

MINUTES OF THE DRAPER CITY COUNCIL MEETING HELD ON TUESDAY, DECEMBER 17, 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, and Councilmembers Bill Colbert, Bill Rappleye, Jeff Stenquist, Alan Summerhays, and Troy Walker

STAFF PRESENT: David Dobbins, City Manager; Russ Fox, Assistant City Manager; Doug Ahlstrom, City Attorney; Keith Morey, Rhett Ogden, Recreation Director; Angie Olsen, Deputy City Recorder; Community Development Director; Glade Robbins, Public Works Director; Bryan Roberts, Chief of Police; Garth Smith, Human Resource Director; and Bob Wylie, Finance Director

Study Meeting

1.0 Dinner

2.0 Adjourn to Closed Meeting

Business Meeting

1.0 Call to Order

[7:06:03 PM](#)

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

2.0 Comment/Prayer and Flag Ceremony

[7:06:20 PM](#)

2.1 The prayer was offered by Glade Robbins. The pledge was led by Russ Fox.

3.0 Citizen Comments

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3.1 Peter Federman noted there seemed to be a rush in June to put Think Architect under contract for the police department addition. There was another firm at that time that had done the programming for the police facility, and he believes they were under contract as well to take that through construction. The original RFP that went out called for the programming and design of the new police station and part of the scope of the design would be made accordingly to meet the budget. He stated Think Architecture replaced Nexus Architecture without giving Nexus the option to change their design. The fee that Nexus put in was not to exceed 7 percent, and that would include construction administration. Instead, Think was given a contract for 6 percent without the construction

administration. In comparison, Nexus would have done this for 5.6 percent. Right away, the City has given a no-bid contract to someone else for more money. The amount of money this comes to is \$24,691.27 over the fee of what Nexus would have been paid. Mr. Federman indicated Nexus has much more experience in this type of facility than Think has. He said he wished this had been done with an additional RFP. He had called Nexus, and they did not even know that Think had replaced them on this project.

4.0 Presentation: Knights of Columbus Presentation of Check for Money Raised During Draper Days

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4.1 Bryan Morris, Draper Days chair for Knights of Columbus, and Karl VanMaren, Deputy Grand Knight of the Knights of Columbus Mother Theresa of Calcutta Council #12181, introduced themselves. They presented Mayor Smith with a check for \$1,200 from funds raised during Draper Days.

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4.2 Mayor Smith thanked them for their donation. He noted receiving donations to the City from anyone is very appreciated. He expressed gratitude to the Knights of Columbus for their role within the community.

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5.0 Consent Items

- a. Approval of December 3, 2013, Minutes
- b. **Agreement #13-266**, Master Utility Agreement with the Utah Department of Transportation for I-15; SR-73 to 12300 South Widening
- c. **Resolution #13-64**, Appointing Trent Linton to the Parks, Trails, and Recreation Committee

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5.1 Councilmember Stenquist moved to approve the consent calendar as listed. Councilmember Walker seconded the motion.

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5.2 A roll call vote was taken with Councilmembers Colbert, Rapple, Summerhays, Stenquist, and Walker voting in favor. The motion passed unanimously.

6.0 Public Hearing: For Approval of a Zoning Map Amendment of 3.51 Acres Located Generally at 590 East and 526 East 12100 South from the RA1 Residential Agricultural Zone to the RA2 Residential Agricultural Zone.

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6.1 Jennifer Jastremsky, Planner, indicated the applicant is proposing to rezone 3.51 acres from the residential agriculture 1-acre lot minimum to the residential half-acre lot minimum. There are 3 properties included within this area, and it includes 2 existing

homes. She pointed out that there is an old public right-of-way between the 2 properties. The right-of-way is unimproved, and the City does not have any plans to improve that area at this time. It equals approximately 25,000 square feet in size. It has been included in the rezone map for the continuity sake of the Zoning Map itself, but it has not been included in the 3.51 acre calculation. The properties are located within the Residential Low/Medium Density land use designation, as are the properties on the northwest and east sides of the subject site. This category is designed to allow 2 dwelling units per acre with both the RA1 and proposed RA2 meeting that criteria. The zoning ordinance currently has this property in the RA1 zone. According to the ordinance itself, the RA1 District and the RA2 District were designed to foster low-density development and to preserve the character of the City's semi-rural areas. It was also used to promote and preserve conditions favorable to large lot family life. The only difference between the 2 zones is the minimum lot size. All of the other standards are the same including setbacks, lot coverage, and animal rights. The neighborhood itself is a mix between the RA1 and the RA2, so staff believes the proposed change will conform to the existing development patterns in the neighborhood. Ms. Jastremsky then displayed pictures from the properties. She noted she did receive a letter from the water master of the Cottrell ditch, which she provided to the Council. The Planning Commission and staff are recommending approval of this application.

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6.2 Councilmember Summerhays asked whether the letter from the water master was requesting that the property be maintained. Ms. Jastremsky noted there is an easement along the north side of the subject properties that will need to be looked at when/if the properties are ever developed.

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6.3 Mayor Smith opened the public hearing.

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6.4 Chuck Wilkinson, 12084 South 540 East, advised he attended the Planning Commission meeting and made a presentation that involved talking about the Master Plan and the feeling of the community with 1-acre lot developments. There are 9 people who believe that the area should remain as 1-acre lots. There are half-acre lots with the Ivory Home development, and Ivory Homes has followed through with their promise to put in high-quality homes. One of the main concerns he and the other 9 have with this is that the proposed development will not be a high-quality development. The homeowners on the south side of 12100 South literally went into shock after the extreme proximity of the Parc apartments was realized. He displayed pictures showing the proximity of the apartments. The neighbors are concerned that their privacy is gone because of the ability of the apartment residents to look into their backyards. He thought the developer was supposed to put in barriers to prevent that. This application does not have any barriers either. His group is concerned with the type and value of the homes being built on half-acre lots when there are apartments looking down on them. They are worried about the

devaluation of the area. During the Planning Commission meeting, Mrs. Brunatti expressed concern with her ability to keep maintaining her 1-acre lot. Mr. Wilkinson suggested she combine her extra land with the Koncar's lot to make a 1-acre lot to sell for horse property in order to maintain the unique and valuable essence of what Draperville is. He asked the City Council to deny this resolution to allow for further study.

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6.5 Jeff Rasmussen, 723 Corner Ridge Drive, thanked Mayor Smith for his service and wished the best for Mayor Smith and his family. He then asked the City Council to not rezone a property unless they plan to protect the irrigation infrastructure. The ditch has been there since 1880, and in April he will turn the water on to his property. He asked the City to clean out the ditch on their right-of-way, so the water can get down to the end of the row.

Councilmember Summerhays said it is his understanding that the ditch has to be taken care of by each of the property owners. He suggested turning the water down, and if it floods them then so be it.

Mr. Rasmussen said some of that is owned the City. He recommended the City keep their easement so he can get back to the ditch. Right now there is a tall fence that was approved by the Planning Commission that makes access difficult.

Mr. Dobbins noted the previous map just shows the City property. He is not sure it shows an easement. Mr. Rasmussen said he has a 15-foot easement for the ditch.

Councilmember Colbert questioned whether the ditch master is responsible for the ditch. Councilmember Summerhays clarified that each property owner is responsible for the section of ditch on their property.

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6.6 Mr. Rasmussen noted he feels like the zoning should not be changed if they are not going to protect the water. Somehow the connect between Planning, Zoning, and staff needs to be made. He said they have had a difficult time dealing with the City in reference to constructing their building, and he feels really bad about that. Mayor Smith said the building is about to happen.

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6.7 Councilmember Summerhays noted it is better for the ditch master if they have that 300 feet, and it is clean. It would be much better for him to have this happen.

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6.8 Dave Koncar, 12062 Katelyn Park Court, noted in reference to the easement, they would have to do research with title because nothing he has seen shows an easement on record. However, when Lisa Koncar did complete a renovation of her backyard, she put a

fourteen inch corrugated pipe underground at Jeff's recommendation. They intend to do the same thing in this area. Mr. Koncar stated he is planning to build his home on the proposed rear lot, and it will be similar to the homes in the Ivory subdivision. The home on the front lot will be the same. They will not go overboard, but they will be nice homes with separate driveways that will conform to the feel of the neighborhood.

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6.9 Renee Wilkinson, 12084 S 540 East, stated she is very much a proponent for CC&Rs for this particular piece of property. She would want the home to be at least 3,500 square feet, and some sort of guarantee that they would be similar to the Ivory homes or the rest of the neighborhood.

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6.10 Mayor Smith closed the public hearing

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6.11 Russ Fox, Assistant City Manager, clarified that the CC&Rs would typically come in at the time of the subdivision, and the easement concerns can be addressed then as well. The Council cannot put conditions on a zoning decision.

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6.12 Mr. Dobbins said one of the questions asked was whether this is a minor subdivision. This could be a minor subdivision; however, anytime there is any controversy around any subdivision, it goes through the normal process. Tonight is just a request for the zone change. The subdivision will go through the normal process.

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6.13 Councilmember Stenquist moved to suspend the rules. Councilmember Summerhays seconded the motion.

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6.14 A vote was taken with Councilmembers Colbert, Rappleye, Stenquist, Summerhays and Walker voting in favor. The motion passed unanimously.

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6.15 Councilmember Stenquist moved to approve a zoning map amendment for property located generally at 526 East 12100 South from the RA1 zone to the RA2 zone. Councilmember Summerhays seconded the motion.

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6.16 Councilmember Stenquist advised the concerns raised are valid; however, those will be addressed during the subdivision approval process, and they do not apply to a zone change. It is good to know that some of those concerns do exist. He understands the impact the high-density development to the south has caused to the neighborhood. The City has been very aware of the fact that this is the first traditional subdivision in Draper,

and a lot of different types of developments have come in around that neighborhood. He expressed his opinion that the land use is still low density. RA2 is very compatible with a low-density type subdivision. A half-acre lot is still considered to be a large lot. He does not think the neighbors need to be worried that just because the lot size is a little smaller that the quality of the home would not be good. It is good to have a half-acre lot subdivision as a buffer between the high-density development and the 1-acre lot subdivision.

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6.17 Councilmember Summerhays questioned whether there was supposed to be a row of trees along the apartments where Mr. Wilkinson said there should. Mr. Fox explained the developer did an additional setback from what was normally required. He said from what he recalls, there are trees planted back there; however, they are just small right now. He cannot recall what all was required. The developer also increased the fence height to eight feet to help with the buffer.

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6.18 Mayor Smith agreed with Councilmember Stenquist because anyone building a home in Draper on a half-acre lot will build a nice home. The same thing happened in his neighborhood, and many of the homes are close to \$1 million in value.

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

7.0 Presentation: Presentation of the Audit for Fiscal Year Ending June 30, 2013, Presenter - Tyson Beck from Keddington & Christensen

[7:49:43 PM](#)

7.1 Tyson Beck, auditor, presented the Fiscal Year 2012-2013 Audit. The auditors analyze the City's financial statements to ensure they are in compliance, and they also evaluate the internal controls over financial reporting. They do an evaluation, but they do not submit an opinion about those internal controls. The audit also goes through fraud procedures to identify specific fraud risks and test State compliance. The auditor's responsibility is to express an opinion on whether the comprehensive annual financial report is in compliance with all material aspects. He pointed out that, as auditors, they cannot reasonably express one hundred percent that the financial statements are not materially misstated. For them to do that, they would have to analyze every transaction that has gone through the City. They express an opinion that gives reasonable assurance. He then said he is happy to report that the financial statements are not materially misstated. The main highlights of the audit are provided in the report in the management discussion and analysis. Mr. Beck said they also provide a supplemental report, which deals with the internal controls that they evaluate. They look at the cash management, fund balance, impact fees, transfers from Utility Enterprise Funds, Open and Public meetings act, budgetary compliance, justice courts, URS compliance, and the

Government Records Access Management Act. This report is stating that in all material respects, the City is compliant with these areas. They do have to report any findings that they have, which included:

- Segregation of duties
 - One person may be doing too much
 - Potential risk of theft, fraud, and misstatements in financial statements
 - The City has provided a well justified response.
 - Recommendation is for City to ensure there are proper reviews of oversight functions in place to compensate for the lack of segregation of duties.
- Material Adjustments
 - Various accounting areas need material adjustments
 - The Auditors adjusted the financial statements to make them compliant
 - There were no disagreements with management about these adjustments. They all worked together to resolve the issues.
 - Recommendation is for a secondary review to be put in place for each significant accounting area to ensure accuracy.
- Expenditures in excess of budget
 - The Municipal Building Authority Fund had an expenditure that exceeded the total appropriations by \$345,000.
 - This specific expenditure came about because of an adjustment the auditors posted.
 - This was not a lack of management's ability to budget; it was due to a correction made by the auditors.
 - Recommendation is for the City to closely monitor expenditures in the funds to ensure that the City is in compliance with State Code.
- Open and Public Meetings Act
 - State Code requires the members of the public body to receive annual training on the requirements of the Open and Public Meetings Act.
 - Management provided the training; however, there was no written documentation that this was done.
 - Recommendation is for the City to provide annual training and retain evidence of the training.

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7.2 Councilmember Summerhays asked when the City received this report. Mr. Beck indicated it was provided today.

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7.3 Councilmember Stenquist noted this is normal for these audits. The Council is not voting on it, they are just being presented the information.

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7.4 Councilmember Summerhays said he understands that, but he has not had a chance to read through it before the report. Mayor Smith noted Councilmember Summerhays still has time to do that. Mayor Smith expressed his opinion that it is better to have this discussion first so they know what they are looking for.

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7.5 Mr. Beck indicated the auditors were happy with the Draper management and the way they operate. The accounting system is functioning and is working to create reliable financial statements. The auditors have provided a clean opinion of the financial statements.

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7.6 Councilmember Colbert noted the Council can ask staff to address any of the findings at the next Council Retreat.

8.0 Public Hearing: For Approval of an On Premise Non Tavern Alcohol Beverage License for Shepherd's Allstar Lanes, Inc.

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8.1 Keith Morey, Community Development Director, noted Shepherd's Allstar Lanes has complied with all of the alcohol licensing requirements, and staff has done a full review on all of the information regarding distances from affected school zones and parks, etc.

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8.2 Councilmember Summerhays asked whether the City has a license for this. Mr. Dobbins explained the Council chose not to have a quota, so if a business meets the requirements, they can get one.

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8.3 Brad Shepherd, 12101 South State, stated he is in the bowling business. This is a more high-end facility. They will have a full-service restaurant as well.

[8:08:25 PM](#)

8.4 Mayor Smith opened the public hearing. No one came forward to speak, so Mayor Smith closed the public hearing.

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8.5 Councilmember Rappleye moved to suspend the rules. Councilmember Walker seconded the motion.

[8:08:52 PM](#)

8.6 A vote was taken with Councilmembers Colbert, Rappleye, Stenquist, Summerhays and Walker voting in favor. The motion passed unanimously.

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8.7 Councilmember Rappleye moved to approve an On-Premise Non-Tavern Alcohol Beverage License for Shepherd's Allstar Lanes, Inc. Councilmember Walker seconded the motion.

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8.8 Councilmember Rappleye noted he has watched the progress of the business, and it is exciting to see what is going on. This area has struggled, and he expressed his opinion that this is a good business plan.

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8.9 A vote was taken with Councilmembers Colbert, Rappleye, Stenquist, Summerhays and Walker voting in favor. The motion passed unanimously.

9.0 Public Hearing: For Approval of a Full-Service Alcoholic Beverage License for Shepherd's Allstar Lanes, Inc.

[8:10:52 PM](#)

9.1 Mr. Morey said this is for the same location for the restaurant.

[8:11:32 PM](#)

9.2 Mr. Shepherd indicated they are hoping to have the bowling open this Friday. There will be 26-full lanes and 6-mini lanes.

[8:13:08 PM](#)

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

[8:13:17 PM](#)

9.4 Councilmember Rappleye moved to suspend the rules. Councilmember Stenquist seconded the motion.

[8:13:29 PM](#)

9.5 A vote was taken with Councilmembers Colbert, Rappleye, Stenquist, Summerhays and Walker voting in favor. The motion passed unanimously.

[8:13:38 PM](#)

9.6 Councilmember Rappleye moved to approve a Full-Service Alcohol Beverage License for Shepherd's Allstar Lanes, Inc. Councilmember Walker seconded the motion.

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9.7 A vote was taken with Councilmembers Colbert, Rappleye, Stenquist, Summerhays and Walker voting in favor. The motion passed unanimously.

10.0 Action Item: Resolution #13-63, Amending the Planning Commission Bylaws.

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10.1 Mr. Morey indicated it is the time of year for the City Council to approve the schedule for next year for the City Council and Planning Commission meeting. Staff had a discussion with the Council in reference to how the Planning Commission meetings were determined. He would like to make it more convenient for the public by making the Planning Commission meetings on the opposite weeks of the City Council meetings. This action is amending the bylaws to allow for that change. This would make the Planning Commission meetings the second and fourth Thursdays of each month. There was a conflict in July and November, so staff has adjusted the meetings those months.

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10.2 Councilmember Stenquist asked whether this makes the most sense to help streamline the process. Mr. Morey said this does help that. When the Planning Commission meetings are the same week as the City Council meetings, it is difficult to put it on the next agenda. Staff is hoping that by staggering the meetings, this will allow them to be more responsive.

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10.3 Mr. Fox said there is a two-week notification period after the Planning Commission hears something. This schedule will allow the notices to go out after the Planning Commission meeting, which will shorten the process by one to two weeks.

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10.4 Mr. Dobbins said the challenge they have right now is that staff does not want to notice an item for the City Council until the Planning Commission votes on it because it puts the Planning Commission in a difficult spot by having to make a decision. This will give the Planning Commission an opportunity to make their decision and still give a jump on the noticing of an item for the City Council. Staff will monitor it to see if it is or is not effective.

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10.5 Councilmember Rappleye moved, by resolution, to approve Resolution #13-63. Councilmember Colbert seconded the motion.

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10.6 Councilmember Rappleye noted Councilmember Stenquist brought up a good point. He was thinking about the two-week noticing requirement, and this should help streamline that.

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

11.0 Action Item: Resolution #13-62, Establishing the City Council and Planning Commission Meeting Schedules for 2014.

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11.1 Councilmember Rappleye moved, by resolution, to approve the 2014 meeting schedule. Councilmember Walker seconded the motion.

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

12.0 Action Item: Ordinance #1082, Adopting the International Building Codes.

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12.1 Doug Ahlstrom, City Attorney, advised the Draper City Code has adopted the 2009 International Building Codes. The International Codes come out every few years, so the City is constantly updating that Section. What he has done this time is to adopt the most recent version as adopted by the State. He has narrowed the Code section down from twelve to eight. This does not change any of the fees in reference to the Fire Code.

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12.2 Councilmember Colbert said that might be contrary to what the State wants. In his day job, he has to do a new rule and list the specific year it is adopting. He asked staff to look into this.

Mr. Dobbins clarified that the State has to do that on their level. The Cities are just required to adopt what the State adopts.

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12.3 Councilmember Summerhays asked who came up with the fee schedule. Mr. Dobbins noted the fee schedule comes from Unified Fire Association (UFA) specifically. They provide the service, so they charge the fee.

Councilmember Summerhays said he wants to make sure the fees are in compliance. Mayor Smith noted the board approves all of the fees that are presented to them by the UFA.

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12.4 Councilmember Walker moved to approve Ordinance #1082, which adopts the International Building Codes. Councilmember Colbert seconded the motion.

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

13.0 Council/Manager Reports

[8:27:23 PM](#)

13.1 Councilmember Rappleye advised he recently spoke with Trace Coccimiglio in reference to the towing selection process. Some of the local towing companies feel like they got cut out of the process. Mr. Coccimiglio does not have a towing company; however, he has a relationship with a company that brings the cars to his lot.

Mr. Dobbins indicated staff has extended the RFP process for the towing contract, and staff has changed the weights given to each category and resent the RFP out.

Councilmember Rappleye then advised he spoke with one of the officers about the pan handling on 12300 South. The officer said they had been told to leave the pan handlers alone. Councilmember Rappleye expressed concern with the liability aspect of the individuals walking into traffic to get the money.

Mr. Dobbins explained staff reached out to UDOT to talk about adding a concrete jersey barrier in the middle of the road. They asked UDOT to come up with an option that looks nice. This is a high traffic area, so it would have to meet with UDOT's standards.

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13.2 Councilmember Colbert said there were some posts on the Suncrest Facebook page regarding the snow accumulating on some of the Suncrest streets after the last storm. One thing the City needs to be careful with is that the wind blows the snow around, and it accumulates on the road. He asked that someone from Public Works monitor the area to help address that issue.

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13.3 Councilmember Walker stated it has been an absolute pleasure working with Mayor Smith for the past six years. He has been a fantastic Mayor. Councilmember Walker wished Mayor Smith and his family the best of luck in their future endeavors.

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13.4 Mayor Smith thanked Councilmember Walker. Mayor Smith said it is hard to believe it has been twelve years. He thanked staff and said it has been great working with them.

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14.0 Adjournment