

MINUTES OF THE DRAPER CITY COUNCIL MEETING HELD ON TUESDAY, SEPTEMBER 3, 2013, 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 Bill Rappleye, Jeff Stenquist, and Alan Summerhays, Troy Walker. Councilmember Bill Colbert was excused.

STAFF PRESENT: David Dobbins, Doug Ahlstrom, Angie Olsen, Russ Fox, Keith Morey, Bryan Roberts, Glade Robbins, Bob Wylie, Garth Smith, Rhett Ogden, and Joe Bryant.

1.0 Call to Order

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1.1 Mayor Smith called the meeting to order and welcomed those in attendance. He stated Council meetings are typically opened by a thought or prayer and the pledge of allegiance, but tonight there will be a moment of silence and flag ceremony conducted by the City’s Human Resources Director. He noted many in attendance this evening have heavy hearts due to the events that have occurred in Draper City over the last two days and there have been a lot of expressions of love and concern for Sergeant Derek Johnson and his family as well as others still trying to deal with the loss. He noted there was a candlelight vigil Sunday night and the City Manager held a meeting today with all City employees. He added there will be other events throughout the week and he anticipates a great outpouring of love for Sergeant Johnson’s funeral scheduled for Friday. He stated the Council appreciates Sergeant Johnson for the young man that he was and for the many great things he did for the City. He stated Sergeant Johnson was raised in Draper and his parents still live here and they are truly members of this community. He addressed the Police Officers that worked side by side with Sergeant Johnson and stated he understands there is a different camaraderie between the officers that work together and the Council appreciates all the good they are doing. He also expressed appreciation to the other law enforcement agencies that have been so helpful in assisting Draper City since this tragedy occurred. He stated this is not just about the community of Draper, but the larger community and the State as a whole; everyone will feel the pain of this loss – particularly those in the law enforcement profession.

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2.0 Moment of Silence and Flag Ceremony

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2.1 A moment of Silence was held in honor of fallen Police Sergeant Derek Johnson and the pledge was led by Human Resource Director, Garth Smith.

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3.0 Citizen Comments

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3.1 Diane Shenosky, 1532 E. Timony Road, stated the back of her house faces Rambling Road and she wanted to address the park strips on that road. She stated she has lived her home for 14 years and she teaches for the Canyon School District; what is upsetting to her is that a new middle school was constructed and all of a sudden there is money that came from her tax dollars to install new sidewalks and park strips that will need to be maintained, though every month she has to call the City to get someone to come and cut the weeds in the park strips that lead to the temple and the golf course and a nearby restaurant. She asked when the City is ever going to finish the park strips in those areas where at about 5,000 people a day drive by. She then she was the teacher of the year this year at Bella Vista and the Mayor of Cottonwood Heights invited every teacher in the Cottonwood Heights area to a luncheon and she wanted to tell the City how much that made a difference in her life and she asked if Draper City does that. Mayor Smith stated he has not done that, but that sounds like a great gesture. She stated she wanted to tell the City what an impression that made on her for a Mayor to take the time out of his day to invite her and other teachers in the area to lunch; he had his secretary schedule all luncheons and each of the board members were asked to talk about the teachers, though they did not even know them. Councilmember Summerhays stated the City does do things for teachers; they hosted a luncheon at a local restaurant for 90 teachers and administrators at the new school. Mayor Smith stated Councilmember Summerhays planned and organized that event and he appreciates that. He then addressed Ms. Shenosky's comments regarding the park strips and stated he has noticed those that have no landscaping as well. He stated some of those issues will be addressed upon further development, but he is not sure there is a current plan to complete any of those park strips at this time. City Manager Dobbins asked Ms. Shenosky to leave her contact information with Glade Robbins and he will follow up with her.

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4.0 Consent Items

- a. Approval of August 20, 2013 City Council Minutes.
- b. Approval of 2013/2014 Community Forestry Partnership Grant Application.
- c. Approval of **Amendment #1 to Agreement #12-139** changing Nelson Contractors from a secondary vendor to the primary vendor for road salt deicing materials and extending the contract term through October 22, 2014.
- d. Approval of **Agreement #13-207** to S & L, Inc. for the Traverse Ridge Road-Detention Basin 6A Storm Drain Project.

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4.1 A motion to approve the Consent Items a, b, c, and d was made by Councilmember Rappleye and seconded by Councilmember Stenquist.

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4.2 A voice vote was taken with all in favor.

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5.0 **Public Hearing: Ordinance #1057, Approving a Zoning Map Amendment of 1.71 acres at 12201 South 300 East from the A5 Agricultural zone to the CC Community Commercial zone. The application is otherwise known as the Chick-fil-A Zone Change Request, Application #130719-12201S.**

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5.1 Planner Dennis Workman stated this application is a request for a zone change from A5 to CC for 1.71 acres of property located directly east of McDonalds on 3rd East and 12300 South. This request is being made in anticipation of the site being developed for a Chick-fil-A restaurant, which is a permitted zone. He noted the parcel of property has not yet been created, but the property will be subdivided once the rezone is approved. He reviewed an aerial photograph and oriented the Council to the location of the subject property. He stated staff has reviewed the application and has found everything is in order; the Planning Commission recommended approval of the rezone with a number of conditions. He added that a large portion of property in the area also carries the CC zoning designation and he anticipates the remaining property will eventually be rezoned for that use as well.

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5.2 Councilmember Summerhays referenced the A5 property located behind the subject property and asked Mr. Workman if he believes that property will also be rezoned to CC as well. Mr. Workman stated that is his guess, though some of it could be developed for multi-family housing as well. Councilmember Summerhays stated he also understands the property owners to the east anticipate building offices that will front 12300 South. Mr. Workman stated he is not aware of that request as of yet, but noted a variety of different uses would be permitted in that area.

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5.3 Councilmember Rappleye asked if Chick-fil-A will have direct access to 12300 South. Mr. Workman answered no and stated they will have limited access via shared access with McDonalds. He stated the main access to the restaurant will be on 3rd East and the building will actually be addressed on that street.

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5.4 David Jenkins, Ensign Engineering, 45 W. 1000 S., Sandy, Utah, stated he is the consulting engineer on this project. He stated the applicant could not be present this evening and he has been asked to attend. He stated he would be happy to answer any questions the Council may have, but he looks forward to working with the City on the process to approve this project.

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5.5 Mayor Smith opened the public hearing; there were no comments and the public hearing was closed.

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5.6 Councilmember Walker referenced the remaining undeveloped property behind the subject property and noted there is a potential for more multi-family development in that area and he asked staff if they in fact anticipate applications for zone changes to CC or zones that may be more intense in nature. Mr. Workman stated he would only be speculating in his response to that question and staff is not aware of any real development plans for the area. Community Development Director Fox stated that for the property directly north of the subject property there have been no inquiries regarding development. He stated the land use designation for that parcel is CC. He added there have been property owners of property located across the street from the subject property that have talked with the City about multi-family developments, so there may be some future applications to that affect.

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5.7 **Councilmember Stenquist moved to suspend the rules. Councilmember Rappleye seconded the motion. All voted in favor.**

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5.8 **Councilmember Stenquist moved to adopt Ordinance #1057, Approving a Zoning Map Amendment of 1.71 acres at 12201 South 300 East from the A5 Agricultural zone to the CC Community Commercial zone. The application is otherwise known as the *Chick-fil-A Zone Change Request*, Application #130719-12201S. Councilmember Rappleye seconded the motion.**

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5.9 Councilmember Stenquist stated he feels this is an appropriate action; it appears this is the last property fronting 12300 South that has not already been rezoned for some sort of commercial use. He stated that once the Day Dairy property is fully developed there will not be many parcels left along that frontage that are not developed. He stated he knows the City already has many restaurants, but Chick-fil-A is a popular restaurant that may cover a different niche.

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5.10 Councilmember Rappleye stated his only concern is relative to traffic in the area; there are currently some issues with McDonalds related to the function of its drive-thru and he wants to be mindful of that at the site plan stage of the process for Chick-fil-A. He stated he feels this is an appropriate use for the area and he is supportive of the zone change.

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5.11 Mayor Smith noted the McDonalds restaurant has been very successful and he believes the same will be true for Chick-fil-A in that area.

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

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6.0 **Public Hearing: Ordinance #1060, Approving a Zoning Map Amendment in the Ptarmigan Pointe II subdivision to amend the official zoning map on Lot 209 from RA1 to RA2 at 13133 Grouse Pointe Cove. The application is otherwise known as the Ptarmigan Pointe Zoning Map Amendment Request, Application #130703-13133S.**

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6.1 Senior Planner Dan Boles explained this is a request for a zone map amendment for the property located at 13133 Grouse Pointe Cove. He reviewed the land use map for the area and noted the property is designated for residential low/medium density development, as are other properties in the general vicinity. He stated the zoning map differs from the land use map in that it includes RA1 and RA2 zoning throughout the area. He noted the subject property is currently zoned RA1 and the owner would like it rezoned for RA2 development. He noted the property is 1.59 acres and the applicant would like to split the lot in half, though they would be permitted to create three lots under the RA2 zoning designation. He concluded his report noting the Planning Commission has approved this request and has recommended approval of the application.

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6.2 Councilmember Walker asked if the parcel located to the south of the subject property is owned by the same owner. Mr. Boles stated he is not sure of the ownership information for that parcel.

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6.3 Kevin Prowell, 1283 Arrowhead Place, Saratoga Springs, Utah, stated he plans to split the parcel into two lots; he plans to keep an acre for himself and the other lot will be approximately .5 acres in size.

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6.4 Councilmember Walker asked if both parcels will be accessed from the cul-de-sac. Mr. Prowell answered yes and stated he wants the home constructed on the .5 acre parcel to face the west.

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6.5 Mayor Smith opened the public hearing.

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6.6 Steve Fairbanks, 1063 E. 13110 S., first expressed his condolences to the Johnson family and the City of Draper for their loss of Sergeant Johnson. He then stated he is present this evening representing 11 residents living in the Ptarmigan area; they have a declaration of protected covenants in the subdivision and this particular lot was actually

carved out of the covenants when they were originally drafted. He stated now that there is a request to double the number of homes built on the property, the residents of the community would like the Council to grant that approval contingent upon the properties being subject to the protective covenants for the subdivision. He stated that includes simple things like paying for landscape maintenance of open space, which is less than \$100 per year. He added there are other basic covenants relative to building in the subdivision. He reiterated that he has talked to 11 of the other neighbors and they are not opposed to the subdivision, but they want new homes that are added to the subdivision to be subject to the protective covenants. He wondered if it is possible for the Council to make approval of this request contingent upon the property being subject to the covenants. Mayor Smith asked Mr. Fairbanks if he discussed this issue with the Prowells? Mr. Fairbanks answered no, but he is happy to do that.

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6.7 City Attorney Ahlstrom stated this action is simply a zone change and that is not related to protective covenants whatsoever. He stated the Council cannot make approval contingent upon requiring the property be subject to the covenants for the subdivision. He stated zoning cannot be conditioned on anything; it either stands on its own merits or it does not. He added the homeowners association (HOA) was created to govern the Ptarmigan Pointe subdivision and the subject property was not part of that subdivision. He stated there is no way he knows of to force the property into that HOA; an HOA is a private entity. He added the property owner could be invited to make his property part of the HOA, but the City cannot dictate that.

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6.8 Councilmember Summerhays asked for a brief summary of the process that will be carried out for this property. Mr. Ahlstrom stated the zone change request is the first step in the process and the subdivision of the property can then take place according to the zoning. He added that if the property owner chooses to join the HOA, that is his business and not the City's business. Councilmember Summerhays asked if the street that the subject property is located on is a public street. Mr. Ahlstrom answered yes and noted the City takes care of maintenance of the streets, but the HOA handles other maintenance throughout the private property of the subdivision. A discussion regarding makeup and responsibilities of an HOA in various subdivisions throughout the City then ensued. Mr. Fairbanks stated there is another part of the subdivision that is also not part of the HOA, but this particular lot is part of the main subdivision and they will use the main street of the subdivision to access their property and the HOA maintains the landscaping along that street. He stated the other residents simply felt it would be great to involve the property owner in the HOA and the fees associated with that are less than \$100 per year. He stated he would be willing to talk to the property owner outside of the Council meeting.

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6.9 There being no additional persons appearing to be heard, Mayor Smith closed the public hearing.

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6.10 **Councilmember Rappleye moved to suspend the rules. Councilmember Walker seconded the motion. All voted in favor.**

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6.11 Councilmember Rappleye stated he feels the request is reasonable and the property owner has made a good case for the rezone.

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6.12 **A voice vote was taken on the motion to suspend the rules was taken. All voted in favor.**

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6.13 **Councilmember Rappleye moved to adopt Ordinance 1060, Approving a Zoning Map Amendment in the Ptarmigan Pointe II subdivision to amend the official zoning map on Lot 209 from RA1 to RA2 at 13133 Grouse Pointe Cove. The application is otherwise known as the Ptarmigan Pointe Zoning Map Amendment Request, Application #130703-13133S. Councilmember Stenquist seconded the motion.**

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

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7.0 **Adjourn**

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7.1 **A motion to adjourn the meeting was made by Councilmember Summerhays and seconded by Councilmember Walker. All voted in favor and the meeting adjourned at 7:43 p.m.**