

Approved October 30, 2018

MINUTES OF THE DRAPER CITY COUNCIL MEETING HELD ON TUESDAY, OCTOBER 16, 2018, IN THE DRAPER CITY COUNCIL CHAMBERS, 1020 EAST PIONEER ROAD, DRAPER, UTAH

PRESENT: Mayor Troy K. Walker, and Councilmembers Mike Green, Tasha Lowery, Alan Summerhays, Marsha Vawdrey, and Michele Weeks

STAFF PRESENT: David Dobbins, City Manager; Mike Barker, City Attorney; Rachelle Conner, City Recorder; Scott Cooley, City Engineer; John Eining, Police Chief; Russ Fox, Assistant City Manager; Rhett Ogden, Recreation Director; Clint Smith, Fire Chief, and Jared Zacharias, Assistant Finance Director

Dinner

Study Meeting

1.0 Joint Discussion: City Council and Planning Commission – General Plan

1.1 Meg Ryan, Utah League of Cities and Towns, presented training on the General Plan and updated those present on the requirements recently approved by the State Legislature. She reviewed the requirements and the process, and then presented recommendations for the Draper General Plan update as follows:

- Process
 - Staff reduce the size of document
 - Planning Commission recommendations
 - City Council recommendations
 - Public input and outreach

She explained this was the most challenging land use development she had encountered and it was difficult to get consensus from the residents. The City was required to have a General Plan because it served as a practical vision for the future; growth and change did not happen without a plan in place. Per State requirements, the General Plan needed to include plans for land use, transportation, and housing. The State allowed cities to decide the vision for the three required elements in the General Plan, and it needed to be consistent with the City's growth. There were no legal repercussions for not following the General Plan exactly.

It was noted the residents were not comfortable with the density. Mayor Walker asked who would be examining the General Plan first. He was informed that Ms. Ryan's staff would evaluate the plan and make suggestions. Ms. Ryan explained they needed to include Draper's community values in the document after input was received from the residents. She explained this would be a checklist for future zoning, and would include action plans as well a timeline. Further instruction would occur as needed.

It was suggested the document be made smaller for public consumption. The residents were more interested in the infrastructure than growing the City's size. Ms. Ryan noted they could control the density to avoid a larger population.

A concern was raised about the General Plan being too technical for the public. There was subsequent discussion about how the prison property would fit into Draper's future General Plan.

2.0 Council/Manager Reports

2.1 There were no reports given.

3.0 Adjourn to a Closed Meeting to Discuss Litigation, Property Acquisition and/or Personnel

3.1 **Councilmember Summerhays moved to adjourn to a closed meeting to discuss litigation, property acquisition, and personnel. Councilmember Lowery seconded the motion.**

3.2 **A roll call vote was taken with Councilmembers Green, Lowery, Summerhays, Vawdrey, and Weeks voting in favor. The motion passed unanimously.**

3.3 The Closed Meeting began at 6:23 p.m. and opened at 6:52.

Business Meeting

1.0 Call to Order: Mayor Troy K. Walker

2.0 Flag Ceremony and Girl Scout Promise

2.1 Tali Zito recited the Girl Scout Promise.

2.2 The Flag Ceremony was performed by Girl Scout Troop #372

3.0 Public Comments

To be considerate of everyone attending the meeting, public comments will be restricted to items not listed on this or a future agenda and limited to three minutes per person. Comments which cannot be made within these limits should be submitted in writing to the City Recorder prior to noon the day before the meeting. Comments pertaining to an item on the agenda should not be given at this time but should be held until that item is called.

3.1 Tod Wadsworth explained he runs The Ridge restaurant in SunCrest, and he currently rents the building from the City. He said he wanted to buy the property, and this would be on a future City Council agenda.

** *Councilmember Weeks left the meeting at 7:07 p.m.*

3.2 Matt Erickson, resident, explained sister cities were a way to exchange information and ideas between municipalities. He suggested Draper choose a Spanish-speaking City to be its sister city.

4.0 Consent Items

a. Approval of October 2, 2018, Minutes

b. Approval of Proclamation for Extra Mile Day, November 1, 2018

c. Approval of Resolution #18-70

Amendment to Personnel Policy Section 8040, clarifying use of the Holiday Leave bank available to Police and Fire Department Employees.

d. Approval of Resolution #18-76

Appointing Sherry Nicholes and reappointing Andy Andrelczyk and Melissa Prince to the Draper Historic Preservation Commission.

e. Approval of Edelweiss Phase 9 Final Plat

Request for approval of Phase 9 of the Edelweiss subdivision on the request of Nate Shipp, representing MRE DAI Edelweiss, LLC.

f. Approval of Ordinance #1365

Amending Draper City Municipal Code Section 2-6-060 pertaining to bonds and Insurance.

4.1 Councilmember Vawdrey moved to approve the Consent Items. Councilmember Lowery seconded the motion.

4.2 A roll call vote was taken with Councilmembers Green, Lowery, Summerhays, and Vawdrey voting in favor. The motion passed unanimously.

5.0 Action Item: Resolution #18-77, Appointing a Member to the Traverse Ridge Special Service District (TRSSD) Administrative Control Board

5.1 Russ Fox, Assistant City Manager, explained the candidates would call in for the interview. He said the City had adopted the Traverse Ridge Special Service District Administrative Control Board in 2014. When the position to the Board expired, the position became vacant and needed to be filled.

** *The interviews for both applicants were done via telephone.*

5.2 Christine McClory, applicant, explained she had lived in the City for over 11 years. She said she was a delegate for the Eagle Crest area and was active with the community. She also volunteered with the Parks and Trails Committee to form its ten-year plan. Most recently, she assisted with the lighting standards of the district. Her professional background included working for IBM for two years, a public relation media analyst, and owner of a public relations firm servicing large and small businesses. She added that she also was a singer/songwriter and photographer.

- 5.3 Councilmember Summerhays asked if she would be opposed to raising taxes to solve issues with the TRSSD. Ms. McClory stated that was a point of litigation at this time and required more analysis. She explained it was appropriate to raise taxes when it was something for which the District was responsible.
- ** *Councilmember Weeks returned to the meeting at 7:19 p.m.*
- 5.4 Paul Tonks, applicant, explained that he had served on the TRSSD Board for the last two years and had lived in Draper for many years. He was involved in the community by serving on an HOA board. He noted that he currently worked with the Attorney General's office and stated it was helpful to have an attorney on the board. He explained that he had a lot of experience with government and wanted to help improve Draper.
- 5.5 Councilmember Summerhays asked if Mr. Tonks would be opposed to raising taxes to improve the TRSSD. Mr. Tonks responded that he was not in favor of raising taxes. He said he would look for any other options before raising taxes.
- 5.6 Councilmember Lowery asked if Mr. Tonks was in favor of making changes in the TRSSD. Mr. Tonks answered in the affirmative, and explained he was in favor of involving the SunCrest community with Draper.
- 5.7 Councilmember Green asked if Mr. Tonks voted and supported filing a lawsuit against the City. Mr. Tonks answered in the affirmative. He explained the City and the TRSSD Board came to an impasse deciding funding obligations. He said it was beneficial for a judge to help the two entities come to an agreement. Councilmember Green asked why the TRSSD had not used its available balance of \$1 million in B&C road funds. Mr. Tonks responded that he was not aware of the funds being available for the road repairs. He said they understood the funds were set aside for snow removal.
- 5.8 Councilmember Lowery asked Mr. Dobbins to speak to Mr. Tonks's comments about the B&C road funds. Mr. Dobbins responded that he did not understand how the use was not clear.
- 5.9 Mayor Walker explained the interview was public for this specific board. Mr. Barker explained the State statutes for appointing a member to the board specified a timeframe and deadline. He said they needed to re-notice the position to appoint other applicants.
- 5.10 Councilmember Summerhays moved to approve Paul Tonks to serve as a member of the TRSSD Administrative Control Board. Councilmember Lowery seconded the motion.**
- 5.11 Councilmember Summerhays said he thought Mr. Tonks was an honest person. He said he would bring a solution and expertise to the issues.

- 5.12 Councilmember Lowery agreed with Councilmember Summerhays. She added that Ms. McClory was a great candidate and asked her to apply again.
- 5.13 **A roll call vote was taken with Councilmembers Green, Lowery, Summerhays, and Vawdrey voting in favor. Councilmember Weeks voted no. The motion carried with a majority vote of 4 to 1.**
- 6.0 **Public Hearing: Ordinance #1355, McDonald Farm Zoning Map Amendment, a Request by Ken Keller to Rezone a 1.43-Acre Parcel from RA1 (Residential One-Acre Minimum) to R3 (Residential One-Third Acre Minimum) for Property Located at 12975 South 300 East**
- 6.1 Dennis Workman, Planner, presented the staff report as well as an aerial map of the subject property. He explained the request was consistent and compatible with the other developments in the area. Staff was recommending approval and the Planning Commission had voted in favor of the development.
- 6.2 Councilmember Summerhays asked if the house on the existing property would be torn down.
- 6.3 Ken Keller, applicant, responded the barn and the home would be torn down.
- 6.4 **Mayor Walker opened the public hearing. No one came forward to speak, so Mayor Walker closed the public hearing.**
- 6.5 **Councilmember Green moved to approve Ordinance #1355. Councilmember Weeks seconded the motion.**
- 6.6 **A roll call vote was taken with Councilmembers Green, Lowery, Summerhays, Vawdrey, and Weeks voting in favor. The motion passed unanimously.**
- 7.0 **Public Hearing: Ordinances #1366 and 1367, Handstand Land Use and Zoning Map Amendments, a Request by Trenton Saxton of CRSA Architects Representing Blue Boys Investments, for Zoning and Land Use Map Amendments, on Approximately 0.84 Acres of Land at Approximately 13656 South 200 West. The Requests are for a Land Use Amendment from Business & Light Manufacturing to Community Commercial, and a Zoning Map Amendment from M-1 (Light Manufacturing) to CC (Community Commercial)**
- 7.1 Maryann Pickering, Planner, presented the staff report as well as aerial images of the locations in question. She explained the application request was to change the land use designation and zone. The Planning Commission voted in favor of approval.
- 7.2 Trent Saxton, applicant, said they planned to build an office building for commercial use.

- 7.3 **Mayor Walker opened the public hearing. No one came forward to speak, so Mayor Walker closed the public hearing.**
- 7.4 **Councilmember Green moved to approve. Councilmember Lowery seconded the motion.**
- 7.5 **A roll call vote was taken with Councilmembers Green, Lowery, Summerhays, Vawdrey, and Weeks voting in favor. The motion passed unanimously.**
- 8.0 **Public Hearing: Provide Local Consent for a Bar Establishment Alcohol License for Seabird, Located at 13811 South Sprague Lane**
- 8.1 Councilmember Summerhays recused himself from the discussion and vote. Mayor Walker explained Councilmember Summerhays recused himself because he owned one of the other City's licenses.
- ** *Councilmember Summerhays left the meetings at 7:43 p.m.*
- 8.2 Christina Oliver, Community Development Director, presented the staff report and explained the nature of the license being requested for the establishment. She noted there were eight bar establishment licenses available in the City and only three were used. She said there were public concerns previously about the bar and the application was tabled for a later date.
- 8.3 Councilmember Weeks asked where the kitchen was in the last design. Ms. Oliver responded there was no kitchen in the last design.
- 8.4 Jameel Gaskins, applicant, explained they had amended the previous application to include food sales and hours of operation. They were planning on 50/50 food to alcohol sales.
- 8.5 Councilmember Weeks asked what was meant by 50/50 food to alcohol sales. Mr. Gaskins explained they planned to meet this ratio by the sales of food and alcohol being the same. Councilmember Weeks asked who would be responsible for ensuring that this ratio was met. Mr. Gaskins said the City could enforce this restriction.
- 8.6 Mayor Walker clarified the applicant was offering 50/50 food to alcohol sales and closing an hour early for consent from the Council. Mr. Gaskins confirmed that this was accurate.
- 8.7 Mr. Barker clarified the applicant would stop serving alcohol at 11:00 P.M. Mr. Gaskins concurred. Mr. Barker said he would have to do more research on the alcohol license to ensure the local consent was legal. He noted that the State's laws precluded those of municipalities.
- 8.8 Lincoln Shurtz, representing Seabird, explained the regulation would be done through the business licenses. He said the authority from the City would allow for regulation of hours and alcohol sales.

- 8.9 Councilmember Green stated that stopping alcohol sales at 11:00 P.M. was a big concession. Mr. Gaskins responded that their reason was to consider the concerns of the community.
- 8.10 Councilmember Weeks clarified their regulation would be through the business license. Mr. Shurtz responded in the affirmative, noting that this had been done in South Jordan.
- 8.11 Mr. Barker asked Mr. Shurtz if the South Jordan business ordinance had the flexibility to grant these types of conditions. Mr. Shurtz responded that he had not compared their licenses.
- 8.12 Councilmember Lowery asked if they needed more time. Mr. Barker answered in the affirmative. He said he would call South Jordan's attorney to find out if they allowed for this type of flexibility.
- 8.13 Councilmember Weeks said she wanted to hear from the public.
- 8.14 Councilmember Lowery apologized for delaying the application again.
- 8.15 Mayor Walker opened the public hearing.**
- 8.16 Lynette Jones, resident, requested that the Council allow the applicant to move forward by having the vote tonight. She said they could focus on the legal details later.
- 8.17 Mary Squire, resident, said she had spoken previously about this application. She noted there was considerable opposition to the bar's location. She thanked the applicant for the concessions. She asked the Council not to vote on this until they had more information about whether it was permissible to grant the concessions.
- 8.18 Benjamin Frederick, resident, commented that he was a person who drank. He said he was a man of faith and a respectable person. He said he did not know the applicant or the people in opposition to the applicant. He said this was a reasonable request from a businessman that met all the City's requirements.
- 8.19 Mayor Walker closed the public hearing.**
- 8.20 Councilmember Lowery asked if Ms. Oliver was comfortable with the parking. Ms. Oliver answered in the affirmative. Councilmember Green explained there was ample parking. However, he was concerned with enforcing the two concessions, and he wanted to make sure they were enforceable and legal.
- 8.21 Mr. Barker said the City would grant a business license and a liquor license. He explained the State would regulate the liquor license through the DABC. The Council had the ability to interpret the license requirement to ensure the establishment met the City's standards.

8.22 Councilmember Green asked if the City was imposing these restrictions on any other alcohol license. Mr. Barker answered in the negative.

Councilmember Weeks stated it was the applicant who was imposing these restrictions, not the City. She subsequently asked if this was possible. Mr. Barker responded that while it was possible, it was not immune from future issues.

8.23 Mayor Walker asked if it was possible to have a contract with the establishment for local consent. Mr. Barker stated when local consent was granted it was not reviewed again. Mr. Shurtz concurred and said this was preferable for fitting within the City's ordinances.

8.24 Councilmember Vawdrey asked if the license was tied to the land. Mr. Barker responded if there was a new owner they would be required to apply for a new license. Councilmember Vawdrey said this was concerning. Councilmember Weeks commented the new business would still be required to apply for a license.

8.25 Councilmember Green asked would this establishment be grandfathered into the old ordinance if the City created a new ordinance. Mr. Barker responded in the negative.

8.26 Councilmember Lowery moved to continue this item until the next City Council meeting in order to answer all of the questions raised this evening. Councilmember Vawdrey seconded the motion.

8.27 Councilmember Green commented that he was in favor of granting the applicant the license. He noted that he was also concerned with ensuring the requests were legal. He suggested they take more time to be sure about the legality.

8.28 Mayor Walker asked if there was any further discussion and said he was concerned with bar establishments. The problem for him was the bar not selling food. He noted the community did not always voice their opinions, but they did in this case. He said they owed it the public to find the legal framework for making this agreement.

8.29 Councilmember Weeks said she felt comfortable with the information that she had received.

8.30 A roll call vote was taken with Councilmembers Green, Lowery, Vawdrey, and Weeks voting in favor. The motion passed unanimously.

** *Councilmember Summerhays returned to the meeting at 8:14 p.m.*

9.0 Public Hearing: Resolution #18-78, Declare Property Located at 789 East Corner Ridge Road as Surplus and Authorize the Sale of the Property

9.1 Mr. Fox presented a map displaying the property to be surplus. The Council needed to identify that the City did not need the property for any other purpose.

9.2 Councilmember Lowery asked Mr. Fox to explain why they purchased the property. Mr. Fox responded the home was flooding and it was purchased with storm water funds.

9.3 Mayor Walker opened the public hearing.

9.4 Ken Morley, the previous owner, said he appreciated the staff's help with the purchase of the property. He was concerned about the improvements made on the home and the possible future owners. He did not want the home appraised before the improvements were made.

9.5 Steve Carn, resident, said he was a civil engineer. He recommended they make the improvements before it was sold. He noted there were areas that the City could improve and made some suggestions.

9.6 Lynette Jones, resident, explained she witnessed the flooding on the property several times. She said the current drainage was insufficient and she was concerned about future owners of the home. She asked the City to consider using the property as open space for drainage.

9.7 Susan Morley, previous owner, said when she purchased this home they were unaware of the flooding issues. She explained they dug a trench in their yard to abate the flooding, which caused a lot of stress trying to prevent the flooding. They currently were experiencing problems finding a home. She did not want another family in the home until the drainage was fixed.

9.8 Mayor Walker closed the public hearing.

9.9 Councilmember Summerhays asked if they had addressed these problems. Mr. Dobbins answered in the negative. He explained the staff report stated these issues were still being addressed. The first legal step was to sell the property then to make the improvements. However, the improvements could be made first.

9.10 Councilmember Green asked Mr. Cooley what work was needed to fix this problem. Scott Cooley, City Engineer, responded there were several steps they needed to take in order to fix the issue. They planned on adjusting the driveway and an easement for a storm drain. He said there would be a disclosure for anyone purchasing the property. Councilmember Green asked what type of assessment was conducted to ensure this was done correctly. Mr. Cooley said they were analyzing where the water was coming from and how to redirect the water. However, the flooding issue had not been fully addressed.

9.11 Councilmember Summerhays noted the overflow was located behind the property when it was built. He explained this was no longer located in this area. Mr. Cooley commented there was a long history of flooding problems.

Councilmember Weeks asked why they were surplus the property before it was fixed. The comment was made that they did not have to surplus the property before it was fixed.

9.12 Councilmember Weeks moved to continue this item until the water issues can be fixed.

9.13 Councilmember Green moved to amend the motion to deny the resolution outright until the problems are fixed. Councilmember Lowery seconded the motion.

9.14 Councilmember Weeks withdrew her motion.

9.15 Councilmember Green moved to deny Resolution 18-78, until the issues are resolved with the property. Councilmember Lowery seconded the motion.

9.16 A roll call vote was taken with Councilmembers Green, Lowery, Summerhays, Vawdrey, and Weeks voting in favor. The motion passed unanimously.

10.0 Adjournment

10.1 Councilmember Summerhays moved to adjourn the meeting. Councilmember Green seconded the motion.

10.2 A roll call vote was taken with Councilmembers Green, Lowery, Summerhays, Vawdrey, and Weeks voting in favor. The motion passed unanimously.

10.3 The meeting adjourned at 8:33 p.m.