

MINUTES OF THE DRAPER CITY COUNCIL MEETING HELD ON TUESDAY, DECEMBER 18, 2012, IN THE DRAPER CITY COUNCIL CHAMBERS 1020 EAST PIONEER ROAD, DRAPER, UTAH.

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

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

STAFF PRESENT: David Dobbins, Doug Ahlstrom, Tracy Norr, Russ Fox, Ed James, Troy Wolverton, Danyce Steck

1.0 Adjourn to Closed Meeting

6:03 PM

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

2.0 Adjourn to Redevelopment Agency Meeting

6:50:12 PM

2.1 A Redevelopment Agency meeting was held.

BUSINESS MEETING

1.0 Call to Order

7:01:24 PM

1.1 Mayor Smith called the meeting to order and welcomed those in attendance.

2.0 Comment/Prayer and Flag Ceremony

7:01:52 PM

2.1 The prayer was offered by City Attorney Doug Ahlstrom. He then led the Pledge of Allegiance.

3.0 Presentation – Certificate and Flag from Afghanistan

7:02:58 PM

3.1 David Dobbins said that when Russ Fox, Community Development Director, was deployed to the Middle East, the staff was concerned about him and his family. He was

greatly missed while he was away. We are glad that he has been able to serve our country and provide the benefit of safety to the rest of us.

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3.2 Mr. Fox presented a letter to the Mayor and Council expressing his appreciation for the city's support during his deployment. He noted the Personnel Policy allowed him to focus on his mission without worrying about his family. He thanked David Dobbins for his support individually. He said the tradition for the Armed Forces to show gratitude is to have a flag flown. He presented a flag flown on a B1 Bomber over Afghanistan on October 12, 2012 in support of Operation Enduring Freedom. He then presented a slide show from his deployment.

4.0 Citizen Comments

[7:15:06 PM](#)

4.1 Philip and Heather Gould, 12699 Clover Drive, thanked the council for the support of the Human Race which was run on Thanksgiving Day. He noted the work of Brad Watson, Chad Carpenter and Jerrilyn Billings for their efforts. He said \$125,000 was raised for the Utah Food Bank. Heather added that every dollar raised counts as \$8 for the Food Bank.

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4.2 Wayne Ballard, 959 East 13200 South, expressed concern about the money to be spent and the property to be taken with the widening of 13200 South. He said the school traffic already goes through Draper City and the stop signs work well. The goal would be accomplished with stop signs and turn lanes on Fort Street.

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4.3 David Shurtleff, 701 Hollow Harvest Court, spoke about the fences along 700 East, noting he received a letter from the city engineer that the city would not be constructing the fence. He said his neighborhood feels they were promised a fence between their yards and the high school. The existing fences were not meant to separate residential yards from the school as they are not durable enough. He thinks the request for the fence is reasonable. He asked the council to revisit the issue.

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4.4 There were no additional comments given.

5.0 Consent Items

- a. **December 4, 2012 Minutes**
- b. **Resolution #12- 52, Authorizing an Agreement with the Redevelopment Agency regarding the FrontRunner CDA**
- c. **Agreement with UTA for Traffic Signal at Draper Parkway**

- d. **Agreement with UTA for Traffic Signal at Pioneer Road**
- e. **Resolution #12-50, Adopting a new Police Department Policy Manual**

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- 5.1 A motion to approve the consent items was made by Councilmember Stenquist and seconded by Councilmember Rappleye.**

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

6.0 Presentation of the Audit for Year ending June 30, 2012.

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- 6.1 Danyce Steck distributed copies of the Comprehensive Annual Report. She also presented a draft copy of a report to be mailed to all the citizens highlighting the audit report. She noted there was only one finding regarding segregation of duties in the finance department, which is due to staffing levels. Revenue sources and expenses by service were reviewed. Mayor Smith thanked Mrs. Steck for the information.

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- 6.2 A motion to approve the audit report was made by Councilmember Summerhays, seconded by Councilmember Rappleye.**

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- 6.3 The motion carried by unanimous vote.**

7.0 Agreement #12-174, 13200 South Development Agreement with Lamoreaux's.

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- 7.1 Doug Ahlstrom said this item and the Canbury Cove subdivision plats are related. He said the subdivision fronts on two streets, one of which is 13200 South. The Planning Commission recommended approval of the subdivision. With any subdivision, there is a requirement to dedicate the frontage improvements. This needs to happen on both subdivision frontages. The Lamoreaux's understand the requirement for improvements, but because of the timing to widen 13200 South improvements, they want to be treated the same as everyone else on that street. They do not want to dedicate the land on 13200 South until the appraisal has been received. Mr. Ahlstrom said the subdivision cannot be recorded until the improvements are settled, and the Lamoreaux's have buyers for some of the lots. Councilmember Summerhays expressed concerns that the Lamoreaux may want to build on 13200 South after the road improvements have been done. The drafted development agreement requires dedication of the property, not necessary by the subdivision plat and that the city would pay the Lamoreaux's the appraised property price when the appraisal is received and would also pay for the temporary construction easement. The city would install the improvements. Mr.

Ahlstrom clarified that if the city were not in the process of improving 13200 South, the Lamoreaux's would be required to dedicate the property and install the improvements at their expense.

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7.2 Mike Carlton, Wilding Engineering, said he was representing the Lamoreaux's and he offered to answer questions. He said the development is just ahead of the city's work. There is nothing planned for future development on the parcel fronting 13200 South.

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7.3 Mr. Ahlstrom said the key thing is to get the dedication of the property guaranteed. If the development agreement is not approved, they would have to dedicate the property to get the subdivision approval. Councilmember Colbert said he does not see any advantage to the city. Councilmember Stenquist said it is just a matter of timing. If they had waited a while longer, the city would have put in the improvements. Councilmember Rappleye said the frontage for the lot is a little "flukey." He believes there is no intent to develop the lot. Councilmember Summerhays suggested putting a date on the development agreement for when they develop the lot.

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7.4 A motion was made by Councilmember Stenquist to approve the agreement. The motion was seconded by Councilmember Rappleye.

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7.5 Councilmember Stenquist said he understands Councilmember Colbert's position. It seems like since we are doing actual design work and getting appraisals, he feels comfortable putting them in the same category as the other property owners along the road who are getting the improvements at the city's expense. Councilmember Colbert said his concern is that the contracts have not been let out for the project. There was another citizen comment about the project, so if the contract is not let, the council would be evading the requirements of the process and a precedent would be established. Councilmember Stenquist asked what a cost estimate is for the improvements. Troy Wolverton said those costs have not been received. He added there is a property dedication

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7.6 A motion to amend to require dedication of the property and the city to put in improvements was made by Councilmember Colbert and seconded by Councilmember Walker.

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7.7 Councilmember Colbert said this compromise would not require any cash out of their pocket.

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7.8 The amendment to the motion carried by unanimous vote.

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7.9 A roll call vote was taken on the motion as amended carried with Councilmembers Colbert, Walker, Stenquist, Summerhays, and Rappleye voting in favor. The motion carried.

8.0 Public Hearing: Canbury Cove Preliminary and Final Subdivision Plat.

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8.1 Dennis Workman reviewed the Canbury Cove preliminary and final subdivision plat. He reviewed the location of the cul de sac and easements. He pointed out a private common drive and access and said there is a maintenance agreement for that property. He showed the dedication on Canbury Circle and said the developer will also pay for those improvements. He said there is also a waiver request for the city to waive the requirement to install improvements on 13200 South based on the city's road project on that road. Mayor Colbert pointed out that the last agenda item was a development agreement that waived that requirement.

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8.2 Mike Carlton, engineer for the project, offered to answer questions.

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

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8.4 A motion to suspend the rules was made by Councilmember Colbert and seconded by Councilmember Summerhays.

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8.5 The motion carried by unanimous vote.

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8.6 A motion to approve the Canbury Cove Preliminary and Final Subdivision plat, with the change to reflect the agreement made previously, was made by Councilmember Colbert and seconded by Councilmember Rappleye.

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8.7 The motion carried by unanimous vote.

9.0 Public Hearing: Ordinance #1035, Amending Draper City Municipal Code Section 9-26, Exhibit B, by Adding a Map to the Freeway Frontage Road Designated Development Area. (Continued from December 4, 2012).

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9.1 Ed James reviewed the area along 11400 South, noting the significant increase in traffic along the street. He suggested the appropriateness of allowing freeway pylon signs along 11400 South from I-15 to the east of the Draper Mall Center. There is a 200' separation for signs proposed in the ordinance. The signs would only allow advertising for the tenants on the property. This proposal does not include electronic signs. Mr. James noted there is a legal non-conforming sign for the main tenant on the State Street side of the property which will be removed. David Dobbins noted that the city controls size of the sign and type of lettering but not the content. Off-premises advertising cannot be prohibited. Electronic signs are a different scenario.

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

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9.3 **A motion to suspend the rules was made by Councilmember Rappleye and seconded by Councilmember Summerhays.**

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9.4 **The motion carried by unanimous vote.**

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9.5 **A motion to approve Ordinance #1035, amending Draper City Municipal Code Section 9-26, Exhibit B, by adding a map to the Freeway Frontage Road designated development area, was made by Councilmember Rappleye and seconded by Councilmember Summerhays.**

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

10.0 Public Hearing: Ordinance #1036, Changing the Name of Galena Park Boulevard south of 12300 South to Vista Station Boulevard.

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10.1 Russ Fox said the request was received from the TOD project property owner. The state statute allows the city to name the streets or to change the names. The two affected property owners were notified. Other area property owners within 400' were also notified. One concern was received about confusion of the name change of the road north and south of 12300 South. He noted that with the future change of the alignment of

Galena Park Boulevard, that confusion will be alleviated. Councilmember Colbert agreed it allows confusion and suggested only changing the name for the TOD property. Mr. Fox said directing traffic into the TOD area would be clearer with the change. Councilmember Stenquist said he thinks the name of Galena Park Boulevard north of 12300 South should also change. Mr. Fox said that would affect four additional properties. An option of changing the road to the north to Galena Drive rather than Galena Park Boulevard was discussed.

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10.2 The public hearing was opened.

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10.3 Dustin Holt, Draper Holdings LLC, thanked Russ Fox for his service and David Dobbins for his Herculean efforts while Mr. Fox was gone. He said significant branding efforts were done. One of the things brought up was that Galena Park Boulevard does not identify with the station or direction. The views were also raised. Vista Station is the name of the project. He said that since the road will ultimately connect, so this is an opportunity to create an image or brand of the area.

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10.4 Sandra Jenkins, 568 Cephus Road, asked the council to keep the name Galena for the road and the park. She said this is the way it has been and she understands why it is named Galena because her husband worked for Kennecott.

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10.5 Shawn Benjamin, 360 West 13165 South, said Draper City does a great job in meeting the legal requirements for notice. In this case the entire community of Galena Hills is subject to Galena Park Boulevard and the name is integral to the neighborhood. He feels notice should have been given to the entire community. He said he understands the name change would be beneficial to the development. He suggested adding to the name instead of replacing it. He asked if the FrontRunner station will be named Vista Park Station. Councilmember Walker said it has been named the Draper station.

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10.6 There were no comments and the public hearing was closed. Mayor Smith said his concern is for people to find the FrontRunner station. He said he understands the concerns about the name changes and people not being able to find the location because the home is grew up in and his business are on Pony Express Drive, also known as State Street or West Frontage road.

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10.7 A motion to suspend the rules was made by Councilmember Colbert and seconded by Councilmember Rappleye.

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10.8 The motion carried with Councilmembers Colbert, Rappleye, Walker, and Stenquist voting in favor and Councilmember Summerhays opposed.

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10.9 Councilmember Summerhays said no one really had input on this. He thinks the neighborhood should have been given notice. He said the road should also be called 550 West. Councilmember Colbert said he thinks dual names could be put on the signs and only name the section in the TOD property as Vista Station Boulevard. Councilmember Rappleye said Galena is a historic name. Councilmember Colbert said the community identity should be recognized, but the importance of finding the station is also important. Councilmember Stenquist suggested continuing this item. Councilmember Rappleye said the name change is part of the marketing plan.

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10.10 A motion to approve Ordinance #1036, changing the name of a portion of Galena Park Boulevard to Vista Station Boulevard, was made by Councilmember Walker and seconded by Councilmember Rappleye.

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10.11 Councilmember Stenquist asked if the name change north of 12300 South would require additional notice. Mr. Fox said there is no notice requirement. The notice given is a courtesy. Councilmember Colbert said there would be an impact on businesses. Mr. Fox said there is an office building but the address is off Galena Park Place. Mr. Dobbins said the problem for property owners is that all their documentation has the street name on it.

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10.12 Councilmember Walker amended the motion to include 550 West under the name of Vista Station Boulevard and to add the name "Historic Galena Park Boulevard." Councilmember Rappleye seconded the amendment.

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10.13 Councilmember Walker said the success of the development is important to the city. We have been in the course of establishing this area and addressed a lot of issues. He said he appreciates the neighbors' concerns but the site means a lot of all the citizens of the city. He feels this will be a premier development in the city and will drive jobs and other development. He said he does not see how the council can make the residents of Galena Park happy. The developer understands what he needs to do to market it and the alignment of the road will be changed around the park. This change will help make the project successful. He expressed appreciation to the Mayor for the time he has spent with the prison relocation board and in getting the CDA approved. He said the location of the station is not where the city wanted it, but due to special interest groups it is where it is. Councilmember Stenquist asked if the name will be maintained under the tunnel. Mr. Wolverton said the name will continue to the proposed intersection at 13490 South.

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

11.0 Public Hearing: Ordinance #1037, Adding the Name “Charger Way” to 700 East.

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11.1 Russ Fox said the name of 700 East is not being changed. “Charger Way” will be added from Willow Springs Drive to Golden Pheasant in front of the high school. No addresses will be affected.

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

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11.3 A motion to suspend the rules was made by Councilmember Rappleye and seconded by Councilmember Colbert.

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11.4 The motion carried by unanimous vote.

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11.5 A motion to approve Ordinance #1037, adding the name “Charger Way” to a portion of 700 East, was made by Councilmember Rappleye and seconded by Councilmember Summerhays.

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

12.0 Public Hearing: Open Space Purchase Contract with Abdul Kudiya, 1193 East Hickenlooper Way.

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12.1 Doug Ahlstrom said Mr. Kudiya had made an offer to purchase the encroached open space behind his home. He was willing to abide by the city’s terms of \$9.00/square foot. The city needs to declare the property as surplus. Mr. Ahlstrom pointed out encroachments in the area. The survey has been done.

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

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12.3 A motion to suspend the rules was made by Councilmember Rappleye and seconded by Councilmember Summerhays.

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12.4 The motion carried by unanimous vote.

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12.5 A motion to declare the property as surplus and to approve the open space purchase contract was made by Councilmember Rappleye and seconded by Councilmember Summerhays.

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

13.0 Request for Pay-Off and Termination of Deferral Agreement with Aaron DeRose.

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13.1 David Dobbins explained that a deferral agreement was entered with Mr. DeRose. A dollar amount for the improvements was not set; the future cost was to be borne by the developer. He said this is the first situation he is aware of where a developer has asked to pay off the deferral. The deferral is off 13400 South where a parcel with an existing home on it was split into two lots. The agreement allowed deferral of the improvements on both lots. The estimated deferral costs at this time are \$62,000. Mr. Wolverton said there are separate agreements for each of the lots. Each lot has 115 feet of frontage, and the improvements are \$31,000 for each lot. Mr. Dobbins said Mr. DeRose has proposed to pay \$25,000 for both lots.

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13.2 Aaron DeRose, 13400 South 1031 East, said at the time the development was done, he was required to include his neighbor in the two lot subdivision and he became responsible for the improvements for both lots. At the time, he had an option to sell the lot, so he asked the city engineer for an estimate. He was told the deferral cost would be approximately \$25,000, based on another project done in Draper City. Mr. DeRose moved forward under the assumption that the \$25,000 was for both lots, so he kept the lots and built the home on his lot. He has now saved \$25,000 to pay off the deferral and has now found out it would be about \$64,000 for both lots. He made the request to pay off the deferral agreements for his subdivision for \$25,000 as was originally communicated to him.

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13.3 Mr. Wolverton pointed out an e-mail was sent to Mr. DeRose in 2009 that shows the estimate of \$65,000. This is not a recent disclosure. Councilmember Summerhays asked if the council could require the work to be done at this time. Mayor Smith said the

question is if the council would accept the money, not get the work done at this time. He pointed out no one else has asked to pay off their deferral agreements. Discussion was held about the timing for calling deferral agreements. Mr. DeRose said he would like to pay the deferral for three reasons: having an unknown liability, to clear the title in the event he were to sell his home, and he is in a position to pay it now. Councilmember Stenquist said he would prefer to use actual costs instead of estimates. Councilmember Colbert said this is one of the problems with deferral agreements and why he would not agree with any of them. Mr. Wolverton said the 13400 Street project was originally scheduled to be done this year but was postponed in the budget cycle. He noted the right of way has already been dedicated for these two lots. Councilmember Walker noted the deferral agreement was an option the council offered. He said it will clearly cost the city more than \$25,000 to do the improvements. Councilmember Stenquist said Mr. DeRose relied on information that was not provided in a formal way and it wasn't really good information. City Attorney Doug Ahlstrom said some deferral agreements have numbers in them; these don't. City Engineer Wolverton said the council had expressed concerns about the future value of the costs for improvements, so the numbers were taken out of agreements and the inflation was to be dealt with when the improvements are constructed. Mr. DeRose said the city also allows payment-in-lieu, which does not include inflationary factors. Councilmember Stenquist said he is not sure if taking the money now is the best solution. Discussion was held about how the lot was divided. Councilmember Stenquist said he thinks it is unfair that Mr. DeRose has to bear the cost for the improvements on the other lot.

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13.4 David Dobbins said there is no document prepared to deal with this issue. He asked for direction from the council so paperwork can be prepared. Mr. DeRose said he would like to do this before the end of the year. Mr. Dobbins said staff would come up with an agreement if the council will set an amount.

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13.5 Councilmember Walker said he appreciates the fact that Mr. DeRose followed the process and this is worthy of council consideration. Mr. DeRose said he understands the amount was an estimate and there was an apparent misunderstanding. He said he would be comfortable with \$31,000 but not \$64,000. Discussion about the timing for the improvements for 13400 South was discussed. Mr. Wolverton said money was budgeted for the current year but then the project was canceled.

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13.6 A motion to continue this item until the next meeting was made by Councilmember Walker. There was no second and the motion was withdrawn.

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13.7 A motion to accept the total of \$31,000 for his lot and do away with the deferral of the second lot was made by Councilmember Walker and seconded by Councilmember Rappleye.

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13.8 Councilmember Stenquist suggested the money be put toward the future improvements on 13400 South. Councilmember Colbert said he would vote against this and he hopes the situation helps convince other councilmembers to not allow future deferral agreements.

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13.9 The motion carried with three ayes (Walker, Stenquist, Rappleye) and two nays (Summerhays, Colbert).

14.0 Open Space Purchase Contract with Harold Sullivan, 1159 East Molasses Mill Drive.

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14.1 Doug Ahlstrom explained that Mr. Sullivan would like to buy the encroached property for the city's standard terms of \$9/square foot. The public hearing process has been followed. The property contains 2,303 square feet so the amount is \$20,727 to be paid over a three year period.

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14.2 A motion to approve the purchase contract was made by Councilmember Rappleye and seconded by Councilmember Summerhays.

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14.3 The motion carried by unanimous vote.

15.0 Settlement Agreement and Release Of Claims regarding Impact Fees.

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15.1 David Dobbins said the agreement settles claims regarding impact fees collected between 2003 and 2006. He recommended approval.

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15.2 A motion to approve the settlement agreement was made by Councilmember Stenquist and seconded by Councilmember Colbert.

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15.3 Councilmember Rappleye expressed appreciation for the staff, particularly Doug Ahlstrom, Jodie Burnett, and Danyce Steck, to get to this point.

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15.4 The motion carried by unanimous vote.

16.0 Council/Manager Reports

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16.1 Councilmember Summerhays said there is a lot of history behind the deferral agreement and Cutler Cove. He feels the wrong decision was made.

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16.2 Councilmember Walker expressed appreciation to David Dobbins for the good work he has done, especially with the CDA project. He also thanked Danyce for the citizens' audit report and said he would like to see it continue in the future. He also expressed appreciation to Russ Fox and asked his current rank. Mr. Fox said he is a Master Sergeant. He said he wants the staff to make sure there is a solid agreement with the TOD developers to do the project we want for the public good.

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16.3 Councilmember Stenquist said thought needs to be given to the next step on the open space property the city purchased. He said cost of maintaining and developing the property is a concern. He said Lehi has announced a large project adjoining the property, and he wondered if there could be a partnership with other jurisdictions because their citizens will also use the property. He also stated he will be attending the Suncrest Board meeting and said he does not have an interest in holding a seat on the board if the Master Development Agreement is dissolved. Mayor Smith said a retreat is a high priority.

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16.4 Councilmember Colbert said there will be a lot of questions at the Suncrest meeting. The best thing to do is to prioritize their concerns and address them.

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16.5 David Dobbins asked for direction on moving ahead with the 13200 South project. He said staff is proceeding as planned, but there has been a lot of discussion among the councilmembers. Mayor Smith asked if there is any interest in waiting to see the demand after the school opens. Discussion was held about Mr. Ballard's comments and options that could be considered. Mayor Smith suggested more discussion about the concerns from the open house. Mr. Wolverton said 13200 South improvements are impact-fee eligible. If we don't continue with the project, we could have more refunds. He said when the subdivision across from Mr. Ballard was approved, they donated property. The width has not changed since 2003. This is not a new proposal. The center median was added to benefit the people who live on the road. The roundabout was discussed. The consensus was the roundabout needs to be included. Mr. Wolverton explained why the road cannot be moved to the south. He said it is about \$500,000 to put the utilities underground for Rocky Mountain Power and about \$700,000 for the city's cost to trench it.

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16.6 Danyce Steck said the city received \$264,000 when the city hall sales tax bond was refinanced. These funds must be spent on city hall by June 2013. The staff has worked on options to spend the money. The committee agreed that one of the biggest needs is storage. A 30' x 70' storage shed was proposed to be built in the back parking area for city storage. A site plan amendment would be required and the shed would match city hall. The proposed shed is \$85,000. Additional bays could be added for \$20,000 per bay. Other proposals include walls and storage in the community development department and new carpeting. The Council suggested adding parking for the access to the shed. Mayor Smith asked that this item be put on the next study agenda.

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16.7 Garth Smith said harassment prevention training for the staff will be done in February. He said training for the council will be done on February 19.

17.0 Adjourn

[10:50:00 PM](#)

17.1 A motion to adjourn to a closed meeting to discuss litigation, property acquisition, and the character and professional competence or physical or mental health of an individual was made by Councilmember Summerhays and seconded by Councilmember Rapple. The motion carried by unanimous vote.