

MINUTES OF THE DRAPER CITY COUNCIL MEETING HELD ON TUESDAY, SEPTEMBER 18, 2018, IN THE DRAPER CITY COUNCIL CHAMBERS, 1020 EAST PIONEER ROAD, DRAPER, UTAH

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

STAFF PRESENT: David Dobbins, City Manager; Mike Barker, City Attorney; Laura Oscarson, Deputy City Recorder; Scott Cooley, City Engineer; Hazel Dunsmore, Human Resource Director; John Eining, Police Chief; Russ Fox, Assistant City Manager; Rhett Ogden, Recreation Director; Clint Smith, Fire Chief, and Bob Wylie, Finance Director

Dinner

Study Meeting

1.0 Discussion: Envision Utah, Point of the Mountain Phase 3

- 1.1 Ari Bruening and Ryan Beck, Envision Utah, presented information regarding the Envision Utah, Point of the Mountain Project Phase 3.
- 1.2 Councilmember Weeks expressed concerns with the lack of green space and recreational areas for children presented in the plan. Mr. Beck acknowledged that open space was needed; however, they were not the authority for determining how much should be included in the plan. They needed something to plug into the model in order to begin plans for transportation improvements. Mr. Beck explained that there are approximately 80 acres of open space at the prison site, which is similar to what exists at Liberty Park.
- 1.3 Councilmember Summerhays noted there are 197 acres owned by the State of Utah Forestry Service within Draper City boundaries that will never be used for anything other than open space. Councilmember Weeks discussed the importance of having green space that is more accessible from residential areas.
- 1.4 Councilmember Lowery asked Mr. Bruening and Mr. Beck to elaborate on the nature of their communications with Geneva Rock. Mr. Beck explained they were not here to take away any property rights. He said the west side of I-15 could potentially be developed into residential centers. Councilmember Lowery noted the area in question is partially owned by Geneva Rock and is located in Bluffdale. Mr. Beck indicated that Geneva Rock has hired a consultant to come up with an exit strategy.
- 1.5 Councilmember Weeks stated that even after Geneva Rock leaves there will still be a lot of value in the land. Mr. Beck indicated Geneva Rock was in the process of weighing all of its options.
- 1.6 Councilmember Lowery remarked residents have indicated air quality is a major concern that needs to be addressed and will be either a “make it” or “break it” determining factor. Mr. Beck concurred.

1.7 Councilmember Summerhays made mention of a deal that Lehi made with Geneva Rock to take over a portion of the land in question for the purpose of building homes. Mr. Beck explained the State is open to a public process regarding the development of its land. Councilmember Summerhays questioned the public's reception on Draper City's vision for the area, and he was informed by Mayor Walker that so far the public input has been positive.

2.0 Update: Planning Commission

2.1 Christina Oliver, Community Development Director, reviewed the actions from the September 13, 2018, Planning Commission meeting.

3.0 Council/Manager Reports

3.1 Councilmember Weeks expressed concerns with Jeff Hartley representing both Geneva Rock and Draper City as a lobbyist. She discussed several rumors that had spread as a result of this discovery. Councilmember Weeks was also concerned with a geology report that was found regarding the amount of silica in Geneva. The report in question describes a presence of bedrock (Pennsylvania quartz) to the east, which has a higher silica content level. The further Geneva moves to the east, the closer they will get to the bedrock, thereby causing more silica dust in the area. Councilmember Weeks stated that while the report was produced in the 1950s, rock does not change. She said she would like the City to stay apprised of the matter, noting that in 2005 additional reporting indicated they had moved closer to the bedrock.

Councilmember Summerhays stated he did not know Mr. Hartley was a lobbyist for Geneva Rock. When Draper hired him to represent the City, they wanted someone who would handle the prison issue which Mr. Hartley has done.

Mayor Walker stated Mr. Hartley did not lobby him (Mayor Walker) personally on behalf of Geneva Rock. He asked the Councilmembers if Mr. Hartley had lobbied any of them, personally, on behalf of Geneva Rock. Council consensus was "no" he had not. There was further deliberation regarding the lobbying statute under the State's code, wherein conflicts of interest are described.

Mayor Walker explained the ways in which Mr. Hartley had successfully represented Draper City on the prison issue. He stated that had Mr. Hartley approached him regarding Geneva Rock, Mayor Walker would have told him he was out of line; but Mr. Hartley didn't approach Mayor Walker or any other Draper City elected official on the matter. As far as Mayor Walker was aware, Geneva Rock engaged Mr. Hartley on State-related issues. In Mayor Walker's opinion, Mr. Hartley has not been unethical. Continued discussion ensued on how as a City they should approach future contracts with lobbyists.

The Council requested that Councilmember Weeks share copies of the silica study previously mentioned; she agreed to do so.

7:00:00 PM

Business Meeting

7:02:08 PM

1.0 Call to Order: Mayor Troy K. Walker

7:02:08 PM

2.0 Thought/Prayer and Pledge of Allegiance

7:02:25 PM

2.1 Rhett Ogden offered the prayer.

7:03:31 PM

2.2 John Eining led the Pledge of Allegiance.

7:03:54 PM

3.0 Public Comments

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

7:05:26 PM

3.1 No one came forward to speak.

7:05:39 PM

4.0 Consent Items

- a. **Approval of September 4, 2018, City Council Minutes**
- b. **Approval of September 12, 2018, Special City Council Meeting Minutes**
- c. **Approval of Proclamation for Constitution Week – September 17-23, 2018**
- d. **Resolution # 18-61, Appointing Hubert Huh to the Youth Council Advisory Board**
- e. **Resolution # 18-69, Reappointing Carl Clark to the Historic Preservation**

7:06:13 PM

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

7:06:33 PM

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

7:06:47 PM

5.0 Public Hearing: Ordinance #1353, Lundquist Rezone, on the Request of Bryon Prince, representing Ivory Development, for a Zoning Map Amendment from RA1 to RA2 for 0.60 Acres of Property Located at Approximately 527 West 11400 South

7:07:16 PM

5.1 Jennifer Jastremsky, Head Planner, explained the applicant had purchased land from the neighbors for an access road. The extra land would allow them to meet UDOT standards for the access. She noted the applicant would also meet the RA2 requirements. She stated that the Planning Commission gave a 5-to-2 vote in favor of the applicant.

7:09:45 PM

5.2 Bryon Prince, applicant Ivory Homes, came forward and asked if the Mayor and Council had any questions.

7:09:54 PM

5.3 Councilmember Green asked if this was necessary for access to their subdivision. Mr. Prince responded they needed to design a safe intersection from the State road to the private roads. This access provided them with this design.

7:10:59 PM

5.4 Councilmember Weeks asked if they had the easement to connect the roads. Mr. Prince responded there was no access easement in this location. He explained this rezone would put the access completely on their property. They were not proposing the access on property that was not their own.

7:12:25 PM

5.5 Councilmember Green asked if this project would provide for another half-acre lot. Mr. Prince answered in the affirmative.

7:12:45 PM

5.6 Councilmember Lowery asked to see a map representing the new road. Ms. Jastremsky responded that there was no map of the new road; however, she described how the new road would be incorporated into the subdivision.

7:13:16 PM

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

7:13:39 PM

5.8 Councilmember Green moved to approve Ordinance #1353. Councilmember Vawdrey seconded the motion.

7:13:56 PM

- 5.9 A roll call vote was taken with Councilmembers Green, Lowery, Summerhays, and Vawdrey, voting in favor. Councilmember Weeks voted no. The motion carried with a majority vote of 4-1.

7:14:08 PM

- 6.0 Action Item: Big Willow Creek Phase 1A and 1B Final Plat, on the Request of Bryon Prince, Representing Ivory Development, for approval of a final plat for Big Willow Creek Phase 1A and 1B, located at approximately 571 West 11400 South

7:14:52 PM

- 6.1 Ms. Jastremsky explained this item was related to the last item. She noted the access road was important for this development. She explained the average lot size was 16,000 square feet. The developer was offering open space throughout the subdivision. The road would be 60 feet wide with an exception in the development where curb, gutter, and sidewalk had been planned. They were asking for deviations on the park strip and sidewalk. There was currently a dispute between the applicant and the neighbors about their ability to modify the private lane. She also noted there was a packet with other modifications and deviations requested by the applicant.

7:20:20 PM

- 6.2 Councilmember Weeks asked for the court date on the private lane dispute. Mike Barker, City Attorney, responded the dispute had been heard by a judge and they were currently awaiting a ruling.

7:21:20 PM

- 6.3 Councilmember Weeks asked if the wetlands, the pond, and the roads had all been addressed. Ms. Jastremsky stated they had received approval from UDOT for the road.

Scott Cooley, City Engineer, added that the Army Corps of Engineers was working on the issues with the wetlands and the pond, and staff was currently waiting to receive said information. Councilmember Weeks clarified they had no definitive solution to the wetlands and the pond.

7:23:15 PM

- 6.4 Mayor Walker asked for additional questions.

7:23:30 PM

- 6.5 Councilmember Green asked what their plan was if they lost the lawsuit. Bryon Prince, Applicant, explained they had worked with the City to ensure their plans complied with State regulations. He said they would work with staff to amend their plans if the judge ruled against them.

7:25:53 PM

6.6 Mayor Walker asked if there were additional questions. Mr. Prince said they had worked with staff concerning the delineations. He ensured they would meet the City's expectations and would have the information ready shortly.

7:26:54 PM

6.7 Councilmember Weeks moved to continue this item for two weeks to allow time for the court to render their decision. The motion failed due to lack of a second.

7:27:28 PM

6.8 Councilmember Green moved to approve the Big Willow Creek Phase 1A and 1B final plat with the following conditions:

- That all requirements of the Draper City Engineering, Public Works, Building, Planning, and Fire Divisions are satisfied throughout the development of the site and the construction of all buildings on the site, including permitting.
- That all requirements of the geotechnical report are satisfied throughout the development of the site and the construction of all buildings on the site.
- Any deviations to the road alignment as represented in Phase 1A will require an amendment to the Phase 1A plat.
- Recordation of the Phase 1A mylar shall occur prior to the recordation of the Phase 1B mylar.
- Dead end streets that are greater than 150' will require a temporary turn-around until the connection is made at a future date.
- The developer shall submit to the City a wetlands delineation that meets the requirements of the U.S. Army Corps of Engineers and the Draper City Engineering Division for any potential wetlands on city property or on property that will be dedicated to the city. Draper City will not issue a land disturbance permit for any portion of the project on city property or on property that will be dedicated to the city that has potential wetlands until this condition of approval has been satisfied. Any requirements for wetland mitigation shall be the sole responsibility of the developer.
- The final authorized connection permit from UDOT for the public street connection of Wildry Way to 11400 South is submitted to the City prior to the issuance of building permits.
- Approval of the final plat constitutes City approval of the updated design for the entrance road cross section as approved by UDOT.

Councilmember Vawdrey seconded the motion.

7:28:26 PM

6.9 A roll call vote was taken with Councilmembers Green, Lowery, Summerhays, and Vawdrey, voting in favor. Councilmember Weeks voted no. The motion carried with a majority vote of 4-1.

7:28:38 PM

7.0 Action Item: Ordinance# 1345, Town Center (TC) Zone Update to Modify Portions of Chapter 9-11-090 of the Draper City Municipal Code as it Relates to the Town Center Zone. Additionally the City Council Asked that a Map Be Prepared that Reduces Density Levels in Certain Areas of the Town Center from 25-Units per Acre to Either 12-Units per Acre or 6-Units per Acre

7:29:15 PM

7.1 Maryann Pickering, Planner, explained this item was discussed at the last meeting and staff was given direction to create a map with different density limitations. She presented the map and described the different densities. Councilmember Summerhays stated that what had been presented was an indication of the City moving in the right direction, and thanked staff for their work.

7:30:48 PM

7.2 Councilmember Weeks asked what the rules were for residents wanting to remodel their homes. Ms. Pickering explained that residents would have to comply with the development standards.

7:31:40 PM

7.3 Mayor Walker asked for additional questions.

7:31:48 PM

7.4 Councilmember Summerhays asked if everyone was satisfied with the 25 units per acre.

7:32:11 PM

7.5 David Dobbins, City Manager, explained if this was approved a developer could apply tomorrow. They would be required to comply with all the requirements and proposed densities.

7:32:50 PM

7.6 Councilmember Weeks asked if there was a limit to the amount of retail on the ground floors. Ms. Pickering answered in the negative. She noted there was a limit to the amount of parking.

7:33:17 PM

7.8 Councilmember Green stated that the entire bottom floor had to be retail. Mr. Fox clarified a portion of the retail on the ground floor could be used for parking.

7:33:52 PM

7.9 Mr. Dobbins explained the main portion of the ground floor had to be commercial. Ms. Pickering stated no portion could be residential. Mr. Dobbins clarified which code was specifically allowed in the commercial portion.

7:35:00 PM

7.10 Mayor Walker asked the Councilmembers how they wanted to proceed.

7:35:07 PM

7.11 Councilmember Green moved to approve Ordinance #1345. Councilmember Lowery seconded the motion.

7:35:27 PM

7.12 Councilmember Weeks thanked the residents who commented on this item. She also thanked staff for their work on the project.

7:35:43 PM

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

7:35:55 PM

8.0 **Public Hearing: Ordinance #1347, on the Request of Draper City, to Amend Draper City Municipal Code Section 9-4-030 and 17-1-070 in Order to Clarify the Subdivision Review Process**

7:36:16 PM

8.1 Ms. Pickering explained they had recently made amendment to give authority to the Planning Commission concerning the review process. This item was to clarify portions of this amendment.

7:37:10 PM

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

7:37:54 PM

8.3 Councilmember Vawdrey moved to approve Ordinance #1347. Councilmember Lowery seconded the motion.

7:38:07 PM

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

7:38:25 PM

9.0 **Public Hearing: Ordinance #1351, on the request of Draper City for a Text Amendment to Draper City Municipal Code Sections 9-26-030 and 9-26-050 in Order to Create a Change in Sign Face Permit Type**

7:38:45 PM

9.1 Ms. Jastremsky explained this text amendment was to create a new permit type in the sign code. The businesses changing signs for their development would be charged \$25.

7:39:45 PM

9.2 Councilmember Summerhays clarified they were charging the developers \$25 to change the sign.

7:40:31 PM

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

7:40:55 PM

9.4 Councilmember Weeks moved to approve Ordinance #1351. Councilmember Green seconded the motion.

7:41:12 PM

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

7:41:21 PM

10.0 **Action Item: Ordinance #1354, the Draper City Municipal Code Section Regulating Special Events in Draper City is in Need of Updating to Reflect Current City Policies and Insurance Requirements. The Section is Being Repealed from Title 6 Chapter 17 and Enacted with the Amendments in Title 15 Chapter 4**

7:41:50 PM

10.1 Rhett Ogden, Parks and Recreation Director, explained there were several sections in the above stated code that needed to be revised. This proposed ordinance detailed said revision, which he subsequently reviewed. If approved, he asked the Council to include insurance amounts in the motion.

7:43:57 PM

10.2 Councilmember Weeks asked for clarification on the insurance amounts. Mr. Ogden suggested \$2 million per occurrence and \$3 million aggregate.

7:44:55 PM

10.3 Mayor Walker asked for additional questions; there were none.

7:45:12 PM

10.4 Councilmember Green moved to approve Ordinance #1354. Councilmember Lowery seconded the motion.

7:45:29 PM

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

7:45:41 PM

11.0 **Action Item: Ordinance #1352 Amending Title 16 of the Draper City Municipal Code Pertaining to the Temporary Water Meter Bypass Devices AKA "Jumpers"**

7:45:57 PM

11.1 Scott Cooley, City Engineer, explained there were several sections within the above stated code that needed to be amended. He said developers were unable to install meters until

they were finished with construction. He suggested they allow temporary water meter bypass devices. This would allow developers access to water without stealing water or damaging the system.

7:47:52 PM

11.2 Councilmember Summerhays asked if this would be metered. Mr. Cooley answered in the negative. He explained a meter would be subject to severe damage and to the City's expense. Councilmember Summerhays asked if they would charge the developers. Mr. Cooley answered in the affirmative. He explained there would be a base fee and they would be limited to their usage because it would be monitored.

7:50:02 PM

11.3 Councilmember Weeks asked what the cost was for the temporary bypass device. Mr. Cooley answered it would not cost the City; rather, the City would issue a permit to the developer. The permit would cost approximately \$120.

7:50:39 PM

11.4 Councilmember Vawdrey asked if the cost was typical for this type of device as compared to those found in other cities, to which Mr. Cooley answered affirmatively.

7:50:58 PM

11.5 Councilmember Green moved to approve Ordinance #1352. Councilmember Weeks seconded the motion.

7:51:16 PM

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

7:51:28 PM

12.0 Action Item: Resolution #18-70, Amending the Consolidated Fee Schedule

7:51:41 PM

12.1 Bob Wylie, Finance Director, explained there were six items up for review which he then listed as follows: solar panels, hazard permit fees, parks and recreation user fees, sign face permit type, wireless utilities, and water meter bypass devices.

7:53:26 PM

12.2 Councilmember Summerhays asked what the justification was for removing the \$2.00 fee from the park and recreation user fees. Rhett Ogden explained people were not using the trails so as to avoid paying the fee, and were instead using the roads. This caused problems because the roads were less safe and ultimately costing the City more money.

7:55:05 PM

12.3 Councilmember Weeks asked if it would cost more than \$2.00 per person to use the roads during an event. Mr. Ogden explained that event hosts were complaining about paying fees for the free trails, and the police department asked them to remove the fee. He further

explained that this was the third fee the users were being charged for events, in addition to a separate event fee.

7:56:24 PM

12.4 Councilmember Green clarified these fees were for races, to which Mr. Ogden answered in the affirmative. He explained a school would be charged for every child if they used the trail.

7:56:46 PM

12.5 Councilmember Summerhays commented that football and lacrosse players had to pay for their fields.

7:56:54 PM

12.6 **Councilmember Lowery moved to approve Resolution #18-70. Councilmember Green seconded the motion.**

7:57:12 PM

12.7 **A roll call vote was taken with Councilmembers Green, Lowery, and Vawdrey voting in favor. Councilmember Weeks and Summerhays voted against. The motion carried with a majority vote of 3-2.**

7:57:52 PM

** Chief Eining stated staff would like to obtain the Council's approval in moving forward with a new ordinance that would ban the sale of dogs, cats and rabbits in commercial businesses, unless they are coming from a shelter, the Humane Society, or some other type of rescue organization. This would prevent the sale of puppies en masse. This type of ordinance is not unique and has been done in other cities in the valley. He presented examples from Murray and Salt Lake.

8:00:30 PM

13.0 **Adjourn to a Closed Meeting to Discuss Litigation**

8:00:34 PM

13.1 **Councilmember Green moved to adjourn to a closed meeting to discuss litigation. Councilmember Lowery seconded the motion.**

8:00:50 PM

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

13.3 The City Council meeting adjourned at 8:01 p.m.