

Approved 09.02.14

MINUTES OF THE DRAPER CITY COUNCIL STUDY MEETING HELD ON TUESDAY, AUGUST 12, 2014, 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 Troy Walker, and Councilmembers Bill Colbert, Bill Rappleye, Jeff Stenquist, Alan Summerhays, and Marsha Vawdrey

STAFF PRESENT: David Dobbins, City Manager; Russ Fox, Assistant City Manager; Doug Ahlstrom, City Attorney; Rachelle Conner, City Recorder; Rhett Ogden, Recreation Director; Glade Robbins, Public Works Director; and Bryan Roberts, Police Chief; and Bob Wylie, Finance Director

Study Meeting

1.0 Tour – Equestrian Center

1.1 The City Council and staff toured the equestrian center and talked about possible options for additional parking and additional seating.

2.0 Tour – SunCrest Property

2.1 The City Council and staff looked at various parcels in SunCrest.

2.2 John Reynolds, Parks, Trails, and Recreation Committee, talked to the City Council about a Wildlife Conservation Study that has been done and options for the City property in SunCrest.

Dinner

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Mayor Walker welcomed everyone to the meeting. He advised the City Council just returned from a tour of the equestrian center and SunCrest properties. He advised the items on the agenda tonight are for discussion only.

3.0 Discussion: Traverse Ridge Special Service District (TRSSD)

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3.1 David Dobbins, City Manager, advised that if the referendum were to happen, the question on the ballot would be whether or not the TRSSD budget and certified tax rate should be eliminated. State law requires agencies to submit their budget and certified tax rate to the County and State Tax Commission by the end of June each year. If the tax rate were eliminated through the referendum, there would be no ability for the TRSSD Board

to adopt an alternate tax rate the way the State Code is currently written. Right now, the City is operating the fiscal year as if the City will receive the tax revenue they anticipated to receive. The State Tax Commission is not aware of what will happen with this, because they send the tax notices out prior to this being on the ballot. They do not know if they would refund money or how that would work, because this is an unprecedented ballot question. For the TRSSD Budget itself, some people have said the City can adopt another budget if the current budget is defeated. If there is no tax rate, there is no tax revenue coming into the TRSSD. If there is no tax revenue coming in, the City would not be able to appropriate money that is not received. There is approximately \$1.6 million in the fund balance. That money has been set aside for one-time expenditures such as a street repair. If that money is used for operations this year, it will reduce the fund balance. Those funds have been earmarked to fix Deer Ridge Drive. The City has hired Lewis, Young, Robertson, and Birmingham to prepare an analysis on the baseline service cost. Mr. Dobbins then reviewed what the adopted resolution for the creation for the TRSSD states. The language said the funds are specifically to be used for transportation including snow plowing, repair and maintenance of roads, and street lighting. It does not say anything about incremental costs. There has been some discussion about the baseline service requirement, but nothing was ever done to figure out what the baseline is. Property tax makes up about twenty-five percent of the annual General Fund budget, which includes all of the residences in the city. On the expense side, Public Safety (police and fire) use up about one-third of the annual budget. All of the property tax paid in the entire city goes just for public safety. It does not even go towards anything else. People will ask how the City decides what property tax will pay for and what sales tax will pay for. All of the money goes into the General Fund budget, and the City Council decides how to allocate the entire fund balance. There is nothing in the TRSSD resolution that states that it was for incremental costs. It does not mean that it cannot be done that way; there is just nothing in there that states it has to be done that way.

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3.2 Councilmember Colbert noted he was in the audience when the TRSSD was formed, and there was some discussion about what the TRSSD fee would cover. They said fire services would be covered, but that did not make it into the resolution. The development agreement talks about incremental costs, as well as fire services. However, that is not a legislative document. It is more of a guidance document that can be changed unilaterally by the City.

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3.3 Mr. Dobbins indicated staff has asked the financial advisors that are doing the baseline cost study to reach out to the Traverse Ridge Special Service Coalition (TRSSC) and the SunCrest Owner's Association board, to receive their input. The financial advisors will then present their findings to the City Council. Mr. Dobbins said he has also heard that the State Auditor and/or the legislative auditor are doing some kind of audit on the City. He did have a meeting in June with a representative from the State Auditor's Office; however, staff spoke with both of those entities today and neither of them are doing any active audit.

Mr. Dobbins stated they have talked about different scenarios of what to do next. Legrand Bitter came and spoke with the Council about Special Service Districts. There are three options the City can choose from. They currently have a Special Service District, and the City Council serves as the governing board of the TRSSD. State law allows the City to create an administrative control board. The City Council can delegate most of their responsibilities to that board. They cannot delegate the power to levy a tax or assessment. The City Council would have to levy that tax on behalf of the TRSSD. The governing board could set the budget and service level. They could have separate offices, facilities, and basically separate everything. They have to have a minimum of three members for the board, and they can appoint a member of the City Council to be on that board if desired. The board members could be appointed by the City Council or they can be elected by people in the District. The requirements are that they have to be a registered voter within that District. The term would be staggered four-year terms.

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3.4 Councilmember Stenquist indicated even if this board is appointed, there would still be some oversight by the City Council. Doug Ahlstrom, City Attorney, explained once the Council designates the powers, they are delegated. If they do not like the way things are being done, they can rescind the delegation and take the powers back to themselves. They cannot get involved immediately in the day-to-day business if they have delegated.

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3.5 Mr. Dobbins stated another option is a Local District. The City Council could create a standalone district, but that process would need to be initiated by either the property owners or by the municipal legislative body. They would have to give notice of a public hearing, send notices to voters and property owners, and there is a protest period. If they hit the adequate protest, which is twenty-five percent of the total private land, fifteen percent of the real property value, or twenty-five percent of the registered voters who voted in the last presidential election, they cannot move forward with the local district.

Mr. Dobbins advised the last option is to create an Assessment Area. The City Council could determine what services they want included in the assessment area because this is something new. The City would send a notice out to the neighbors, and the neighbors would have the option to protest the assessment area. If the protest rate meets a certain percentage, the City cannot move forward with it.

Mr. Dobbins indicated the City Council can include whatever boundaries they want with a local district and an assessment area, because they are new. However, it is up to the property owners in those areas to determine whether they want to protest it or not.

Mr. Dobbins noted his biggest concern is that if the referendum is approved, the City may have already had a snow storm. They will have to determine how they will fund snow removal services in the TRSSD without the funds. People have said they are not asking the City to get rid of the entire budget; however, that is what the question for the ballot is. The referendum petitioners want to overturn the approval of the TRSSD budget and the certified tax rate. The City needs to decide what level of service will be provided up

there, what source of funds do they use, and this will have to be decided prior to the referendum vote.

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3.6 Councilmember Stenquist indicated he does not want to let it get to that point because that is a bad place to be in.

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3.7 Councilmember Summerhays advised they have to decide now. Basically, the police and fire services will not change. One thing they do have to do is pick the most important streets to plow first, just like they do in the rest of the city.

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3.8 Councilmember Stenquist noted he does not want to pick and choose in that respect. If they are in a situation where people cannot get to work, school, doctor, and emergency services cannot get up there, that is a problem. He stated the City should just invalidate the whole referendum process and not accept it.

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3.9 Mr. Dobbins said staff will continue to look at all angles from a legal standpoint. The City has already adopted a budget in the General Fund for snowplowing and snow removal. If the TRSSD budget goes away, the City would have to have a serious discussion about how to fund things. There are people who will argue that snow removal is a base level of service, but that does not change the budget that is already set. The City Council would have to make a decision about where to find the additional funds to pay what the TRSSD is currently paying.

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3.10 Councilmember Colbert stated the TRSSD was formed before anyone moved up there. Many people were not informed by their realtors of the additional fees before they signed the closing papers, which is unfortunate. He expressed his opinion that the City needs to move forward with this. Creating an advisory board and segregating the money will help. People are confused about where the City is spending the money, and there is a general distrust. He recommended the City form the administrative control board up there and let them decide how the funds are spent. If the referendum passes, the \$1.2 million fund balance will take them through next year with the snow removal; however, it will not fix any roads.

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3.11 Mayor Walker advised that fundamentally the City has not been handling this right because the resolution, which is the law, does not talk about incremental or baseline costs. It says the TRSSD funds will pay for the snow removal, road maintenance, and street lights. The City has been subsidizing the District all these years, by including some base level service. Some of the residents up there are saying the City is already plowing the roads, so why should the TRSSD pay more.

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3.12 Councilmember Colbert indicated the City receives B&C road funds for each lane mile in the city. The TRSSD is included in that total. He said he knows the law states the residents will pay for the services; however, there is some equity in the City transferring some funding due to the money the State gives the city.

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3.13 Mayor Walker questioned what Councilmember Colbert would say to the non district members because this development only occurred because of the District. All of these years, the City has been subsidizing the District. He has had residents call him and say the City better not raise their taxes in order to plow the roads up there.

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3.14 Councilmember Stenquist said he does not want to be in a position of having the TRSSD funds frozen, so the City has to spend the fund balance. This discussion of how to manage the TRSSD is good. Right now, the City is in a position where there is a group of residents that are putting out information, and a lot of it is inaccurate so it is causing a lot of confusion and concern with the residents. For the most part, the majority of the residents have been happy with the level of service they receive. There is a small group that is pushing this referendum. He expressed his opinion that they need to get past this referendum discussion and do something to change the structure of the TRSSD. He said he is not sure it should be done at the same time.

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3.15 Councilmember Colbert stated he feels they should create the board anyway. Even if the referendum fails, this is a good idea. Many of the neighbors do not feel like they are a part of the discussion. The board gets them in there. He does not want to take the risk that this referendum passes, it is legally sustained, and the City has to spend the fund balance to plow the roads this year. He wants the board to understand the consequences of the referendum in order to make an informed decision. There are still a lot of questions the City will need to answer in terms of assets and where to store them. Right now the assets are co-mingled in how they are housed. Big Yellow is stored at the fire station, and the other plows and salt is stored at Public Works. The argument has been made that somehow the TRSSD assets are being used for City work, which is not the case.

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3.16 Councilmember Summerhays noted the City tried to build the salt dome up there and house the equipment there.

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3.17 Mayor Walker reiterated that the City needs to get off the paradigm of incremental costs because that is not what the resolution says. The Council will start to hear from the rest of the residents about that. The resolution was adopted prior to any of the current Council taking office. He has heard the allegation that the City is plowing all of the City roads with the TRSSD budget. The TRSSD residents will find out very quickly that is not the case when they have to pay the costs for the service. The City subsidizes that service

every year. The City may not have to accept the referendum because there is a legal position they may be able to argue for with the Legislative power not being in the board.

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3.18 Councilmember Colbert asked how long it would take to create the board. They will need some time to set up the structure. He has a hard time believing this will all be done by volunteers. They will have a pretty significant budget, and they will have to hire someone at least part time to manage those assets.

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3.19 Councilmember Stenquist expressed his opinion that overall the costs are going to be higher for the TRSSD because there will have to be a duplication of a lot of the administrative functions. He said he is not sure this is the best thing for all residents involved. It would be clearer, because the accounting would all be separate. The District is currently getting a benefit and if it is split off, they could be losing that benefit and pay a higher cost.

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3.20 Mayor Walker stated the snow removal is the “little brother in the room”. It is the road repair that will be the bombshell. He recommended they take applications and appoint the board within the next few weeks. They would need to put something on a formal agenda to vote on. Mr. Dobbins indicated staff will prepare a resolution and bring it back to the Council. They will get the word out to the TRSSD residents.

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3.21 Councilmember Colbert indicated the City is still spending money to determine the incremental costs, but it apparently does not make any difference. He asked why they are doing that.

Mr. Dobbins explained they can stop the study now if the Council desires. There is still a lot left to do. They were planning to meet with the different groups to determine their opinion of the level of service before they finalize their analysis.

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3.22 Mayor Walker asked staff to go ahead and bring a resolution back to the Council. He also recommended they get more legal advice on whether or not they can defeat the referendum. Mr. Dobbins noted they will try to bring it back by the first meeting in September.

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3.23 Councilmember Rappleye said he has looked at this situation carefully, and it is disturbing to see where it has gotten to. He said the best way to move forward is to determine whether or not they want to accept the resolution. He stated he does not know what he wants to do yet. The Council needs to think very carefully about how they want to proceed.

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3.24 Councilmember Vawdrey advised she agrees that there is more information they need in order to proceed.

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4.0 Discussion: Park School

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4.1 Mr. Dobbins noted the City Council asked staff to look into the process for demolishing the building in September. The City has hired Utah Correctional Industries (UCI) to go in and do some additional testing on asbestos within the school so they know all the areas that will need to be removed. Once the asbestos removal is done, the school would be ready for demolition. The City Council did fund \$300,000 for the demolition of the school in this year's budget. UCI would like to submit a proposal of what it would cost them to do that work. That should be done within the next two weeks or so. That contact should be ready for the Council's consideration by the September 2, 2014, meeting. They would need to make sure they have all of the permits from the County and State prior to starting the demolition. For information purposes, the parcel is about 2.75 acres in size. The County has assessed the land at 1.036 million, and the building has a value of \$3.8 million. The City did an appraisal in 2008, and the land came back with a value of \$1.85 million. The next formal act by the Council would be to approve the demolition contract.

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4.2 Councilmember Stenquist asked whether the City has gone out to bid for the demo of the building. Mr. Dobbins noted UCI is under State contract, so the City can use them without going out to bid. If their bid comes back too high, the City will then go out to bid. The RFP is ready to send out if needed. He noted this company will be doing the demolition of the Ballard home on Fort Street.

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4.3 Councilmember Colbert indicated he is not sure if there is any interest in someone purchasing the building, but \$2 million for the land value is probably fair. If someone could buy the building quickly, so it is no longer a City issue, he is fine with that.

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4.4 Mr. Dobbins noted the City will need to retain about three-quarters of an acre for the existing shed the Police Department uses, so they are looking at having approximately two acres of land and the building.

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4.5 Councilmember Summerhays asked the Council what they would want to sell the property and building for. If the City is going to demolish it, the building is worth zero, so they could possibly get \$1.5 million for the land. He asked if the Council would be willing to sell it for that.

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4.6 Mr. Dobbins advised the City Council cannot vote on anything in this meeting. Staff is just proceeding with the schedule the City Council previously set.

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4.7 Councilmember Stenquist indicated he is personally not interested in selling the building at all.

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4.8 Councilmember Colbert stated he would be supportive of selling it for its value.

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4.9 Councilmember Stenquist noted he would like to retain ownership of the building so the City can act as a partner with whatever happens on the property. If they sell it, they lose that ability to be directly involved in what happens on that corner. That is a key property to what the City sees happening in this area, and he would like to have control of that. For him, there is not a number to sell it; however, if someone came to the Council and said they have a proposal for the building and they have funds to do so, he would look at that.

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4.10 Councilmember Rappleye advised the City Council has gone over this issue several times in the last few years. It is a critical location due to it being the heart of the Town Center. He agreed with Councilmember Stenquist in that the City should maintain control of the parcel. It is important to the Town Center to have a gathering place in this location. Selling it is the easiest way out, but it is probably not the smart thing to do. He would not want to see an office building in that location.

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4.11 Councilmember Colbert indicated there are people interested in renovating the building; however, the City has not seen anything serious in terms of money coming forward. It does not do the City any good to leave the building there without any concrete plans. No one has come in to say they have \$2 million committed to the building.

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4.12 Mayor Walker noted the Historic Preservation Commission is asking for more time in order to raise money to salvage it. He asked whether the City Council wanted to discuss that.

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4.13 Councilmember Rappleye said the Council was very clear when they extended the time through August. The time for talking is done. If there is some action, it needs to take place soon.

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4.14 Councilmember Vawdrey advised she is disappointed that they have not been able to have a meeting. She has heard of two different meetings planned that did not happen

between the City and the Historic Preservation people. All she has seen is attacks against the City Council, and she does not think that is how they will get anything done. It is frustrating to her. The constituency that she has talked to do not want to save the building. If there is a plan, the City Council needs to see it.

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4.15 Councilmember Summerhays said the asbestos removal has always been his biggest concern. He has been through two referendums and countless talks of restoring this building. The City built the new building because they did not want to restore the old building for the City Hall. It was cheaper to build a new building. If the preservation people could come up with a good portion of the money and say they want to do something in the Town Center atmosphere, then he would look at it, but they have not done that. He has looked at this issue at least five times.

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4.16 Councilmember Stenquist noted people say they want to save the building, but when asked if tax payer funds should be used, those people say no. That is something they have had voter referendums over. The voters have spoken, and they are not willing to put public funds up to save the school. He is not in favor of using public funds to restore the building or continue to operate it. He said he is not sure there is any building like this that has been restored and is operating without the use of public funds.

Councilmember Summerhays indicated the Riverton School is a mimic of Draper Park, and they restored that twenty years ago. He is not sure if they are still using that as City Hall.

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4.17 Councilmember Colbert expressed concern about who would continue to maintain the building if it were to be restored and the City maintained control of it.

Councilmember Stenquist clarified that if the City were to accept any sort of plan or proposal, it would need to include both a plan for raising the capital to renovate the building as well as a plan for ongoing operational costs.

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5.0 Discussion: Parks and Trails Fee

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5.1 Mr. Dobbins noted the City has added more parks and trails over the last several years. They have found that the existing maintenance budget for that purpose is static. It is not growing at the same rate the parks and trails are growing. It is becoming more and more difficult to maintain those. Staff looked at different options such as outsourcing services, but the City is still behind on maintenance. The City Council asked staff to come up with ways to generate revenue such as a tax increase or a separate park fee. The City of Herriman charges the residents \$5 per month per household as a park fee. They use that money to maintain their park system. The City has approximately \$4 million in park

impact fees that have to be used over the next couple of years. If they use that, the City will be buying land and building more parks; however, they will not have the money to maintain it. He is uncomfortable spending the impact fees without knowing how they will pay for it. The City needs to decide how they will generate the funds to maintain the new parks.

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5.2 Councilmember Colbert stated he does not want to return those fees. The money would go back to the developer, but the homeowners who paid the fees, anticipated a new park.

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5.3 Bob Wylie, Finance Director, displayed a spread sheet that showed possible fee amounts. If the City Council wanted to raise \$200,000 per year, it would cost each residential unit an assessment fee of \$15.06 per year. This would not be applied to any business or commercial property. The City could also do a certified tax rate increase that would apply to commercial and residential properties.

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5.4 Councilmember Stenquist pointed out that a tax rate would require homes above the average value to pay more. If it is a fee, every household would pay the same amount.

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5.5 Mr. Dobbins advised some residents call a fee a different form of a tax. The City Council will get people who say the City is charging them a tax and just calling it a fee. He has talked to a few Cities, and they are in the same scenario Draper is. Herriman was growing so fast and building the parks, and they realized the property tax does not cover the maintenance of the parks, so they charge the residents a fee to help cover the maintenance costs.

Mr. Wylie said the City would generate \$800,000 each year by charging \$5 each month.

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5.6 Mr. Dobbins noted staff will come up with a cost for what the ongoing maintenance will be if they build out the parks, and let the City Council know how much they would need to raise. Staff will also look at the existing budgets to see if there is a way for them to be more efficient, and then come up with a five to ten year CIP plan for building trails and parks. They will also come up with the associated maintenance costs. The City could look at phasing in the fees. Right now they do not need as much as they will when all of the impact fees are spent on the new parks and trails.

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5.7 Councilmember Colbert noted the SunCrest area is deficient in parks because the developer did not provide the park space that was required. He said they could approach the residents to see if they would be interested in paying an additional \$5 per month to build the park and maintain it.

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- 5.8 Councilmember Summerhays stated the City should not exclude the TRSSD from the fee. He recommended they also include the equestrian center because it is being used also. They need help with maintenance and improvements as well. He would like to charge a per unit basis fee, and he would like to do this as soon as possible.

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- 5.9 Councilmember Rappleve asked Councilmember Summerhays whether he thinks they should just charge the fees to residential units and exclude businesses.

Councilmember Summerhays replied yes because businesses get hit up in different ways. They sponsor sports groups. Each high school costs him about \$2,500 each year for sponsorships. The City could charge an incremental rate according to the needs. Councilmember Summerhays noted he would also like to charge the bicyclists a user fee. They could have fee boxes at the trail heads for non residents. They could buy a yearly pass or pay a fee per trail use.

Councilmember Colbert expressed concern that it would make Draper unfriendly. He has never had to pay a fee in another city. He would be more open to charging a fee for major events. He does not want to discourage people from coming to the community to enjoy the amenities.

Councilmember Summerhays stated he would also like to add a fee for the dog park. If the dog is not licensed, they have to pay a user fee. He said he wants to hit all the fees at once, so he is not picking on any individual group.

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- 5.10 Mr. Dobbins advised staff will bring back an analysis to the City Council of what they think the City will need in terms of new revenue for parks and trails maintenance. They will also look at a fee for the dog park or making sure the dogs are licensed.

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- 5.11 Councilmember Vawdrey said for the record that she is opposed to any taxes or fees; however, the City has so many parks and trails that have to be paid for in some way. She likes the household based fee the best. She expressed her opinion that people who live in apartments and condominiums use parks even more than the people who have a yard. If they do it by the property tax, it is not as fair. She would like to assess the least amount as possible.

Mr. Dobbins agreed, but based on the current revenue structure, they are maxed out. It is a challenge to pay for the increased maintenance with the current funding. The City wants to be able to keep maintaining the parks in a way the residents have grown accustomed to.

** *The City Council took a break at 7:37 p.m.*

** *The meeting resumed at 7:49 p.m.*

6.0 Discussion: City Council Policies and Procedures

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6.1 Mayor Walker advised he has been working to update the City Council policies and procedures. He would like them made available to the public for their information and possibly put on the back of the comment cards.

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6.2 The Council and staff discussed the motions for suspending the rules and continuing items. The Council determined that they do not need the suspending of the rules to be a part of their procedures. If they do not want to make a motion on a specific item, the Mayor can advise those present that the City Council will take action on that item at the next meeting.

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7.0 Adjourn to a Closed-Door Meeting to Discuss Litigation, Property Acquisition, and/or the Character and Professional Competence or Physical or Mental Health of an Individual.

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7.1 Councilmember Stenquist moved to adjourn to a closed-door meeting to discuss litigation. Councilmember Rappleye seconded the motion.

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7.2 A roll call vote was taken with Councilmembers Colbert, Rappleye, Stenquist, Summerhays, and Vawdrey voting in favor. The motion passed unanimously.

The meeting adjourned at 8:01 p.m.