

Approved 12.20.2016

MINUTES OF THE DRAPER CITY COUNCIL MEETING HELD ON TUESDAY, DECEMBER 6, 2016, IN THE DRAPER CITY COUNCIL CHAMBERS, 1020 EAST PIONEER ROAD, DRAPER, UTAH

PRESENT: Mayor Troy Walker, and Councilmembers Bill Rappleye, Jeff Stenquist, Alan Summerhays, Marsha Vawdrey, and Michele Weeks

STAFF PRESENT: David Dobbins, City Manager; Mike Barker, City Attorney; Rachelle Conner, City Recorder; Hazel Dunsmore, Human Resource Director; Rhett Ogden, Recreation Director; Glade Robbins, Public Works Director; Bryan Roberts, Police Chief; and Bob Wylie, Finance Director

Dinner

Interview: Traverse Ridge Special Service District Administrative Control Board

[5:40:11 PM](#)

The City Council interviewed Blaine Carlton for the Traverse Ridge Special Services District Administrative Control Board vacancy.

Study Meeting

[6:05:47 PM](#)

1.0 Presentation: Qualtrics

[6:06:04 PM](#)

1.1 Chase Winder, Qualtrics, explained how his company helps cities to improve citizen and employee engagement. They provide a unified platform for the city to gather and receive reliable information from the residents. He reviewed the various cities that have used their services as well as the fees involved.

2.0 Presentation: New Website Layout

2.1 This presentation will be given at a different meeting.

[6:34:08 PM](#)

3.0 Discussion: 13200 South Project

[6:34:11 PM](#)

3.1 Scott Cooley, City Engineer, presented a few striping options for the Council's consideration. He expressed his opinion that Option One is the best option to meet the present and future transportation needs of the city. It has the center turn lane striping through the entire length of the project. The center turn lane will be a necessity in the future. Option Two has the center turn lane from the canal over to Boulter Street and it transitions to bike lanes and a five-foot shoulder to Highland. It then transitions back to the center turn lane at Highland Drive because that is needed at that location. The width of the lanes with

all of the options is the same. Staff feels it is critical to have the left turn lane at Boulter to keep the congestion away from the schools as much as possible. Option Three matches what is existing at the canal. There will be no center turn lane through the length of the project except for the end at Highland Drive. The City will have to get approval from the Utah Transit Authority if the Council chooses Options Two or Three. He does not anticipate this being a problem, but they have not applied for it yet. Staff recommends the Council approve Option One because it is the safest option and moves traffic better than the other options.

Councilmember Weeks indicated she is leaning towards Option Two because she does not see a need for a third lane at this time. It is safer for the children in the area to only have to monitor two lanes rather than three. It also allows for on-street parking for the residents. In the future if they need the center lane, they would still have that option.

Subsequent to Council discussion, the Councilmembers were in favor of Option Two.

[6:46:13 PM](#)

3.2 David Dobbins indicated there was a request for a tunnel as part of this project to go under 13200 South at the Porter Rockwell Trail. They are at a point with the utility providers in the area to provide a design for the relocation of utilities. That tunnel would cost approximately \$400,000. He asked whether the Council is interested in funding that portion of the project. If they do not put in the tunnel, there are other options planned to make the crossing safer, which includes:

- Crosswalk
- Median in the island
- Overhead pedestrian activated signals

Mr. Dobbins advised if the Council chooses the tunnel, they will have to determine what funding would be used, and they have to let the utility companies know.

Mr. Stenquist expressed his opinion that the tunnel is probably cost prohibitive at this point. He said it would be great to have one, but he does not think they can justify the cost.

Mr. Dobbins stated whenever the train does go through, they will have to put a tunnel in at Boulter.

Councilmember Summerhays stated they need to focus on the Boulter Street tunnel, and they can go over the tracks with the walkers, horses, and bikers.

Councilmember Weeks noted it might be five to ten years before the Boulter crossing is needed, and hopefully they have the money for that at that time. She said she understands the need to save money for the projects.

Councilmember Summerhays asked whether they have done any testing in the area to make sure they can do a tunnel. Mr. Robbins indicated they have not done any testing in the area yet; however, they do not anticipate there will be a problem.

Councilmember Vawdrey indicated it would be important to have caution lights at the crossing to make it safer.

4.0 Council / Manager Reports

4.1 There were no Council/Manager reports given.

Business Meeting

[6:59:49 PM](#)

1.0 Call to Order: Mayor Pro Tem Jeff Stenquist

[7:00:03 PM](#)

1.1 Mayor Pro Tem Stenquist excused Mayor Walker from the beginning of the meeting. Mayor Walker is attending his son's football banquet and will join the meeting when that is finished.

[7:00:27 PM](#)

2.0 Thought/Prayer and Pledge of Allegiance

[7:00:45 PM](#)

2.1 Alex Krieger, Scout Troop #1855, offered the prayer.

[7:01:02 PM](#)

2.2 Braden Carr, Scout Troop #1855, led the Pledge of Allegiance.

[7:01:43 PM](#)

3.0 Presentation: Police Department Holiday Card Design Winners

3.1 Bryan Roberts, Police Chief, explained the process the Police Department uses to choose the winner of their holiday card design contest. They send an invitation to all of the fifth graders in the City to submit a design for the holiday card. The Police Department receives the submissions each year, and the staff chooses the top three. The winners were as follows:

- First place winner – Alyssa Meadows – Draper Elementary School
- Runner up – Gage Ongman, Saint John the Baptist Elementary
- Runner up – Jens Charnholm, Summit Academy

The winners were given a gift bag with various prizes and a framed copy of their artwork.

[7:11:13 PM](#)

4.0 Presentation: Popular Annual Financial Report FY2016

[7:11:36 PM](#)

4.1 Jared Zacharias, Assistant Finance Director, reviewed the results of the Popular Financial Report for Fiscal Year 2016. The report will be posted on the City website.

[7:15:43 PM](#)

5.0 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.

[7:16:50 PM](#)

5.1 Jennifer Ryan, resident, indicated she has lived in Draper for five years. She advised there is a problem with street racing on Highland Drive. There was recently a fatal accident on Highland due to speed on that street. She stated it is an everyday occurrence, and the recent fatal accident has not stopped the problem. The vehicles involved in the racing are very loud. She asked the City to consider a noise ordinance for vehicles that have been altered to make them louder and faster, so the officers can do enforcement.

[7:20:09 PM](#)

5.3 Kelly Erickson, resident, noted many of her neighbors were some of the first people on the scene at the recent fatal accident, and it has traumatized them. She has spoken with many people about this, and she feels it would be beneficial for the City to regrade the road at Highland Drive and New River Drive. It seems to be a rite of passage for the teenagers to speed and “catch air” at that location. She agreed that a noise ordinance would be helpful due to the racing problem on the roadway.

[7:22:49 PM](#)

5.4 Phillip and Heather Goold thanked the City for helping the “Human Race” to be successful again this year. They were able to raise enough funding to provide 330,000 meals for those in need.

[7:24:17 PM](#)

6.0 Consent Items

- a. **Approval of November 15, 2016, City Council Minutes**
- b. **Approval of 2017 Meeting Schedule**
- c. **Approval of Resolution #16-70**, Enacting a New Personnel Policy Regarding Pregnancy Light Duty. Staff: Hazel Dunsmore
- d. **Approval of Resolution #16-74**, Interlocal Agreement SWAT Training and Response Interlocal Agreement. Staff: Bryan Roberts
- e. **Approval of Resolution #16-75**, Authorizing the Mayor to Sign an Interlocal Agreement with Metro Fire Agency. Staff: Clint Smith
- f. **Approval of Resolution #16-77**, Adopting Policy 6035 Electronic Mail Retention and Classification. Staff: Mike Barker

[7:25:09 PM](#)

6.1 Councilmember Weeks moved to pull Consent Item B from the Consent Items. Councilmember Vawdrey seconded the motion.

[7:25:29 PM](#)

6.2 A vote was taken with Councilmembers Rappleye, Stenquist, Summerhays, Vawdrey, and Weeks voting in favor. The motion passed unanimously.

[7:25:34 PM](#)

6.3 Councilmember Summerhays moved to approve the remaining Consent Items. Councilmember Rappleye seconded the motion.

[7:25:59 PM](#)

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

[7:26:11 PM](#)

6.5 Councilmember Weeks noted the Tree Commission is scheduled for meetings beginning in January; however, they are not an active commission at this time. She questioned the status of appointing new members to the commission. Mayor Pro Tem Stenquist indicated Councilmember Weeks would need to speak with Mayor Walker about that, as they are his appointments.

[7:26:41 PM](#)

6.6 Councilmember Weeks moved to approve Consent Item B. Councilmember Summerhays seconded the motion.

[7:26:57 PM](#)

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

[7:27:07 PM](#)

7.0 Public Hearing: Ordinance #1228, Snow Residence Zone Change, Request for Approval of a Zone Change from RA1 (Residential Agricultural 40,000 Square Foot Lot Minimum) to RA2 (Residential Agricultural 20,000 Square Foot Lot Minimum) on 1.35 Acres, Located at 960 East New Hope Drive

[7:27:22 PM](#)

7.1 Dennis Workman, planner, presented the staff report and aerial map of the subject property. He explained that a similar request was made in 2006 and was denied by the Council on a vote of 3-to-2. He stated 10 years later, the City received another request to rezone the subject property from RA1 to RA2. Staff recommended approval of that request and sent the item forward to the Planning Commission. On October 13th, the Planning Commission recommended denial on a vote of 3-to-2. The item was first reviewed by the Council on November 1st, 2016, at which time the Council heard public comment and continued the item to tonight. Public comment was kept open. In the interim, the neighbors have given much consideration and are prepared to make further comment. Mr. Workman presented photos of the subject property.

[7:30:01 PM](#)

7.2 Lowell Snow, applicant, requested approval of his rezone request. He thanked the Council for their willingness to discuss this item. They value the role the Council plays in the community, as they make hard decisions in balancing the needs and wants of the City. Mr. Snow presented a zoning map of the property he purchased in 2010. The property had been abandoned for several years and was in a sad state of repair. The house had been neglected and it was an eyesore to the community. Several citations had been issued due to health risks in the area. Initially, it was thought that the house would have to be demolished and rebuilt. However, they decided to restore it rather than tear it down, and they've now added value to the neighborhood. He presented an aerial view of the subject property, and made mention of a significant piece of property to the west of their home near Fort Street.

During renovation, they attempted to construct a barn that would match the house. However, they were informed that because of the corner lot restrictions the City would not permit any structure to be built in that area. Open space requirements have consumed almost half of their property; there is a little over 21,000 square feet of ground that they can only use for paying taxes and bills. They are seeking approval of finding a remedy for the fact that they can't use this property. The zoning map amendment they have proposed would create two separate lots; (1) .5 acre lot facing and entering off from Fort Street, and (2) a .9 acre lot on New Hope Drive where their home sits. Their earlier hopes for a barn have faded, and in its place have come the realization that there are limits, energy, and finances to what they can maintain at their age on this large property. The time has come for them to want to use the half acre on Fort Street for themselves or one of their children, or to secure retirement funds. This request is an important step in planning for their future. While large lots can be wonderful they are labor intensive and expensive to maintain.

Mr. Snow said the Council has legislative discretion as they make a decision on their application. However, as a lawyer who worked in the Salt Lake Valley for over 40 years, he appreciated how helpful City Master Plans and Codes can be in guiding citizen requests and municipal decisions. Draper City's Municipal Code, particularly Sections 9-5-060-E has been very helpful to them in identifying approval standards that promote consistency and fairness, particularly Standard #4 which says the extent to which the proposed amendment may adversely affect adjacent properties. Mr. Lowell again presented an aerial map of the subject property and identified where the two proposed lots would be located. He noted the proposed lots were located adjacent to lots of similar size, some of which have existed on New Hope Drive for over 40 years.

Mr. Snow presented the current zoning property and said he believed their proposal was consistent with zoning on Fort Street, even as New Hope Drive remains zoned for larger lots. The staff report addresses that factor and concludes that this proposed rezone request does not compromise standards. Furthermore, it supports the goals, objectives and policies of the City's General Plan. He noted staff's recommended approval.

Mr. Snow addressed the negative recommendation of the Planning Commission. He said the Planning Commission never addressed the staff report which recommended approval, nor did they address the General Plan and whether or not the proposal complied with it.

Furthermore, they did not address whether or not the proposal complied with the area master plan, the master plan for the Fort Street subarea, or the approval standards of the Draper City Municipal Code. The only factor the Commission addressed was the complaints from neighbors who produced undated, unsigned, unrecorded neighborhood guidelines. He stated that several homeowners, including him and his wife, had never before seen these guidelines, which materialized in mailboxes the day of the Commission meeting. The Commission Chairman specifically based his tiebreaking vote to not recommend approval based on that document.

Mr. Snow asked the Council to weigh their decision based on the factors that the Commission did not address. He asked them to allow homeowners to exercise reasonable control over their own property, so that neighbors will not get in the habit of asking City Government to enforce private, neighborhood expectations. For this reason, valid CC&Rs exist. He asked the Council to continue allowing half-acre lots throughout Draper City neighborhoods because they are manageable. He asked the Council to consider the fact that denial of this application would appear to many as being discriminatory, because the lots he is seeking to create are identical in every aspect to every adjacent, surrounding property. He asked the Council to approve this application in order to provide a path for them to overcome corner lot permitting restrictions, which keep them from enjoying the full use of their property. He explained that this home was built in the 1970s, and this was the third attempt from property owners to rezone this property.

[7:42:11 PM](#)

7.3 Councilmember Summerhays asked Mr. Snow if he would construct a garage on the property, if it were possible.

Mr. Snow stated six years ago the answer would have been “yes”. However, at his age of 73, he is not sure what use he would get out of a large barn. Therefore, a smaller home with less to maintain sounds a lot more attractive than a barn or garage.

[7:42:58 PM](#)

7.4 Councilmember Weeks asked if Mr. Snow was one of the newer members of the community.

Mr. Snow said he has been there for six years. He estimated there were three families who had moved into the neighborhood since that time. There are 11 families on the street total. Councilmember Weeks asked if Mr. Snow knew he was buying a one-acre lot when he purchased the property. Mr. Snow answered affirmatively. Councilmember Weeks asked if he purchased the property because he likes larger lots, and Mr. Snow answered affirmatively. However, he said the lot was becoming more than they could handle given their age.

[7:43:53 PM](#)

7.5 Councilmember Rappleye said based on the last conversation there seemed to be some concern by allowing another access on New Hope Drive. Mr. Snow said he wasn't sure he understood Councilmember Rappleye's statement. Councilmember Rappleye stated there

were questions as to whether or not the corner lot could front onto Fort Street. Mr. Snow said they were willing and prepared to front the home onto whichever street was recommended by the City. Same goes for entering and exiting the property; the Snows did not have a preference. Mr. Snow stated the Commission indicated they felt the home should face onto Fort Street because they view the .5 acre house as a Fort Street lot, not a New Hope Drive lot. The larger .9 acre would remain on New Hope Drive. Councilmember Rappleye asked to clarify that the rezone would enable building another home, to which Mr. Snow answered affirmatively.

[7:45:25 PM](#)

7.6 Councilmember Summerhays recalled that Mr. Snow had previously indicated in another meeting a willingness to meet with the neighbors to help resolve their concerns. Mr. Snow explained the neighbors had approached them and stated they didn't have time to get an attorney and formulate a response in time for the last scheduled meeting. As such they had asked Mr. Snow if he was willing to postpone the meeting, to which Mr. Snow was amenable. Mr. Snow had asked the Council to postpone any decision on behalf of the neighbors' request. In the interim, Mr. Snow had hoped the neighbors would engage an attorney to craft CC&Rs which would protect their vision of the street; however, he is not sure if that was taking place. He explained the neighbors met privately and the Snows were excluded from that meeting. He expressed that they loved their neighbors and would not want to hurt, inconvenience or do anything to offend them. However, this process has been very painful for them. He said even if the Council denies this application, someone else will come forward in the future to make a similar request.

[7:47:56 PM](#)

7.7 Councilmember Stenquist asked for clarification on the restrictions of the corner lot.

Mr. Workman explained that a corner lot property has two fronts and two sides, and so Mr. Snow needs to be set back 30 feet from Fort Street and 30 feet from New Hope Drive; he can't have anything within the area of those boundary lines. Mr. Workman addressed the questions concerning access from Fort Street, and explained engineering staff would encourage the applicant to face Fort Street but access from New Hope Drive.

[7:48:55 PM](#)

7.8 Mayor Pro Tem Stenquist reopened the public hearing.

[7:49:13 PM](#)

7.9 Sterling Farr, resident, said all 10 of the other residents on New Hope Drive are strongly opposed to this change. From their point of view, the rezone poses an existential threat to New Hope Drive. As Mr. Snow noted, the neighbors met with Draper City planning staff and reviewed all of the implications which could result from this zone change. He said it was clear that this would set a dangerous precedent for New Hope Drive and they would be unable to prevent anyone else from rezoning in the same fashion that the Snows are trying to do if this rezone is approved. He said the New Hope Drive residential area would become an eye sore, as there would be flag lots all along New Hope Drive zoned RA2.

Mr. Farr stated the (Homeowners' Association) HOA's CC&Rs were written in 1976 before Draper City was even incorporated. The residents of New Hope Drive have abided by these CC&Rs in good faith for 40 years. The most important provision of the CC&Rs is a prohibition against rezoning property without the permission of the HOA. No one has ever challenged the enforceability of the HOA's CC&Rs until now. Mr. Snow is the first attorney to live on New Hope Drive. Rather than seeking to try and help the HOA fix the problems of the CC&Rs, they are using this information against the neighbors in order to force this rezone on the rest of the street because they think they can; a notion with which the neighbors disagree.

Mr. Farr said according to Mr. Snow this property was a distressed sale. Normally the seller is supposed to provide the buyer with a copy of the CC&Rs. It appears this may not have happened because the property was vacant for many years. Even if the Snows never viewed the CC&Rs until a few months ago, they did have a functional awareness of the CC&Rs and knew that they could not rezone that property, having been informed of that fact by more than one resident on the street. The Snows also paid HOA fees and dues in order to resurface New Hope Drive, so they absolutely knew they were living in an HOA.

Mr. Farr said the neighborhood is now working with an attorney to properly register and update their CC&Rs, which for the first time they are now aware that there are problems. He urged the Council to reject this proposal.

[7:52:39 PM](#)

7.10 Sean Snow, resident, said he lived five blocks south on Fort Street, about one-half acre off of Fort Street. He noted he was the eldest son of Mr. Snow and would likely inherit the subject property. He has only lived in Draper for 11 years, while others have been in the City nearly their entire lives. He explained what some citizens have hoped for is that the Council would rely not on emotions, politics and external forces, but instead rely upon the things they need to make decisions; staff reports, publicly accepted Master Plans, approval standards in the municipal codes. He said citizens should want consistency and predictability. There have been .5 and .9 acre lots on New Hope Drive for 40 years. The half-acre lot being proposed will not even be on New Hope Drive; rather, it would be located on Fort Street where it would also be accessed. There will be no more traffic associated with the rezone proposal. He said he hoped the Council would use these measurements to determine what has already been done. He opined the proposal was in line with what needs to be happening in the area.

Mr. Snow said while the City has heard public comment from the neighbors on New Hope Drive, they have not received comments from the neighbors on Fort Street. Furthermore, he questioned what were the neighbors on New Hope Drive were saying six years ago before the Snows purchased and repaired the property. The Snows have invested a lot of money into beautifying the area, which is what they would continue to do. The rezone would do nothing but improve the value of the property on Fort Street and New Hope Drive.

[7:55:57 PM](#)

7.11 Tamera Snow, applicant's wife, read a letter from an adjacent property owner who expressed their support of the rezone.

[7:57:29 PM](#)

7.12 Nathan Williams, resident, said a year ago he approached the Council regarding the development of property where there was also opposition. He spoke about landowner rights, and stated Mr. Snow was seeking to use his land. Staff recommended the proposal because it was consistent with the area, and there were no legal reasons why it shouldn't be approved. Mr. Snow has met all of the legal conditions, and Mr. Williams was concerned as a citizen because of the politics opposing the request. He felt Mr. Snow had a legal right to develop his property and urged the Council to make this consideration.

[7:58:50 PM](#)

7.13 James Tegeler, resident, said he has lived in the area for 10 years and opined the City has changed over the years, and not for the better. He bought in the SunCrest development because of the low density and large lots. He agreed with Mr. Snow's prior remarks regarding consistency and predictability, as there are zoning laws for a reason. As a corner lot, the subject property has 30 foot setbacks on both sides. If his neighbors bought a lot for that reason, they did so knowing there would be open space. The applicant, Mr. Snow, is a lawyer and had an opportunity and the responsibility to do his research on the matter. A rezone would impact the neighbors' quality of life. Furthermore, approving more high density housing would impact other citizens in Draper who moved into the area because of its rural appeal.

[8:00:34 PM](#)

7.14 Sharon Staples, resident, said she has lived on New Hope Drive for 40 years. She explained she was on the Planning Commission and Board of Adjustment many years ago, and was appreciative of the Council's service to the City. Ms. Staples said she loved the Snow family and hated to speak against their proposal; however, they have 10 other neighbors with whom she has lived for over 25 years. She said some of the dates to which Mr. Snow alluded in his presentation were incorrect, namely one of the neighboring half-acre lots had not been there for 40 years. At the time, the lot in question was a debacle and was approved by managing to slip through the cracks. She said her allegiance was to the HOA. Approving this rezone request would open the flood gates for anyone else who wanted to come forward and subdivide on New Hope Drive.

[8:04:13 PM](#)

7.15 Josh Irvine, attorney, said he was representing the residents on New Hope Drive. He is not a Draper resident but graduated from Riverton High School and spent a lot of time in Draper during his youth. He said that a new resident of a neighborhood should not be able to move in and unravel what has been in play for generations. They should not have to give way to subdividing and selling off every parcel of land for any financial gain which may be deemed necessary.

Mr. Irvine stated Mr. Snow should have known there were HOA restrictions in place in this neighborhood. While the CC&Rs were not properly recorded, everyone operated under the understanding that they were. Mr. Snow has asked the Council to “forgive his ignorance”, which he argued the Council should not do. He stated that Mr. Snow was trained, had professional experience and actual knowledge of the HOA by way of paying its fees. Mr. Irvine said CC&Rs can’t prevent the Council from approving a rezone, but the organization in the New Hope Drive neighborhood has been consistent for decades. He asked the Council to deny the application.

[8:07:05 PM](#)

7.16 Mike Marshall, resident, spoke about a neighbor who divested himself of 5.5 acres on his property. In so doing, the neighbor also divested Mr. Marshall of all the trees in his backyard. Nobody was excited about that change taking place, but it took place anyway because the applicant had worked through the proper channels in the City. Mr. Marshall stated now he has homes in his backyard which are smaller than half-acre lots; however, it’s part of the process and in the end people move forward.

[8:08:32 PM](#)

7.17 Greg Matis, resident, thanked the Council for holding this public hearing and soliciting public input. He said what makes this country great is that it is founded on a group of core, invaluable principles that have forged their identity as Americans and have served them well. He discussed some of those principles which he felt were in play during this discussion; (1) private property rights and (2) due process. In this country and community, they seek to avoid unnecessarily restricting what citizens can do with their own property. While there are certain circumstances in which the greater good requires limitations on those rights, even then they work hard to follow due process to make sure (1) the restrictions are reasonable and (2) decisions are made based on facts and in a consistent way. People can voluntarily enter into restrictions on the full exercise of their property rights, as this is done by contract all the time, including in cases of HOAs and CC&Rs. However, this only works when it is common knowledge and the actions are voluntary.

Mr. Matis said these two things did not happen in this case, as Mr. Snow did not sign nor did he agree to CC&Rs when the property was purchased. With regards to whether or not a precedent would be set if the request was approved, Mr. Matis explained the remaining residents on the lane would enter into a new HOA which would then be binding, so long as the CC&Rs were properly recorded and enforced. The CC&Rs would likely prevent subdivision from happening in the future. Therefore, he argued that a decision favorable to Mr. Snow’s request would not be a “slippery slope” situation. Mr. Matis stated there wasn’t anything properly filed or recorded showing Mr. Snow was bound to certain restrictions as a property owner in that community. In order to waive these property rights, Mr. Snow would have had to do so knowingly and willingly and he did not. Mr. Matis was supportive of the Council allowing the Snows to reasonably exercise their private property rights in a way that was consistent with the surrounding lots and the City’s standards and plans.

[8:11:41 PM](#)

7.18 Rachelle Farr, resident, said she fell in love with Draper over 25 years ago. She previously lived in Sandy on a quarter-acre lot. She looked for houses in Draper, and specifically on New Hope Drive for several years until she found the right house. Similar to the Snows' experience, her home had been foreclosed due to water damage and other disrepair, and as such she remodeled her entire home. Ms. Farr's biggest objection to the request, besides those previously stated, was the "domino effect" the decision could have on future rezone requests and the potential for losing the uniqueness of New Hope Drive for future generations. As neighbors they feel strongly about fighting this encroachment of smaller subdivisions and higher-density housing that has crept in all around them. While they understand the reality of progress and change, the residents on New Hope Drive have fought to maintain the nature of their neighborhood.

[8:15:05 PM](#)

7.19 Wendy Carter, resident, has lived on New Hope Drive for 35 years. She expressed the beautiful nature of the neighborhood and its uniqueness. She read a statement from Councilmember Vawdrey that "as a City [they] can plan to preserve larger lots in appropriate areas". Ms. Carter opined that New Hope Drive was an appropriate area where this preservation should take place. She was concerned with the precedent that would be set if this request was approved.

[8:16:25 PM](#)

7.20 Rose Vaccaro, resident, recounted the history of her family living in Draper and surrounding areas. She has loved living on New Hope Drive and she loves her neighbors, who have represented a variety group of people. When open space is sold, it is missed. It's like losing a part of one's family. She hopes they can continue to live on one-acre lots on New Hope Drive.

[8:19:04 PM](#)

7.21 Ben Blake, resident, said he is friends with the Snows, and friends can disagree. Mr. Blake disagrees with the Snow's decision to try and subdivide because of the CC&Rs which the neighborhood believed existed. The Blakes moved onto New Hope Drive three years ago, and he recounted the experience of how they came to move into the area. The sellers of their home had explained they wanted to sell their property to the right buyer, and much of the sellers' decision was based on who would appreciate the unique value of the community. Mr. Blake explained he believes in property rights, but he asked the Council to uphold the corner lot rule.

[8:22:32 PM](#)

7.22 Alan Andrelzyck, resident, said he lives directly west from the subject property. He was at last month's Council meeting, but he did not speak. He stated he was opposed to the proposed rezone. He agreed with prior remarks indicating approval of this request would set a negative precedent in the area. He opined that Draper City has reached the development saturation points in many areas, and he does not want Fort Street to become overly developed. He felt the City should honor the old covenants, codes and restrictions that have previously been in place.

[8:24:42 PM](#)

7.23 Bryan Bullett, resident, stated his opposition to the proposed rezone request.

[8:25:25 PM](#)

7.24 Ron Branca, resident, stated this was an emotional issue which has come forward many times. He has been a resident of Draper for nearly 13 years, and when he purchased his first lot off of Fort Street he was attracted to the lower density in the community. He stated he was sensitive to Mr. Snow's position of wanting to do something with his own property and being locked into an unusual, large lot. He was familiar with issues surrounding development of flag lots. He felt people had a right to do whatever they needed with their own private property. He explained that because of the price of the property, there would only be a select few individuals who would ever be able to afford purchasing the size of lots which currently exist on New Hope Drive. He expressed his support for the proposed rezone request.

[8:28:04 PM](#)

7.25 Mayor Pro Tem Stenquist closed the public hearing.

[8:28:18 PM](#)

7.26 Mr. Snow stated CC&Rs are used to protect neighborhood visions; they are created mutually by those affected and are then legally recorded in a way for homeowners to easily access them. Mr. Snow said he had never seen the current CC&R documents because they were never dated, signed or properly recorded. He mentioned this fact to his neighbor, who had in fact written the homeowner agreement in 1978. The neighbor who wrote the agreement had stated to Mr. Snow that he was approached by one of the builders to draft the agreement, and at the time the builders specifically advised him not to record the document.

Mr. Snow stated the reason why there are recorded documents is so subsequent homeowners decades later will know what kind of obligations run with the land. There are no obligations which run with his property. Mr. Snow stated if the neighbors would use the attorney they hired to draft CC&Rs which obligate everyone to mutually agreed-upon terms, this issue will be over. Lastly, he stated communities shouldn't ask the City to enforce an agreement every time there is a disagreement with a homeowner.

[8:31:54 PM](#)

7.27 Councilmember Summerhays provided a brief overview of the history of the area.

[8:34:09 PM](#)

7.28 Councilmember Summerhays moved to deny Ordinance #1228. Councilmember Weeks seconded the motion.

Councilmember Summerhays indicated he is a property rights advocate; however, everyone on this private lane has upheld the agreement and stuck by the rules whether they were recorded or not.

[8:36:08 PM](#)

7.29 Councilmember Weeks was concerned because if they did split the lot the road would then go out to New Hope Drive even though it would face Fort Street, according to staff. Secondly, in Draper she likes a versatility of lots, not just half-acre or quarter-acre lots. She thinks there needs to be large, one-acre lots in Draper. She sees this community has kept the integrity of one-acre lots, and she would hate to see that lost.

[8:36:52 PM](#)

7.30 Councilmember Summerhays mentioned he maintains six acres of property, and he said Mr. Snow did an excellent job of maintaining his property. He welcomed Mr. Snow to Draper even though he disagrees with Mr. Snow's request.

[8:37:26 PM](#)

7.31 Councilmember Rappleye said it was a difficult point in Draper's history because they were transitioning from a town into a City. He explained Draper was one of the slower growing cities along the Wasatch Front. They have tried to maintain larger lots where it makes sense to do so. He said he loves Mr. Snow's home because it was a beautiful property, and he opined that by splitting the lot it would take away from the beauty of the land. It would be difficult to put a home on the other end of the property, which is what they would have to do in order to make the project worthwhile. He agreed with Councilmember Summerhays's remarks; if there are well-used CC&Rs and people know and obey them, a person needs to accept that fact.

[8:39:48 PM](#)

7.32 Councilmember Vawdrey said as a Council they had tough decisions to make. However, they do have some guidelines, one of which is they consider public comments anytime a zone change request comes forward. She felt it was important for the Council to consider the comments made tonight.

[8:40:18 PM](#)

7.33 Councilmember Stenquist agreed with Councilmember Vawdrey's remarks. While he felt the Snows had several strong arguments, he agreed the comments from the neighbors needed to be taken into consideration.

[8:40:49 PM](#)

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

[8:41:01 PM](#)

** *The Council took a break at 8:41 p.m.*

** *The meeting resumed at 8:49 p.m.*

[8:49:37 PM](#)

8.0 Public Hearing: Resolution #16-76, Declaring Portions of Parcels 11:009:0048 and 11:008:0004 Located at Approximately 2300 East SunCrest Drive as Surplus and Authorizing the Sale of the Same

[8:50:21 PM](#)

8.1 David Dobbins, City Manager, presented an aerial map of the subject properties, noting the properties encompassed approximately 55 acres. The City could surplus the entire piece and authorize the sale of a lesser portion of property, which would provide greater flexibility. This property was and is part of the SunCrest Master Plan. The map identified the developable areas which Westbrook, the developer, was planning to build back in 2003. He then identified the areas under consideration for the aforementioned Resolution.

Mr. Dobbins presented the build-out plan the developer was at one point planning to build. In 2012, when Westbrook went bankrupt, Zions Bank became the property owner and developer. The areas owned by Zions Bank were identified. There were approximately 400 acres Zions Bank held at the time. Draper was in a lawsuit with Zions Bank, and they were trying to find a developer to purchase the property and develop the build-out plan previously shown. When they reached the point that they found a buyer to develop the property, they called the City and indicated the sale would be for \$5.6 million for all 2,400 acres. However, before selling the property they asked the City if they were interested in purchasing the land. The City had responded in the affirmative and proceeded with the purchase.

The development agreement is still legally binding on the property. There were no restrictions placed on the City's use of the property by Zions Bank when it was purchased. Zions Bank was ready to sell it to a developer if the City didn't make the purchase, as it was an "all or nothing" offer. The City had offered to purchase a portion of the property and Zions Bank declined their request, on the grounds that selling only a portion of the subject property would devalue the remaining property.

The intent at the time of purchase was to sell off some areas for development to offset those costs, while trying to maintain the majority so as to designate it as open space protected by a conservation easement. A sales tax revenue bond was used to purchase the property. Under the development agreement, there were 3,088 homes that were allowed to be built under the development agreement. There were approximately 1,400 homes which actually were built, meaning there are 2,400 homes left under the development agreement. There isn't a legal designation yet on the subject property. The density under the development agreement is set at an average of 1.03 units per acre. Any density less than that amount would require a developer to dedicate property to the City to get the average of all of the lots up to a minimum density of 1.03 units per acre. Mr. Dobbins noted this was also the case for several multi-family housing developments.

** *Mayor Walker arrived at the meeting at 8:55 p.m.*

If any property is sold with the City as the owner and developer now, the City could dictate the terms but they would have to comply with what's outlined in the development agreement. If it was a private developer the density would have to meet the 1.03 unit per acre average. Since the City is both the owner and developer, all of the other property counts as the match requirement. As such, the City can still decide how they want to manage the sale of any portion of the subject property.

Mr. Dobbins stated the subject property is within the Traverse Ridge Special Service District (TRSSD) boundaries. When the City purchased the property, the cost was \$5.6 million. Zions wasn't willing to go down on the price, as they had someone else who was ready to buy and develop the land. Therefore, the City purchased the property with a \$5.6 million sales tax revenue bond. At the time, the City could not afford a normal 20-year amortized bond, so they structured the bond payments to where they have been currently making interest-only payments in the amount of \$231,550. The City did this in anticipation of trying to sell off some property to lower the overall bond debt down to a level they could manage. If nothing changes in 2025, the City will then be required to start making interest and principle payments. If this occurs, the payments will increase by \$525,000 per year in principle, for an annual payment of \$756,550. One of the reasons why they were having a hard time figuring out how to make these payments was because they were already paying for the Corner Canyon bond, which they started paying in 2005. He explained that a City has to have the capacity to pay for a bond within an existing budget.

[8:59:07 PM](#)

8.2 Councilmember Stenquist explained at the time the Council felt it was such a unique opportunity that they didn't want to pass up. Therefore, they decided to find whatever financing mechanism possible in order to preserve this land.

Mr. Dobbins explained when Corner Canyon was purchased, the taxpayers of Draper approved a General Obligation Bond roughly in the amount of \$12 million. There was another million dollars donated by Salt Lake County. As part of the purchase, the City was required to place a conservation unit on the Corner Canyon property, which exists today. The easement is held by Salt Lake County, and anything that happens in Corner Canyon must be approved by them. Mr. Dobbins stated nothing similar has happened in the SunCrest area. While the Council did recently approve an Open Space Master Plan, the action didn't change any of the underlying requirements of the property. At some point if the Council wanted to conserve property in perpetuity, the conservation easement would need to be written in such a way to protect the taxpayers of Draper. Furthermore, they would need to find an entity to hold the easement, and then the City would grant the easement to that holder for management.

Councilmember Stenquist asked Mr. Dobbins to elaborate as to why the conservation easements haven't yet been established.

Mr. Dobbins explained when the City initially did the bond the Council approved the purchase, the City agreed they would look at which areas would be under the conservation easement and which areas would be sold for development to lower the bond debt. Furthermore, it outlined which areas would be used for trails and trailheads. When adding the subject property with Corner Canyon, there is a close to 4,800 acres. Not only is the City paying the mortgage payment on the subject property, but they struggle to find the funds to maintain the property. There are not very many trailheads in terms of parking, so

they are also trying to find ways within the existing budget to make the subject property more accessible on both sides of the mountain.

There is additional private property still within this area. On the east side there are approximately 550 acres owned by private entities. Some of this land is currently up for sale, and the City has been approached by their broker. Other areas are not for sale. In further review of an aerial map, Mr. Dobbins identified the areas the City is looking to possibly surplus and sell. The Alpine Joint Venture (AJV) property is located to the south and is comprised of roughly 300 acres of private property. Once a year the City meets with the property owners and/or a developer to try and figure out how to develop that piece of property. All property to the west is also in Draper City and is owned by Micron. Micron has approached the City at different times about master planning their property.

Mr. Dobbins reviewed the purpose of the proposed Resolution, and the actions that would take place next if the Council were to surplus the subject property and move forward in selling it to a developer. He explained the contract for any sale would come forward to the Council first. Surplusing the property doesn't do anything other than allow the Council to decide if they want to sell it at some point. If the property was sold, the funds could be used for a number of purposes. The money could be used for trailheads, improvements in the area, and the existing bond debt could be reduced. The City's bond attorney would determine the amount of funds which could be used towards paying off existing bond debt.

[9:05:20 PM](#)

8.3 Councilmember Summerhays asked if they could pay a higher amount towards existing bond debt. Mr. Dobbins answered affirmatively, and explained there is a process which would need to be followed. He said the Council can also condition the sale of property and determine a minimum sale amount in order to proceed. Furthermore, they could also dictate the number of units to be developed on the property. Other conditions could include minimum lot size and accessibility to trail connections.

[9:07:50 PM](#)

8.4 Councilmember Summerhays inquired as to how the City's annual payment was determined, and how as a City they would come up with the additional funds to pay towards the bond principle. Mr. Dobbins explained Draper is one of the lowest taxed communities in the valley, and at the time of the bond staff deliberated on what the existing budget could accommodate. While the current payment was a stretch financially, it was doable based on the current budget. At this time the budget would not be able to handle the additional half million dollar payment towards the bond principle, and the Council would have to anticipate some kind of a tax increase in order to make those payments.

[9:09:45 PM](#)

8.5 Councilmember Weeks stated if the City wanted to do a conservation easement they would be able to tailor it to meet their specific needs. She mentioned they would still need bathhouses, trailheads and trails. She asked if a conservation easement would eliminate limitations to the City.

Mr. Dobbins answered affirmatively. He explained that Draper approached Highland and Alpine when they were trying to buy the property to see if they were interested in helping the City pay for the property, and neither of those agencies were willing. Salt Lake County also was not interested in holding an easement outside of County boundaries; therefore, the City would have to find a third party. He explained that whatever the Council decides, they will want to ensure capacity without having to request approval from the easement holder. As such they would want to find an easement holder who shares Draper's vision for the area and would seek to protect the City's interests.

Councilmember Weeks asked if they decide to surplus the 55 acres, can they decide as a City to only sell a certain portion of the subject property. Mr. Dobbins answered affirmatively, and explained if they surplused 30 acres but ended up wanting to sell more than that amount, they would have to go through the surplus process all over again. If they surplus 55 acres and only sell 30 acres, they will be able to accomplish that action without going through the surplus process again. It is up to the Council to determine how much of the 55 acres they want to sell.

[9:13:30 PM](#)

8.6 Mayor Walker opened the public hearing.

[9:14:57 PM](#)

8.7 Mark Ursic, resident, said this was not an issue about development agreements or a lack of capacity for future bond payments that are escalating. The Council was aware of the escalating bond debt at the time they proceeded to obtain the bond. He recounted questions and concerns which came forward in a meeting held in October 2012, during which the bonds for the subject property were discussed. He read excerpts from those minutes.

[9:18:19 PM](#)

8.8 Mark Allen, resident, stated he founded Preserve and Protect American Fork Canyon which now has approximately 11,000 members. He explained about 3,000 of their members live on the Draper side of the mountain, and they have tried diligently to preserve recreational opportunities in the canyon. Mr. Allen said they worked hard to get Utah County Commissioner-Elect, Nathan Ivy, elected to take office in January 2017. He stated Commissioner Bill Lee has been tasked by the Governor with House Bill 218, which is a Countywide Resource Management Plan. Mr. Allen stated the City should not have to carry this burden alone as there are challenges in every canyon. The most important asset they have now is open space and water. American Fork has dire problems with water, and tests have shown dangerous substances which have potentially gone into thousands of private backyards. He noted the EPA would be coming next spring to further investigate the situation. Mr. Allen suggested Draper City consider sitting on this issue for a little longer, as they have seven more years before they will have to start paying towards the principle. He didn't see why there was a need to rush this item forward, and noted Commissioner-Elect Ivy understands resource protection and the value of open space. He felt there was more value in this land than \$5.6 million.

[9:21:42 PM](#)

8.9 Jake Satterfield, developer, said he didn't understand why it was Draper's responsibility to keep open space for everyone else; it's not federal land. He said it was a matter of math, and he made reference to points given throughout Mr. Dobbin's presentation. He said Draper City has done something not many other cities have done, and that is they have roughly 4,500 acres of open space they have secured for the benefit of their residents and others. The City has a track record of making it a priority to have open areas and trails for recreation. Mr. Satterfield stated it was both ungrateful and unfair to accuse the City staff and elected officials of being crooks and dishonest. He said those who are complaining about open space have had no problem building in what used to be open space.

[9:24:58 PM](#)

8.10 Carl Pew, resident, said in 2011 he asked the Council for a development plan for a project and was allowed to proceed. During construction he received the Draper City newsletter which promised all the purchased land would be open space. He said this item revolves around money and whether or not the residents of Draper would be willing to pay for the land. Mr. Pew's clientele is almost exclusively from Draper, so he took a straw poll of those who visited his store and the results showed more than 80% of SunCrest residents indicating a willingness to support the open space projects. Furthermore, of the residents on the face of South Mountain, 75% of those who took the poll indicated a willingness to pay higher taxes to support the initiative as well. Lastly, 65% to 70% of residents living in the valley area of Draper were willing to support the open space with additional tax. Mr. Pew stated for four years the property in question has been sitting without any citizen involvement. He approached Parks and Recreation, Public Works and Utah County and they seemed to be amenable to proceeding with more easements in the area. There may be other sources of revenue available to support the land, and he hoped the Council would make those considerations.

[9:28:05 PM](#)

8.11 Jon Wagner, resident, said he was out riding the trails today, and he thanked the City for their provision. He expressed how much he loves Draper, and as a resident of SunCrest is able to escape the inversion. Mr. Wagner presented photographs he took of the area and explained there was potential for the area to have both winter and summer recreational opportunities. He stressed how unique of a situation it is for Draper to own this property, which they purchased at an incredibly low price. He opined that the City would be able to find alternative means for paying off the debt.

[9:31:20 PM](#)

8.12 Trent Olsen, Idaho resident, said he grew up in Draper and cares deeply about the open spaces and the mountains surrounding this area. He stated every effort should be made to preserve this land, but he also recognized the Council's fiscal responsibilities and the difficult balance between conservation and the City's budgetary needs. He was concerned that the City proposes selling land, expressly acquired for preservation, with no real protections for any remaining land of those 2,400 acres. Mr. Olsen explained while he heard good intentions of wanting to protect the majority of the land, they were still leaving key questions unanswered. For example, he inquired as to how much land the Council was

committed to protecting. Furthermore, how much money would the Council hope to gain from any sales of the land. Mr. Olsen said more transparency on their goals as a City was necessary with regards to this decision. Draper taxpayers paid for open space rather than real estate investment. Mr. Olsen asked the Council to provide a formal written commitment to permanently protect a specifically defined majority of this land. Without a written commitment, Draper residents have an obligation to resist this and all other sales.

[9:34:45 PM](#)

8.13 Heidi Smith, resident, said she was an environmentalist and was drawn to the area because of its beauty. Since moving to Utah from Seattle, WA, she has attended various public meetings and participated in various committee meetings whose purpose is to protect wild lands and open space. During these meetings she has seen many maps of the southeast corner of Draper, and she has never seen homes proposed in lower Mercer Hollow or along the mountain ridges. She has spent hundreds of hours hiking Traverse Mountain from Lehi to Corner Canyon. She has tried to be a good steward by helping remove trash and reporting misuse when necessary. Ms. Smith was concerned that development of this land would be harmful. While development is inevitable, it should happen in a mindful matter. She expressed sadness to see certain areas of open space recently bulldozed to make way for development in another area of Draper. She stated Mercer Hollow contained wetlands and was home to much wildlife, as well as a great variety of trees. The proposal from Blue Bison Development threatens to take a huge amount of land from a sensitive area, and she requested the Council address the matter if the subject Resolution moves forward.

[9:38:15 PM](#)

8.14 Ruston Hill, Cedar Hills resident, noted he was a former resident of SunCrest and nearly 40 years ago his grandfather managed the Lone Peak Wilderness area. The subject property fences out the elk which migrate into the interior area each year. It cuts off potential corridors that enter and exit onto Draper City property. Currently Utah State University is conducting a study on this area, and there are six cameras in the hollows right now monitoring the migration of these animals. He agreed with Ms. Smith's comments regarding this area housing major wild life activity. In addition to the potential funding sources from the County and State (were the land to obtain State Park status), Mr. Hill mentioned there were additional State of Utah programs for repairing environments as part of research study and preservation through the Division of Wildlife Resources (DWR). Additionally, the City has long term ties with Utah State University, which would serve as the right solution for implementing an education program. Lastly, Mr. Hill explained conservation easements have a private, secondary market which could be explored for recovering some of the bond funds.

[9:40:55 PM](#)

8.15 Reed Gibby, resident, said the aerial maps showed private property. As such, there would be a considerable added value to private property with this potential sale. He observed the SunCrest Master Plan has some open space in the middle of the parcel, and so an amendment to the Master Plan may or may not be needed. He encouraged the Council to gather information on the likely impact to the wildlife that would occur as a result of

development in this area. He also noted development would impact watershed drainage. Development would also cause a significant increase in traffic on SunCrest Drive.

[9:44:19 PM](#)

8.16 Tony Dupreez, resident, added his concerns to those previously stated. He stated the access road, SunCrest Drive, would be heavily impacted as a result of development.

[9:45:38 PM](#)

8.17 Lisa Holcomb, resident, expressed her love for living in Draper. She stated Draper is different and special because of its open space, and it is a priority to Draper residents to see this area maintained as such.

[9:48:39 PM](#)

8.18 Trevor Whiting, resident, stated the trails are awesome and commended the City for a job well done. He questioned whether or not the financial argument on this item was valid. He requested the Council form a committee to do some research on whether or not the area can accommodate further development in the area, in addition to what has already been planned. He was interested in impact studies specifically relating to the additional traffic and public safety resources.

[9:51:17 PM](#)

8.19 Clark Winkler, resident, stated he lived has lived in Draper for 40 years, and he took his kids camping up on SunCrest when it was still all open space. However, the area changed because people wanted to live up there. He noted the subject Resolution was just to surplus the property and wasn't actually authorizing any type of sale. He stated according to Mr. Dobbins's presentation, there are a number of things which could be done with the property. As a taxpayer, he is worried about the prospect of raising taxes; however, he does appreciate the open space.

[9:53:14 PM](#)

8.20 Jamie Pogue, resident, stated he is the Chairman of the Draper Parks, Trails and Recreation Committee, where he has served for 10 years. Outside of the Mayor, Council and staff, he said he understood this issue better than anybody else. He said it would be a disservice not to surplus the subject property, and it was insulting to the Council to question their integrity on the matter. He said the citizens should be thanking the Council for everything they have done over the last 10 or 15 years in putting resources into the canyon. The City is responsible for recouping the costs of this property, which needs to be taken into consideration. The area they are looking to surplus is only a sliver of land compared to the rest of the open space in the City.

[9:56:35 PM](#)

8.21 Abigail Daw, resident, stated the citizens of Draper care about this open space because it is part of what makes Draper unique. She was concerned because the decision to surplus the property, which would potentially lead to development, has been presented before the public has had a chance to become informed on all other options. Ms. Daw said she was appreciative of the fact the Council is concerned from a fiduciary standpoint; however,

many other ideas have been proposed tonight and the public doesn't know whether or not all of those other options have been explored and deemed viable. The community was in favor of bonding to protect the area, and they are still willing to engage in this continual conversation.

[9:58:58 PM](#)

8.22 Wendy Hudson, resident, mentioned she distributed copies of the current Draper City Parks Trails and Trailheads map. She said the City still had seven years to come up with a plan for protecting the land while meeting fiduciary responsibilities. In reviewing the aforementioned map, Ms. Hudson stated there are certain service roads and trails being encroached and cut off by a development that has been proposed but not yet approved by the Council. She requested the City create a future plan and publish it on the City's website. There was further review of other access points outlined on the map. She encouraged the City to review other developments being proposed in neighboring cities.

[10:02:16 PM](#)

8.23 Councilmember Summerhays moved to continue this meeting past 10:00 p.m. Councilmember Weeks seconded the motion.

[10:02:54 PM](#)

8.24 A roll call vote was taken with Councilmembers Rapple, Stenquist, Summerhays, Vawdrey, and Weeks voting in favor. The motion passed unanimously.

[10:03:25 PM](#)

8.25 Adam Crayk, resident, mentioned he also serves on the Draper Parks, Trails and Recreation Committee, and he is an attorney. He previously owned a bike store which he recently sold. Mr. Crayk stated the canyon accommodates almost every single mountain biking team in the entire valley. There are literally hundreds of users who take advantage of the City's terrain. He stated there is an amended City Plan which shows protection of open space. Furthermore, they have approached other organizations – including Salt Lake County, Utah County and neighboring cities – and none have indicated a willingness to help shoulder the financial responsibilities of this land. However, these other entities still wish to mirror what Draper has done because the City offers such unique opportunities. Since Draper is unique, they must find a way to pay for the resources which set them apart.

[10:06:49 PM](#)

8.26 James Tegeler, resident, listed several company brands which are based in Utah because of the open space and proximity to big mountains. They pay significant taxes and if Draper can attract them to the area, those tax dollars will fund continual maintenance of the open space.

[10:08:34 PM](#)

8.27 Ron Noack, resident, agreed with prior comments regarding transparency in this transaction. He said it appeared this matter came about suddenly, and there was a lack of dissemination of information. He encouraged the Mayor and Council to contact the

constituency to gain feedback on whether or not they would be willing to pay additional taxes to fund preservation of the open space.

[10:09:57 PM](#)

8.28 Chad Smith, resident, noted he attended the meeting in October 2012. He stated the acquisition of land from Zions Bank, and the bond were two separate actions. He didn't question the trustworthiness of the Mayor and Council, and said they seemed aware of what was valued by the citizens. He said he valued open space and was supportive of either paying more taxes or selling a small portion of the land in order to fund the bond. However, if the City decides to sell a portion of the land he said he would agree with many of the concerns which have been expressed. He was interested in a holistic solution. Lastly, Mr. Smith was worried about the payments ballooning and felt the bond should be paid off as quickly as possible.

[10:12:19 PM](#)

8.29 Chris Kahle, resident, stated there were many Draper residents who had assumed the hollows should be preserved. He encouraged everyone to come together to reach a transparent solution. He said the people of Draper should be allowed an opportunity to vote on this issue, and he was personally willing to pay more in taxes to maintain open space.

[10:13:45 PM](#)

8.30 Mike McBride, Highland resident, was concerned with the potential developer. The subject property has several steep grades and it would not be a trivial effort to develop the land. He asked whether the developer had the means by which to take on such a challenging project. Mr. McBride encouraged the City to seek out a developer who could be trusted by the public, as the previous developer went bankrupt thus leaving the City with a number of challenges to resolve. He opined it made sense to have a developer prove they could deliver financially and environmentally on the project. He recalled another time when a developer over-promised and under-delivered on a project in his community, and it left an area in blight for a number of years. He stressed to the Council that they should take the time to hire a good developer, should they move forward in selling a portion of the land.

[10:15:55 PM](#)

8.31 Suzanne Pew, resident, voiced her opposition to the surplus and development of the Mercer Hollow and Hog Hollow land. She moved to Draper with her family in order to be close the mountains and wild lands. Developers, Draper City elected officials, and other sources of information lead them to believe the property in question would remain as dedicated open space. She proceeded to explain that the developers built their home on unstable soil. The developers communicated to the Pews they could build in that location because Draper City had completed proper soil testing and inspections, and deemed the area to be safe. Draper City officials inspected during the construction phase and also indicated at that time the soils were safe and stable; however, they were wrong and she feels they were deceived. They have had to install over 60 helical piers in the foundation of their home to stabilize the home and prevent it from sliding into the hollows, which is land the City wants to

surplus and sell for development. She asked the Council what their plan would be if the soils collapsed completely, and stressed that the area is meant for wildlife.

[10:19:21 PM](#)

8.32 Lisa Ballard, Highland resident, disclosed that Councilmember Stenquist is her brother-in-law. She recounted the history surrounding the Fox Hollow Golf Course to note parallels between that particular situation and the current issue at-hand. She stated Draper City has a written commitment to preserve and protect open space, an initiative which has been followed using taxpayer dollars. She encouraged the City to keep their commitment to the citizens.

[10:22:28 PM](#)

8.33 Johnne Brennan, resident, wanted to discuss the intent of the initial purchase of property. He commended the City for successfully acquiring such a unique piece of land at such an affordable price. When the City used those taxpayer dollars, he asked how they defined what they would do with the land. He read a statement from the bond which said the proceeds of the series 2012 bonds will be used by the City for the purpose of financing the acquisition of recreational, open space property, construction trails and trail-related improvements. He said in no way, shape or form is there language contained in the bond indicating an eventual goal to sell the property for development. Execution of the bond's purpose was something the public entrusted in the Mayor and Council. He requested the City not hurry through this decision and that they exercise a willingness to work with the public on the matter.

[10:25:48 PM](#)

8.34 Rachael Sheltra, resident, said when Draper purchased the 2,400 acres of land from Zions Bank, it was promised that the acquisition was supposed to protect land, ensure primary roads were maintained, and water resources were carefully planned and designed. A study was recently conducted on behalf of Draper, which revealed serious deficiencies in construction of SunCrest Drive including extremely poor subsurface materials, insufficient compaction and poor engineering. This has resulted in a quickly deteriorating public road that is now a public safety hazard, especially in the winter. Ms. Sheltra stated the State of Utah has committed to several million dollars to Draper for the reconstruction of SunCrest Drive. She said it is questionable why additional development requiring access from SunCrest is being considered when proper maintenance is not performed on existing roads that are critical to accessing this new development. Furthermore, she opined the access of the proposed road poses serious safety concerns. The entry side of the road is located on a curb on a steep hill, where visibility is limited. As a resident of the Mercer Hollow neighborhood she has had far too many close calls, particularly when turning left onto her street. She stated she has yet to see a stretch of road that is patrolled by officers to enforce the speed limit. This hill is also popular to cyclists, and since there is no official bike lane, space is often crowded during peak cycling seasons.

[10:27:56 PM](#)

8.35 Scott Steadman, resident, stated for him the biggest issue is that of the City's intentions. He discussed the settlement with Dave Mast with regards to his properties on Mercer

Mountain, as well as the proposed Lake View Heights project. These properties were included in the 2,400 acres. Mr. Steadman said the 120 acres in question were surplused four years ago and no one has come forward to purchase the land, until the City went into contract with Blue Bison Development. From his vantage point, the pattern of behavior is whatever the developer asks they are able to get from the City. He asked the Council to consider what precedence would be set as they consider what decisions to make.

[10:29:52 PM](#)

8.36 Jeff Jones, resident, stated he has felt at times Draper City has treated him and his neighbors like second class citizens. As a neighborhood on Draper Mountain, they considered suing the Council in order to have their voices heard. Mr. Jones spoke of trust issues he and other members of the community have towards the City's elected officials, particularly in regards to preserving and protecting this open space. He stated no future Council should have the ability to sell out previously committed open space without the same support from the constituency. In order to restore trust, Mr. Jones recommended the City create a referendum and long term study for the area.

[10:33:16 PM](#)

8.37 Brent Groom, Highland resident, stated there was a discrepancy between what was shown on the PowerPoint presentation and what was recorded in a previous set of minutes. He requested the City provide footnotes as to why the information provided in the PowerPoint presentation was included. Mr. Groom made reference to an open space study that was conducted which showed the entire area as undeveloped; several months after the study was conducted, the Blue Bison Development came forward. Mr. Groom mentioned the 110 acres located to the east of the subject 55 acres involves 400 homes, in addition to the 40 to 200 homes on the 55 acres, bringing the total to 600 homes in the area.

[10:35:59 PM](#)

8.38 Leigh Brennan, resident, expressed appreciation for the trails and the actions taken by the City to save Corner Canyon. She asked the City to take similar actions for the hollows. She moved to Draper for open space, and she was under the impression that the open space was protected. Ms. Brennan quoted an article from a 2012 edition of the Draper Journal, which were statements given at the time by Councilmember Stenquist. She added her voice to prior comments, and mentioned a petition containing over 1,000 signatures opposing the subject Resolution.

[10:39:17 PM](#)

8.39 Corrie Kraatz, resident, stated she was an outdoor enthusiast who suffers from several autoimmune diseases. Her conditions are triggered by stress and environmental factors. For several years she has sought to live in a place which would remove her from a negative environment so she could heal. When she and her husband found their home in Draper, they were told about the protected open space and were promised it would never be developed in their lifetime. She felt relieved to live somewhere peaceful where she would have trail access. The subject Resolution has caused her much grievance. She asked the Council to listen to the public and protect the open space and environment.

[10:42:12 PM](#)

8.40 Doug Turner, Highland resident, stated he grew up in Draper and recently moved back to the area for its beauty and promise of open space. He added his voice to prior expressed concerns.

[10:44:00 PM](#)

8.41 Katie Ford, resident, stated she was speaking on behalf of her brother-in-law, who lives in Highland. She stated she has visited this area frequently and used the trails, and her brother-in-law's property will be directly impacted by the proposed Resolution. She presented four photographs of her brother-in-law's home to show where it was placed in proximity to the Blue Bison development. She added her voice to prior expressed concerns, and stated the City's actions and proposals showed the true intentions of the Draper City Council. Ms. Ford stated Mr. Satterfield's resume shows his lack of land development experience. For example, on his concept plans there is no indication of the 80-foot easement for the newly installed Questar gas pipeline. Images #3 and #4 displayed Mr. Satterfield's resume, and it was noted he only has one and half years of development experience with the Blue Bison Development Company.

[10:47:38 PM](#)

8.42 Rodney Smith, resident, asked if the expectation with the proposed surplus was to sell the land for development. Secondly, he asked if the utilities had the capacity to support this expansion. He opined that building an east to west road going up the mountain would be an inefficient way to get access. He suggested a better approach would be for a developer to work with Highland, Alpine and Draper to try to get access to properties down the hill to create a shorter road. Mr. Smith stated he had seen several plat maps for the area, and noticed the Hog Hollow trailhead was not mentioned. He wondered if the City was working towards that goal. As both the landowner and the City, they have the ability to place restrictions requiring community access facilities to be developed. Mr. Smith stated previous developments including Hidden Canyon Estates and Edelweiss do not have a single walking trail or park in the plat maps he has reviewed. Lastly, he asked when the prison land will become available.

[10:51:03 PM](#)

8.43 Tammy Hirsch, Highland resident, stated her home would be affected on the other 110-acres which were previously mentioned. She said she bought in that neighborhood because she was told it was a nature reserve in the backyard. She paid an extra premium for her property, and she regularly has wildlife migrations take place near her home. She expressed anger because the area behind her home has since been planned for a townhome development. She spoke about the safety hazards the high density has on the infrastructure, noting that a child was killed in her neighborhood due to being hit by a car. She stated the developer at Blue Bison Development was a bully, and requested that the Draper City Council keep their promise to the residents of maintaining this open space.

[10:54:20 PM](#)

8.44 Steve Ballard, Highland resident, stressed that the residents in this area made life decisions to move to this area based on a common understanding this open space would be protected and maintained.

[10:57:03 PM](#)

8.45 Linda Noack, resident, said she was honored to be asked to be a part of the Open Space Steering Committee, and self-identified as an environmentalist. She explained there has been participation from a wide range of people and interests attend those meetings and get involved in the cause. One area the Open Space Steering Committee determined should not have trails was the hollows area, because they feared the trails would interrupt important wildlife migrations. She encouraged the Council to hear the public's feedback, and stated the other alternative financial options had not been fully vetted.

[11:00:33 PM](#)

8.46 Heather Groom, Highland resident, thanked Draper elected officials for having previously met with her to discuss her questions. Having previously served on a City Council, she understands the difficult position the Draper City Council is currently in as elected officials. She stated the Council could still find a way to be fiscally responsible while keeping their promises to the citizenry. This was a hurried process, and there were more options to explore before making a decision. Ms. Groom stated the City's open space plan and associated maps did not indicate any plans for development. She encouraged the Council to make their legacy be something greater than condominiums.

[11:03:48 PM](#)

8.47 Mayor Walker closed the public hearing.

[11:04:05 PM](#)

8.48 Councilmember Stenquist stated how much he appreciated the public's involvement in voicing their concerns. One thing they can all agree on is how much they all love the open space, trails and nature. He referenced the article he wrote in 2012, which was frequently quoted throughout the meeting. Councilmember Stenquist stated when he wrote the article he was excited about the opportunity presented by the acquisition of the subject property. It would have been heartbreaking had all of the land been developed. He apologized for the unintentional miscommunication of not specifying that a portion of the land might be sold. Furthermore, he said he was at the time naïve enough to think the City could have a master plan and conservation easement in a few months. It has taken several years of work to carry out these actions. He wished the City wouldn't have had to trade some open space land to Edge Homes in order to settle a lawsuit. However, these were some of the tough issues they had to face as a Council in order to balance all of the issues. Lastly, Councilmember Stenquist expressed that he couldn't accomplish anything better as a City Councilman than preserving open space. He said he was committed to putting a conservation easement in place which is protected in perpetuity. In order to reach that point, they will have to weigh all of the factors.

[11:07:26 PM](#)

8.49 Councilmember Rappleye thanked all of the members of the public for attending tonight's meeting and providing their feedback. He expressed he was trying to do his best to serve the community, and he was appreciative of the passion shown in tonight's meeting.

[11:09:01 PM](#)

8.50 Councilmember Summerhays said they have met with Utah County and representatives from other cities. As a City, they have been working on addressing the needs of this property since it was first acquired in 2012. Councilmember Summerhays stated he wanted a conservation easement for Draper. Federal, State and County easements are cumbersome and if the City wanted to put any kind of a special trail through the area they would face a lot of barriers. He stated the City was excited when they purchased the property at such an affordable price, and now they have to figure out what to do next with this asset.

[11:12:02 PM](#)

8.51 Councilmember Weeks questioned if the Council could move to defer the vote tonight and in any future meetings in which this matter is discussed, until which time they have thoroughly vetted all options. Mayor Walker answered affirmatively. He reviewed the meeting rules for public knowledge, noting that if the item is continued tonight it automatically is deferred to the next regularly scheduled meeting.

[11:15:22 PM](#)

8.52 Councilmember Weeks moved to postpone this item until January 17, 2016. The motion failed for lack of a second. The item will automatically roll over to the next regularly scheduled meeting.

** *The Council took a break at 11:16 p.m.*

** *The meeting resumed at 11:30 p.m.*

[11:29:55 PM](#)

9.0 **Action Item: Resolution #16-68, Appointing a Member to the Traverse Ridge Special Service District Administrative Control Board**

[11:30:24 PM](#)

9.1 Mike Barker, City Attorney, stated the TRSSD Control Board consists of five members, one of whom has an appointment expiring December 31, 2016. Under City Ordinance, the Board is comprised of five members who are appointed by the Mayor with the advice and consent of the City Council. There was one applicant for the position, and he was interviewed by the Council.

[11:31:00 PM](#)

9.2 Councilmember Weeks moved to appoint Blaine Carlton to serve as a member of the Traverse Ridge Special Service District Administrative Control Board. The motion failed for lack of a second.

[11:31:45 PM](#)

9.3 Councilmember Stenquist moved to continue this item for sixty days. Councilmember Summerhays seconded the motion.

[11:32:39 PM](#)

9.4 A roll call vote was taken with Councilmembers Rapple, Stenquist, Summerhays, and Vawdrey voting in favor. Councilmember Weeks voted no. The motion carried with a majority vote of 4 to 1.

[11:32:55 PM](#)

10.0 Action Item: Edelweiss Development Agreement Amendment, on the Request of Nate Shipp to Amend the Existing Development Agreement for the Edelweiss Development

[11:33:13 PM](#)

10.1 Dan Boles, Planner, stated the Edelweiss Development has a development agreement in place which the applicant is proposing to amend. He presented an aerial map of the subject property. He recalled in September the preliminary plat was approved, and this agreement would allow them to move forward with the final plat. The amended agreement proposes changing the boundary line for Utah County, the process of which the applicant is currently undergoing.

[11:34:38 PM](#)

10.2 Councilmember Rapple moved to approve the amendment to the Edelweiss Development agreement. Councilmember Weeks seconded the motion.

[11:34:59 PM](#)

10.3 A roll call vote was taken with Councilmembers Rapple, Stenquist, Summerhays, Vawdrey, and Weeks voting in favor. The motion passed unanimously.

[11:35:12 PM](#)

11.0 Action Item: Edelweiss Phase One Final Plats, on the Request of Nate Shipp Representing MREC DAI Edelweiss, LLC, for Approval of Plats 1A and 1B of the Edelweiss Development

[11:35:29 PM](#)

11.1 Mr. Boles presented the final plats of the aforementioned development. Phase I of the project includes Plats A and B, and the ordinance limits the applicant to 30 lots until the second access is provided.

[11:36:13 PM](#)

11.2 Mr. Dobbins added if the counties agree to change their boundaries, all of Plats A and B would be located in Salt Lake County. Mr. Boles stated the entire development would be located in Salt Lake County. Mr. Dobbins said this would not change the historic discharge rates for storm water in the area.

[11:36:47 PM](#)

11.3 Councilmember Rappleye moved to approve the Edelweiss Phase One Final Plats 1A and 1B. Councilmember Vawdrey seconded the motion.

[11:37:15 PM](#)

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

[11:37:32 PM](#)

12.0 Action Item: Consider Approval of a Change Order for Construction of Police/Parks and Recreation Storage Building

[11:37:43 PM](#)

12.1 Glade Robbins, Public Works Director, stated the City put out bid requests for construction of the Parks/Police and Recreation storage building. The bids came in for \$608,000. At the same time the project was put out for bid, the project was sent out through the City review process and as a result of that process they had to make some changes to the building. One major change was the exterior had to be changed from the steel panel to a masonry block building. Additionally, they also had to put a vehicle exhaust system in the building. The change order amounted to \$154,358, which is reflected in the aforementioned change order in addition to the amount the architect has charged up to this point. With this change order request, the project will still be within the approved budget of \$817,000 and there will still be a contingency of \$24,173.

[11:39:13 PM](#)

12.2 Councilmember Vawdrey moved to approve the change order for the construction of the Police/Parks and Recreation Storage Building. Councilmember Rappleye seconded the motion.

[11:39:34 PM](#)

12.3 Councilmember Rappleye asked if staff ever explored the stucco wall component of the building. Mr. Robbins wasn't sure if stucco would meet City Code; they were directed to use masonry which is not the same material as stucco.

[11:40:11 PM](#)

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

[11:40:28 PM](#)

13.0 Public Hearing: Resolution #16-73, Amending the FY2017 General Fund Budget

[11:40:45 PM](#)

13.1 Bob Wylie, Finance Director, reviewed several items as part of the amendments to the Fiscal Year 2017 General Fund Budget. First, the Fire Department requested funds for several full-time employees including an executive assistant and two battalion chiefs. Second, the Fire Department requested funds for a response package which includes radios

and IT startup costs, the funds of which would be provided from the sales tax revenue of increase. Third, the Fire Department has requested funds for capital equipment, including \$2.5 million for the apparatus and \$340,500 for other capital equipment for the trucks. The funding for these costs would be provided from Fire impact fees and the General Fund balance appropriation. Fourth, a budget amendment has been requested to complete the widening of 1300 East. Some final wrap-ups have been received from UDOT and engineering has requested another \$85,305 to complete the project. These funds would come from the General Fund balance. The fifth budget amendment is for 13800 South; the Storm Drain Engineer is proposing they begin working on that project and they have requested \$1 million from the storm water impact fees. The sixth budget item is for the Park Ranger position. The position was originally budgeted in the parks, and staff is proposing to move the expenditures for half of the year (January through June) from the trails division into the Police Department. Additionally, they are requesting to move the vehicle costs of \$32,500 into the Streets Division, for a total of \$64,875.

The next amendment is for additional design work on the splash pad, in the amount of \$400,000. Staff proposes these funds come from the park impact fees. The Legal Department has also requested authorization to create a new part-time law clerk, which would be a 20-hour per week position starting in January. The estimate for this position for half a year is in the amount of \$11,212, as well as \$2,000 for a computer. Human Resources is requesting to convert their part-time intern into a permanent, part-time position at 20 hours per week. The Finance Department is also requesting a change in their part-time payroll technician to a permanent, full-time payroll coordinator position. The total annual cost would be \$67,000, and currently the part-time position is budgeted at \$23,317. For the remaining part of the Fiscal Year 2017 Budget, the additional costs would be \$21,851. Mr. Wylie explained the above positions would be funded from savings found in various departments. Lastly, Mr. Wylie presented a staffing chart which was included in the staff report submitted to the Council.

[11:46:44 PM](#)

13.2 Mayor Walker stated he had an opportunity to look at the fire equipment with Chief Smith and Mr. Dobbins. He said the equipment was outstanding and was built by American workers from the ground up. He noted the manufacturer was Pierce Manufacturing.

[11:47:49 PM](#)

13.3 Councilmember Weeks asked where the other \$400,000 was found for the splash pad. Mr. Dobbins said the funds would be taken from park impact fees. He noted the City's park impact fees balance was nearly \$5 million.

Councilmember Weeks made reference to previous discussion regarding a tunnel, and asked if that type of project could also be funded using park impact fees. Mr. Dobbins was not sure and said he would follow up on the matter.

[11:48:48 PM](#)

13.4 Mayor Walker opened the public hearing. No one came forward to speak, so Mayor Walker closed the public hearing.

[11:49:03 PM](#)

13.5 Councilmember Rappleve moved to approve Resolution #16-73, amending the FY2017 General Fund Budget. Councilmember Summerhays seconded the motion.

[11:49:24 PM](#)

13.6 A roll call vote was taken with Councilmembers Rappleve, Stenquist, Summerhays, Vawdrey, and Weeks voting in favor. The motion passed unanimously.

14.0 Adjournment

[11:49:51 PM](#)

14.1 Councilmember Rappleve moved to adjourn the meeting. Councilmember Summerhays seconded the motion.

[11:50:36 PM](#)

14.2 A vote was taken with Councilmembers Rappleve, Stenquist, Summerhays, Vawdrey, and Weeks voting in favor. The motion passed unanimously.

14.3 The meeting adjourned at 11:50 p.m.