

RESOLUTION NO. 19-24

A RESOLUTION OF THE DRAPER CITY COUNCIL DESIGNATING THE MOUNTAIN RIDGE ESTATES CONFLICT OF INTEREST REPORT A PUBLIC RECORD UNDER THE UTAH GOVERNMENT RECORDS ACCESS AND MANAGEMENT ACT

WHEREAS, the Draper City Council voted unanimously at its March 5, 2019 meeting to commission an independent investigation regarding councilmembers' potential conflicts of interest regarding contacts or any gifts, donations, or similar benefits given to councilmembers in conjunction with the Mountain Ridge Estates Zone Change, Zoning Text Amendment and Development Agreement ("MRE Application") development application; and

WHEREAS, in authorizing the independent investigation, the Draper City Council was concerned the approval process of the MRE Application be transparent so that any decision the Draper City Council made regarding the MRE Application would have the public's confidence; and

WHEREAS, the Draper City Council retained Attorney Kristin VanOrman of Strong & Hanni as an unbiased and qualified person to act as the independent investigator; and

WHEREAS, Ms. VanOrman conducted an independent investigation that included obtaining documents voluntarily provided by witnesses and conducting voluntary interviews with all the members of the Draper City Council, the MRE Application applicants Shaun and Ollie Michel, and several other witnesses; and

WHEREAS, Ms. VanOrman produced a report summarizing the results of her independent investigation ("Investigation Report") that is protected by attorney-client privilege; and

WHEREAS, Ms. VanOrman also provided the Draper City Council with a letter regarding a conflicts of interest check she conducted regarding potential conflicts of interest, if any, created by her representation of the Draper City Council and Draper City; and

WHEREAS, the City Council finds: (1) Ms. VanOrman and her firm are qualified to act as independent investigators in this matter and are free from conflicts of interest; (2) the motion to appoint an independent investigator was made in a public meeting; (3) the public has an expectation of transparency in the results of the independent investigation; (4) the public has the right to know that any decision the Draper City Council makes on the MRE Application is free from any taint of conflict of interest; (5) the Draper City Council has the right to maintain attorney-client privilege regarding the Investigation Report; (6) the Draper City Council's right to assert attorney-client privilege is outweighed by the public's right to know the results of the investigation; and (7) waiver of the attorney-client privilege is limited to the Investigation Report and does not apply to the underlying records of the independent investigation or any other matter over which the Draper City Council or Draper City's attorney-client privilege attaches.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF DRAPER CITY, STATE OF UTAH, AS FOLLOWS:

Section 1. The Draper City Council hereby waives the attorney-client privilege as to Investigation Report and designates it as a public record pursuant to the Utah Government Records Access and Management Act.

Section 2. Waiver of the attorney-client privilege applies only to the Investigation Report and not to the underlying documentation of the investigation or to any matter to which the Draper City Council or Draper City's attorney-client privilege attaches.

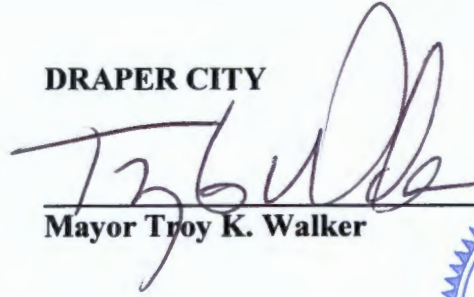
Section 3. This Resolution shall be effective upon passage.

PASSED AND ADOPTED BY THE CITY COUNCIL OF DRAPER CITY, STATE OF UTAH, ON THE 7th DAY OF MAY, 2019.

ATTEST:



Laura Oscarson, City Recorder

DRAPER CITY


Mayor Troy K. Walker



VOTE TAKEN:

Councilmember Green

YES **NO**

Councilmember Lowery

Councilmember Summerhays

abstain

Councilmember Vawdrey

Councilmember Weeks

abstain

Mayor Walker