

MINUTES OF THE DRAPER CITY COUNCIL MEETING HELD ON TUESDAY, MAY 7, 2013, IN THE DRAPER CITY COUNCIL CHAMBERS 1020 EAST PIONEER ROAD, DRAPER, UTAH.

“This document, along with the digital recording, shall constitute the complete meeting minutes for this City Council meeting.”

PRESENT: Mayor Darrell Smith, Councilmembers Bill Rappleye, Troy Walker, Alan Summerhays, Jeff Stenquist, and Bill Colbert. Councilmember Summerhays was excused.

STAFF PRESENT: David Dobbins, Russ Fox, Tracy Norr, Bryan Roberts, Troy Wolverton, Rhett Ogden, Garth Smith, Danyce Steck, Russ Adair, Joe Bryant

Study Meeting

1.0 Council/Manager Reports

1.1 Council/Manager reports were moved to the end of the business meeting.

2.0 Adjourn to Closed Meeting

6:17 PM

2.1 A motion to adjourn to a closed meeting to discuss litigation, property acquisition, and the character and professional competence or physical or mental health of an individual was made by Councilmember Walker and seconded by Councilmember Colbert. The motion carried unanimously.

Business Meeting

1.0 Call to Order

[7:07:27 PM](#)

1.1 Mayor Smith called the meeting to order and welcomed those in attendance. He noted Councilmember Summerhays is excused.

2.0 Comment/Prayer and Flag Ceremony

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2.1 City Engineer Troy Wolverton offered the opening prayer. The pledge of allegiance was led by Police Chief Bryan Roberts.

3.0 Citizen Comments

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- 3.1 Ryan McClellan, 2153 Eagle Crest Drive, spoke representing residents of Suncrest who would like a stop sign at Eagle Crest Drive and Eagle Chase Drive. He said there is a lot of traffic crossing the road because of the new park, trail access, and open space. He said a bicycle pedestrian accident occurred, and he has been talking to the Engineering Department about getting a stop sign. He cited the Engineering Department's reasons to oppose the stop sign, saying the addition of a stop sign could make the intersection more dangerous, liability could be more if standards are not in compliance, stop signs are not to be used to control speed, the use of multi-way stop signs is for intersections where traffic is equal, and there must be 5 or more accidents that would have been prevented by the stop sign. Mr McClellan said the purpose of the stop sign would not be to control traffic, there are no stop signs on Traverse Ridge Road, and confusion can be eliminated by a "stop sign ahead" sign. He said he thinks there is equal traffic from both directions. He said there has only been one accident, but he does not think there needs to be additional accidents, especially involving children. He said a stop sign would have prevented the accident because people work both ways at stop signs. He said it is irrelevant that the child failed to stop at the posted stop sign.

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- 3.2 Brittany Lees, 15242 Eagle Chase, said she lives at the intersection. Her child plays at that intersection, and she would like the stop sign.

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- 3.3 There were no other citizen comments.

4.0 Consent Items

- a. **Approval of Minutes of April 16, 2013, and April 23, 2013, City Council Meetings**
- b. **Resolution #13-25, Appointing Glade Robbins as Public Works Director**
- c. **Resolution #13-26, Reappointing Marsha Vawdrey and Kent Player to the Planning Commission**
- d. **Amendment to Agreement #12-99 with TNT Auctions, Inc. to Renew Contact for Retail Sale Services (Auction of Surplus Property)**
- e. **Final Plat for Galena Grove Subdivision, Located at Galena Park Drive and 700 West**
- f. **Agreement #13-115 with Acme Construction for 13200 South Construction**
- g. **Agreement #13-121, 13490 South/Vista Station Roadway Project Right-of-Entry Agreement with Union Pacific Railroad**
- h. **Agreement #13-122, 13490 South/Vista Station Roadway Project Right-of-Entry Agreement with Utah Transit Authority**
- i. **Agreement #13-125, Memorandum of Understanding with Draper HAM Radio Association**

j. Second Amendment to Agreement #12-40 with Crafc0 to renew the Contract for Asphalt Crack Sealing Compound

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4.1 A motion to pull Item E was made by Councilmember Walker and seconded by Councilmember Colbert. The motion carried unanimously.

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4.2 A motion to approve the remaining consent items was made by Councilmember Stenquist and seconded by Councilmember Walker.

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4.3 A roll call vote was taken with Councilmembers Stenquist, Rappleye, Colbert, and Walker voting in favor. The motion carried.

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4.4 Councilmember Rappleye noted the city purchased and owns the equipment used by the HAM Radio Association.

5.0 Public Hearing: Resolution #13-26, Adoption of Tentative Budget for Fiscal Year 2013-2014.

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5.1 Danyce Steck reviewed the formatting for the budget book. She discussed financial sources and the changes in fund balance projected for the next five years and the changes made following the study session. She noted the Class B & C road funds has been used to its extent. The Capital Improvement Projects fund will end this year with a \$3.8 million balance, and no new projects have been budgeted. One project to discuss in the future is to add space at city hall for impacts of staffing increases. She noted there are no projects in the impact fee funds. A project needs to be allocated to the park impact fee fund in the next budget year. She said the utility funds are healthy and strong and have responsible balances.

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5.2 Danyce Steck said the tentative budget was added to the website for public review. David Dobbins thanked Mrs. Steck for her efforts. He said the staff is ready to work with the council on any budget-related questions. Mrs. Steck added that narrative will be added to the final budget for each department.

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5.3 The public hearing was opened.

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5.4 Shawn Benjamin, 360 West 13165 South, said his only question said the group that the Youth Council falls under has been moved. With that change, he said Maridene Hancock

has stepped in and helped with an interim budget. He said there is not an established budget and he does not see any allocation for the Youth Council. Mrs. Steck said it is included under the City Manager's budget.

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5.5 There were no further comments and the public hearing was closed.

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5.6 Councilmember Colbert explained the process for adoption of the budget. Mayor Smith noted the final adoption is scheduled for June 18. David Dobbins said an additional public hearing will be held on June 4.

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5.7 **A motion to suspend the rules was made by Councilmember Colbert and seconded by Councilmember Walker. The motion carried unanimously.**

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5.8 **A motion to approve Resolution #13-26, adopting the tentative budget for fiscal year 2013-2014 was made by Councilmember Colbert and seconded by Councilmember Walker.**

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5.9 **A roll call vote was taken with Councilmembers Colbert, Walker, Stenquist, and Rappleye voting in favor. The motion carried.**

6.0 **Public Hearing: Consideration of Declaring Property Surplus and Authorizing the Sale of the Encroachment to Ted and Cossette Morton, 2116 East Falcon Ridge Drive.**

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6.1 Russ Fox said this is a new encroachment. David Dobbins said the property was not considered as open space so there is no restriction on selling it. Mr. Fox said the property owners have offered to purchase the property at \$9 per square foot. Councilmember Colbert said the purchaser must also do the survey.

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6.2 Cossette Morton, 2116 Falcon Ridge Drive, said they were told they were responsible for the area up to the swale when they moved into the home. They would like to purchase the land. Councilmember Colbert said he appreciates the property owners trying to make the encroachment right. Councilmember Stenquist asked if there had been any agreement with the former property owners (Suncrest or Zions) about encroaching onto the property. Mrs. Morton said there was not.

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6.3 The public hearing was opened. There were no comments and the public hearing was closed.

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6.4 A motion to suspend the rules was made by Councilmember Colbert and seconded by Councilmember Walker. The motion carried with Stenquist opposed.

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6.5 A motion to declare the property surplus and authorize the sale to Ted and Cossette Morton was made by Councilmember Colbert and seconded by Councilmember Walker.

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6.5 Councilmember Colbert said this is a reasonable offer and is consistent with other actions. Councilmember Stenquist said he opposed the suspension of the rules but he is not against selling the property. Councilmember Rappleve said he worried that a lot of the properties are similar and he hopes we don't lock everyone into having to purchase the property due to differences.

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6.6 The motion carried unanimously.

7.0 Public Hearing: Consideration of declaring property surplus and authorizing the sale of the property to David and Jennifer DiMarzio, 15373 S. Falcon Pointe Court.

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7.1 Russ Fox said Mrs. DiMarzio had requested the city's consideration in the sale of the property for her garden. This is not an encroachment and is not part of the Suncrest open space. It is about 2,100 square feet. The property to be sold does not include the swale.

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7.2 Councilmember Colbert said he would prefer to sell the swale as well.

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7.3 Jennifer DiMarzio, 15373 Falcon Pointe Court, said the survey was completed. The swale was not included in the survey due to costs. She would like the property. She said the property is of more value to her than anyone else. She said the dirt next to her property was promised to be a park and she paid \$50,000 extra for that promise. She said she would like to negotiate the price. Mayor Smith said the council established the price for selling surplus property. She said the addition of the property added no value to the home value in an appraisal that was done today.

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7.4 The public hearing was opened.

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7.5 Jerry Vaughan, 2126 Falcon Ridge Drive, read a letter from her husband, Gary. The letter summarized his feelings about the property. He did say the residents are being overcharged in light of the amount the city paid for the property and in light of the economic situation. He said he disagrees with any allegation of encroachment. He was also told to care for the property. It is a fire-break for the property. He provided recommendations and expressed willingness to meet with the councilmembers.

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7.6 Tony Magliocchino, 2138 Falcon Ridge Drive, said he is a recent resident to Suncrest and has a similar situation. The previous owner landscaped beyond the property boundaries. He said he had been warned about the landslide issues and with the landscaping felt the landslide issues had been addressed. He said the landscaping is more erosion resistant than having weeds there, which is what would happen if the land is returned to natural conditions. He said \$9 per square foot is not realistic.

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7.7 Shawn Benjamin, 360 West 13165 South, said his recollection of the price was largely determined because of encroachments and was punitive. He said it seems reasonable that if there is no encroachment, a less punitive rate might be appropriate.

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7.8 There were no further comments and the public hearing was closed.

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7.9 Councilmember Rappleye said he feels this item should follow the normal course and not take action at this meeting. Councilmember Stenquist asked if the city is simply approving the sale or approving the sale at a given price. Mr. Dobbins said the council could declare the property as surplus and direct staff to work with the property owner. Councilmember Colbert said he is concerned with raising the fire issue. Other neighborhoods do not have the swale to buffer them from fires. He said he would like to see reasonable provisions to become FireWise, but he does not feel he has the right to remove native vegetation on city property to reduce the fire danger for his property. Councilmember Stenquist acknowledged the fact that the encroachment characterization is not accurate in this case, but the previous owner did not seem to have a problem. The city has a different set of standards and has to maintain consistent policies. In his mind, if there is no public use for the property and the proceeds could benefit the public in other ways, yet has set the price too high, the public will not benefit. He said a reasonable selling price that both parties can agree on would be in the public interest. There are differences where developers were given additional density in exchange for open space. That is not the case in this situation. He said a fair selling price should be negotiated. Councilmember Rappleye agreed.

7.10 This item will follow the normal course.

8.0 Public Hearing: Ordinance #1044, Amending Draper City Municipal Code Regarding Tower Signs.

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8.1 Dan Boles said there was an applicant who proposed making this text change. He reviewed the qualifications for this type of sign and explained the proposed changes. He said the CC zone is added to the list of zones to allow an electronic message center, the property requirement is reduced from 15 acres to three acres, and the requirement is for 400 feet of lot frontage. There are approximately 18 properties that would qualify for electronic message centers. Councilmember Stenquist noted the qualification still pertains only to freeway frontage. When asked about comparisons for the size, Russ Fox said the tower sign at Lone Peak Hospital is 200 square feet. The electronic message center is half of that. Billboards are approximately 1,000 square feet.

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8.2 LaVar Christensen gave some background on the request and said this is an example of a process well taken. It has been nine months working with the Planning Commission to satisfy the concerns. Staff did a marvelous job. He said professionals wanted to locate near the new Lone Peak Hospital. The Canyon Crest Medical center now has 30 medical professionals who moved to Draper. The situation is not conducive to a monument sign. He said the cost prohibitive nature of the electronic signs will help keep them from proliferating. He said using 15 acres as a standard was arbitrary. A separate medical district was not needed because of the CC district. Because the zone is confined to I-15 frontage, UDOT has a more liberal standard than the city. The Planning Commission has given unanimous approval for the proposed ordinance.

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8.3 Councilmember Rappleye asked if it makes sense to have the sign split or leave it up to the business to determine the space for an electronic sign within the 200 square foot limit. Mr. Christensen said he likes the discretionary powers and suggested variations such as what the council may reasonably approve in the best interest of the community. He said he initially ask for a larger space but tried to stay within the confines of the current code. Councilmember Walker suggested using the language “up to 200 square feet.”

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8.4 Jed Bindrup, 12301 Mariah Circle, said they have tried to follow the ordinance. His concern is that there are 14 spaces for 30 professionals, and there is also the Granger Medical Center coming in. Everyone knows there is a Canyon Crest building, but no one knows what is in the building. A small monument sign is not sufficient for all the names. He said the building has multiple specialists. He said he would like the flexible language but hopes it would not take another nine months to get the ordinance changed. He thanked the council for their time and consideration.

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8.5 The public hearing was opened.

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8.6 Shawn Benjamin, 360 West 13165 South, said the idea of the 400' element is a little disconcerting although he recognized that the Canyon Crest building is not identifiable until you go there. He said he feels this ordinance may create an arbitrary standard. He said maybe a tiered system based on the size of the lot may be more fair.

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8.7 Mr. Christensen said the request initially included increased sign area to 250 square feet, but to simplify it, the focus was on the actual space and what could be done to qualify as an applicant. He said he likes the flexibility in the motion to say "up to" but want the application to move forward.

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8.8 Mayor Smith said he is thrilled to see Dr. Bindrup and his associates to move to Draper. He said the Planning Commission obviously was aware of the council's reticence to have these types of signs.

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8.9 Russ Fox said the text amendment could be changed to remove the 50% limitation. The automatic dimming and changing are still included. Councilmember Colbert said there has been a long process and has a unanimous recommendation from the Planning Commission, so he is hesitant to make any changes to their recommendation. Councilmember Walker said he agrees with the process, but wonders why we would restrict the area for electronic signs. Councilmember Rappleye said there is a logistical reason for the electronic messaging signs, including cost sharing for the sign.

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8.10 A motion to suspend the rules was made by Councilmember Stenquist and seconded by Councilmember Walker. The motion carried unanimously.

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8.11 A motion to approve Ordinance #1044 was made by Councilmember Stenquist and seconded by Councilmember Colbert.

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8.2 A motion to amend the motion was made by Councilmember Walker to add an "up to 250 square foot for the sign, with the applicant to have the flexibility of determining how much would be electronic or traditional or combination. The motion was seconded by Councilmember Rappleye.

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8.13 Councilmember Colbert said he feels the amendment counters the process that took place by the Planning Commission. Councilmember Rappleye said the flexibility makes sense.

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8.14 A roll call vote for the amendment was taken with Councilmembers Walker, Rappleye voting in favor and Councilmembers Colbert and Stenquist opposed.

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8.15 A motion to amend the motion was made by Councilmember Stenquist to strike paragraph 6(i) from the ordinance. The motion was seconded by Councilmember Rappleye.

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8.16 A roll call vote was taken on the second amendment with Stenquist, Rappleye, and Walker voting in favor and Councilmember Colbert opposed. The motion carried.

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8.17 A roll call was taken on the amended original motion with Councilmembers Stenquist, Rappleye, and Walker voting in favor and Councilmember Colbert opposed.

9.0 Council/Manager Reports

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9.1 Councilmember Walker said Tad Draper would like improvements to the Town Center by building a historic Fort Draper at the old Park School property.

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9.2 Councilmember Colbert asked about the stop sign as requested. David Dobbins said a warrant study will be done for the site. The challenge is the liability the city takes on. Councilmember Rappleye suggested a small round-about. Mr. Dobbins said the neighbors will be told the result of the study. He suggested a policy about how requests for stop signs are handled. Councilmember Colbert also asked if any improvements can be done on Deer Ridge Drive this year. Mr. Dobbins said there is nothing scheduled for that.

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92.3 David Dobbins said the Parks, Trails and Recreation committee wants to stay as one board. He also said that to create or expand a Special Service District, all potential property owners need to be notified. If over 30% of the property owners, either by number or value of property, the special service district cannot be formed or increased. The city cannot force anyone into it. Discussion was held about limiting service in areas that are not in a district. Mr. Dobbins also asked if the council wants to talk at a future

meeting about the Suncrest issue about dividing single homes into rentals (such as basement apartments). The consensus of the city was not to take action at this time.

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2.4 Russ Fox said there is another request for property purchase next to Honeybee Park. The canal runs through the park and splits the park. The adjoining development has expressed interest in purchasing the property for additional development. There is no connection to the property from the other side of the canal. The consensus was to pursue the negotiations.

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2.5 Chief Bryan Roberts distributed the printed 2012 Police Department Annual Report. He also invited the council to a program on May 15 regarding bullying. He also said an open house will be held on May 16 to discuss the South Mountain/Town Centre parking issues. Chief Roberts said the Department of Justice has release the COPS grant application. The department will apply for two school resource officers. He reviewed the funding terms for the positions if the grant is received.

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2.6 Russ Fox said he has been meeting with DR Horton regarding the Tall Wood subdivision at Suncrest. An open house will be held with the Homeowners Association next week to get resident input on what they expect for the neighborhood relating to a gated community. Councilmember Colbert said he does not want the city to subsidize snow removal on the private roads or pay for gates. Mr. Fox said the gates are required by the plat.

9.0 Adjourn to Redevelopment Agency Meeting, Municipal Building Authority Meeting, and Traverse Ridge Special Service District Meeting

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9.1 A motion to adjourn to a Redevelopment Agency meeting was made by Councilmember Rappleye and seconded by Councilmember Walker. The motion carried unanimously.