the old Right-of-Way line of the state road. Now the Right-of-Way line is further out. The easement was in the correct location previously. Some of that Right-of-Way is no longer the Right-of-Way. We want the easement to be where it belongs now and then this easement could be vacated. There is the question of whether there are any utilities that are utilizing that easement at our sketch meeting. The utilities that were present did not have anything there and I believe that Watson was trying to chase that down to make sure there weren't any other utilities. It does not appear that there are any utilities there. We want to get confirmation of that before final action by the city council, but we don't believe that there are any there.

Jett: Engineering has no quandaries or concerns.

Kent: No, what they are proposing to replace that with would meet our typical requirement and we would wind up with exactly what we want. The only step that we would want to make sure it gets addressed is that we don't find that there is someone a utility that is currently using it, but we don't believe that there are.

Jett: I figured Dan would have already done his homework on this.

Randall: Usually, you fear that there is some line nobody is aware of. We have had a few developers midway through suddenly find a line. The past ones that we have done on this. Where we are essentially moving it, we have vacated contingent upon two things. One is the establishment of a new one. This one wouldn't legally be vacated until the new one is established. The second one is if there are any lines that they need to move at their expense. That way if they find one, they must move it. If there isn't one, then you don't have to worry about it.

Kent: One thing I did want to point out here and I didn't recall whether the way the addresses the agenda is written this or not this way. Corner radius. The property that is deeded over from the state. A small triangle right-of-way. That will be part of the new easement. Minor subdivision plat that.

the new easement that will be established, along with the Minor subdivision plat that is being done.

Jett: Randall, do we need to make any special motion on this?

Randall: That is what I am looking for. Part of my fear is I know under the state code; the council must have a public hearing about this. I am trying to see if our city ordinances have anything about it for you guys. Okay, I don't see anything that necessarily requires it. If we want to be able to move that forward to the council the council will require a public hearing. It will require a separate notice in that sense for how we publish it. Just include that in your motion. If I run into problems later, I will bring it back to you. Briefly, now, I do not see that you guys are required to have it separate. You are just required to advise the council.

Wayne makes a motion for a Positive Recommendation Vacating Public Easement; we will include that triangle Right-of-Way on Canyon Center Drive. It will be vacated when the other one is secured. Cox seconds; all in favor for a unanimous vote.

The meeting was adjourned at 5:41 p.m.

Faith Kenfield

Faith Kenfield, Executive Assistant