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*Continuing Education
from Cedar Hills*

Authored by: Paul T. Mero
President
Sutherland Institute

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Continuing Education from Cedar Hills

by Paul T. Mero

Right off the top, let me clarify a presumption in my previous essay, “Community Identity and Its Critics: Lessons from Cedar Hills for the Rest of Us.” Formal, statutory ordinances prohibiting the sale of alcohol and Sunday commercialism DO NOT exist in Cedar Hills, Utah. I implied in my essay that they do exist; they do not.

Second, I also implied that the Cedar Hills mayor and city council endorsed (with a “wink and a nod”) a private real estate sale of zoned commercial property to bring Smith’s grocery store to town and with it alcohol sales and Sunday commercialism. Again, the implication is wrong; they did not meet as a body to endorse such a thing.

The June 28 referendum in Cedar Hills will settle a nearly 30-year enigma – notwithstanding the non-existence of formal prohibitions against the sale of alcohol and broad Sunday commercialism, alcohol has not been sold and broad Sunday commercialism has not existed.

Clearly, in writing my previous essay, I was confused into thinking that nearly 30 years of no alcohol and no broad Sunday commercialism meant that their absence was confirmation that this community standard had been codified into Cedar Hills law. I was wrong.

While I am pleased to see that the Sutherland Institute can have such a dramatic effect on the minds of Utahns and local policy, my purpose in writing the essay was to defend the good people of Cedar Hills against the outlandish arguments of the *Provo Daily Herald* editors. I do not live in Cedar Hills; hence, I do not care how its residents ultimately decide the issues of a sales ban on alcohol and a ban on broad Sunday commercialism. Those issues are their business.

But there are some good reasons for the rest of us to be concerned about what is going on and I have learned much over the past week. So, at the risk of over-indulging the matter, allow me to share my continuing education from the feedback I have received from the past essay.

There is confusion over what constitutes a community standard. I wrote in the previous essay that a community standard is an organic value, according to scale and scope, based on years of tradition and unchanging circumstances. We might think of it in the same way as a common law marriage – a man and a woman live together 25 years as husband and wife and, though never technically married, they are married in effect.

Community standards are similar. In the case at hand in Cedar Hills, where alcohol has not been sold publicly since its incorporation as a city, and where (believe me, I know this by now!) no formal prohibition on the sale of alcohol exists in Cedar Hills, a non-formal proscription, or “community standard,” against the sale of alcohol has been created over time.

The confusion among some folks about community standards is exacerbated by a misunderstanding of

constitutional principles. There is no constitutional right to buy beer in Cedar Hills, Utah. Nor is there a constitutional right to shop on Sunday in Cedar Hills, Utah. In fact, it is quite the opposite. The residents of Cedar Hills have the right to determine such things for themselves. Ideals of local autonomy and pluralism are at play here and these ideals, in my estimation, are what help to make America great.

There is confusion among Latter-day Saints over what constitutes religious imposition. Notwithstanding that the residents of Cedar Hills have every right to self-determination in such cases, there is a definite strain of opinion among some self-avowed Latter-day Saints “to not impose their religious beliefs on others.” This sentiment has been expressed to me in a variety of ways but most frequently as not wanting to violate the “free agency” of others.

There are at least three points to be made. The first regards beer drinkers. Presumably some Latter-day Saint residents in Cedar Hills feel that they would be violating a beer drinker’s “free agency” to drink beer if a prohibition on alcohol sales were in effect. The reasoning goes, that while a Latter-day Saint resident would not buy and drink beer himself, he would not want to keep others from doing so, not because he endorses beer drinking but, in deference to the beer drinker’s “free agency.” This position is similar to Senator Ted Kennedy’s stand on abortion – he opposes it personally, but will not impose his personal belief on others who want to abort (kill) babies.

Most Latter-day Saints understand that “free” agency really does not exist. What exists is “moral” agency. That is, we are moral agents; and, in the context of the gospel of Jesus Christ, we are His moral agents. Agency of any sort only exists because of the atonement of Jesus Christ. As His moral agents, our exercise of choice exists only because of Him. Further, our choices are not limitless; in fact, they are two: choices within His context and plan for man and those choices that fall outside of that context and plan.

And let me clarify this (because my secular humanist critics, especially at the *Herald*, will be quick to make something out of nothing here), we might desire a vast array of personal choices as citizens. We love our liberties. My point above is not to argue the case for proscribing liberty. My point above is to simply say that critics of the proposed Cedar Hills prohibitions ought to be very careful about how they throw around anti-religious arguments.

The question at hand regarding beer drinkers in Cedar Hills is this, does a formal prohibition on beer sales violate a beer drinker’s agency? My answer is NO because his agency only extends to his choice to drink beer, not to choose where it is sold.

Even so, a policy question remains. Is it right to impose a community standard, formally, under the law, when even one person might disagree with that standard? Let’s be clear here: an affirmative vote on June 28 would only impose a prohibition on the *sale* of beer in Cedar Hills, NOT the *drinking* of beer. Even with a formal prohibition on its sale, people could still drink beer in Cedar Hills.

Perhaps a bigger question for residents of Cedar Hills becomes this: do you want to formalize a community standard that says to all the world that no alcohol will be sold in Cedar Hills? For Latter-day Saint residents, there is nothing in the gospel that would prevent such a standard from taking effect. And for all residents, there is nothing in the U.S. Constitution or state constitution that would prevent such a standard from taking effect. So, much to the chagrin of the editors at the *Provo Daily Herald*, the only thing in play here is your own moral conscience and how you will balance your moral sentiments against other secular interests (e.g., potential business revenue).

Second, there is an argument that a Sunday closure law would impose a “Sunday Sabbath worship” on non-

Sunday Sabbath worshippers and would violate the Establishment Clause of the U.S. Constitution. They argue further, within our moral conscience, such a prohibition would offend our neighbors who worship their Sabbaths on other days – after all, we Sunday worshippers shop and “defile” *their* sacred days, so why would we act unfairly to protect *our* sacred day?

The U.S. Supreme Court has ruled time and again that Sunday closure laws are not a violation of any part of the U.S. Constitution. That takes care of the first part of this argument.

The second part of the argument is a straw man, an artificial construct of the opponents of a prohibition on Sunday commercialism. These opponents want to project this part of their argument in religious terms. They want residents of Cedar Hills to believe that there is no “rational” reason to favor Sunday closures. Unfortunately, the highest court in the land disagrees. The U.S. Supreme Court, in holding Sunday closure laws constitutional, finds a compelling secular reason for approving these laws: the present purpose and effect of Sunday closing laws is to “provide a uniform day of rest for all citizens” and, as such, does not violate the First or Fourteenth Amendments.

If this constitutional test survives scrutiny throughout a diverse United States, then it will survive scrutiny in homogenous Cedar Hills, Utah. There simply must be a time during each week when our business lives – the demands of government and commerce – are put on hold. Pick a day. Traditionally, all throughout America, that day is Sunday.

Lastly, it must be understood that in this argument about beer and Sundays there is no neutral ground. Critics of a formal prohibition would lead others to believe that the “imposition” of beliefs is a one-way street – religious, LDS residents imposing their morals on their secular non-LDS neighbors. In reality, an imposition is occurring one way or the other. To prohibit a prohibition is an equal imposition of morality.

A major point of my previous essay was to say that such impositions are fine, either way. The residents of Cedar Hills have the right and opportunity to either consent to the sale of beer and open businesses on Sunday or not. But it is simply disingenuous to argue, as do these critics, that a moral imposition is one-sided. Like it or not, residents of Cedar Hills will face an “imposition” either way – either a moral imposition to prohibit alcohol and Sunday commercialism or a secular imposition to allow it all.

There is confusion about the threat of secular humanism. Many of the comments I have received from Latter-day Saint critics of new formal prohibitions, unfortunately, seem consistent with secular humanist arguments. They argue “rational” opinions rather than moral or religious sentiments, the virtue of commercialism over community standards, and the overriding necessity to “grow the tax base” in contrast to maintaining a small city environment.

I am not sure how much more can or should be said about this. But I do find it tragic that religious people argue secular humanist points. For me, this unnecessary inconsistency is reminiscent of what has happened in Europe. Religiosity in Europe is “code blue” if not dead because secularists have successfully argued that moral and religious sentiments are irrational in civic affairs and in popular culture. In America, we see the same manifestation in cities such as San Francisco, Hollywood, and New York City – all of them religiously and culturally dead, by and large, because the only meaningful things there are meaningless things. And they are meaningless things because, in their sterile, secular worldview, religious and moral sentiments have been kicked out of the public square. Life is meaningless, love is meaningless, self-control is meaningless, God is meaningless – these are the societal fruits of secular humanism.

Some critics of the proposed restrictions in Cedar Hills might argue here that the debate is only about beer and

Sunday shopping that exist nearly everywhere else in Utah. What do Europe and these other cities have to do with us? The common denominator is secular humanism, the victory of rational man over moral man. As posited by the *Herald* editors and their followers, at stake in Cedar Hills is a public sentiment we refer to as a “community standard” derived from a moral interest. In contrast is the pursuit of economic development. Reasonable people will see that the two need not be mutually exclusive, except in the mind of a secular humanist. For him, there is only one victor and one vanquished.

There exists a modicum of concern in the feedback I have received that commercialism in Cedar Hills must include the sale of alcohol and doors open on Sunday. The concern is that the city fathers will not be able to find an “anchor” store on which to build a commercial center without selling beer and without being open on Sundays.

Perhaps that is so. But my experience in public life tells me that if even half of the energy put into fighting this referendum were placed foresquare in the search for commerce that would both serve the city’s economic needs as well as respect its community standards, then this problem would be solved in no time. I can tell from the responses I receive that there are great differences of opinion even among opponents of the prohibitions when it comes to commerce in Cedar Hills. Some have grand visions, others have more modest expectations.

My point would be that balance can be achieved. This problem is not the dichotomy posed by the *Herald* editors and their followers.

There is confusion over unintended consequences. One of the issues uncovered in this public controversy is the slave-master we call public debt. Some time ago the residents of Cedar Hills voted to build a public golf course. The margin of victory was narrow. Arguments against building the golf course centered around any public debt that might be generated from its operations.

Nearly every public golf course in Utah operates in the red. So this forewarning, while ignored, was well-grounded. At least one resident of Cedar Hills has pointed out to me the law of unintended consequences in relation to the public golf course: business revenue is being sought after to help cover the public debt incurred by the golf course and, as fate would have it, this business revenue is desired at the expense of existing community standards. Damn any prohibitions against the sale of alcohol or Sunday commercialism, we need business revenue!

There is unanimity that Cedar Hills has the right to self-determination. Perhaps the most profound lesson coming out of Cedar Hills now is that there is unanimity among the residents I have heard from that Cedar Hills has the right to self-determination. Pro-prohibitions or anti-prohibitions, the feedback is consistent. This is a very good thing.

I have appreciated the civility in tone of this debate as it has now come my way. Sure, politics as usual is in full sway. But I sense that there are residents who are seriously trying to rise above it all.

Our mantra at the Sutherland Institute is to do the right things for the right reasons in the right ways. In Cedar Hills, Utah, these expectations are in flux. Residents are trying to figure out what is the right thing, what is the right reason, and what is the right way. The referendum on June 28 is an attempt to provide answers to these questions.

The Sutherland Institute welcomes continued feedback and will gladly publish further thoughts on this matter.