

Approved 03.25.2014

MINUTES OF THE DRAPER CITY COUNCIL MEETING HELD ON TUESDAY, MARCH 18, 2014, 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 Troy Walker, and Councilmembers Bill Colbert, Bill Rappleye, Jeff Stenquist, Alan Summerhays, and Marsha Vawdrey

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

Study Meeting

1.0 Dinner

2.0 Call to Order

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2.1 Mayor Walker called the meeting to order and welcomed those in attendance. .

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3.0 Consent Items

- a. Approval of March 4, 2014, Minutes
- b. **Agreement #14-24**, Authorizing the Mayor to sign an Agreement with Tyler Technologies to Furnish, Deliver, Install, and Implement the Software outlined in Exhibit A.
- c. **Agreement #14-25**, Authorizing the Mayor or City Manager to sign an Agreement with Lewis Young Robertson and Burningham (LYRB) to Provide Full financial Advisory Services for the City.
- d. **Resolution #14-19**, Authorizing the Mayor to Sign an Agreement with Salt Lake County Parks & Recreation to Connect to City’s Electrical Power including Construction Staging, at Rotary Park, for the Jordan River Parkway Trail Re-Alignment Under the 12600 South Bridge.
- e. **Resolution #14-23**, Accepting Salt Lake County Performance Bond as Security for Land Disturbance Permit Issuance for the Jordan River Trail Realignment Under 12400 South (SR-71).
- f. **Agreement #14-20**, Approving the Communities that Care Program Interlocal Agreement.
- g. **Amending Agreement #13-97**, by Changing the SunCrest Lessee from Tod Wadsworth to Calvin Wadsworth.

- h. **Resolution #14-24**, Appointing Mayor Tory Walker to Serve as a Member of the Unified Fire Authority Governing Board.

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- 3.1 **Councilmember Rappleye moved to approve the consent calendar as slated. Councilmember Summerhays seconded the motion.**

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- 3.2 **A roll call vote was taken with Councilmembers Colbert, Rappleye, Stenquist, Summerhays, and Vawdrey voting in favor. The motion passed unanimously.**

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- 4.0 **Action Item: Resolution #14-21, Authorizing the Use of Eminent Domain for Properties located on 13200 South. Staff report by Doug Ahlstrom. Comments will be taken from affected parties.**

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- 4.1 Doug Ahlstrom, City Attorney, advised more than two years ago the City Council decided to fund a reconstruction of 13200 South. This primarily came about because of the location of the charter school, the junior high, and high school that have been completed in the last couple of years. This street has been unimproved for a long time, and staff discovered a map from the late 1800s that shows a sixty-six foot right-of-way through this area. Because of the heavy pedestrian use on this street, it is important to provide safety features. He displayed a map showing the various properties that will be affected by the reconstruction project, and reviewed the status of the ones that have not signed an agreement with the City. The City was able to acquire all of the property at the intersection of 1300 East and 13200 South, so that portion of the project was built last year. The next step in the process is to hold this hearing to see if the Council will authorize the use of eminent domain. That requires the use of public resources in staff time and fees depending on how far this goes. This does not mean the City will file for eminent domain, it simply means the attorney has the authority to do so if negotiations break down. Due to the democratic caucus meeting scheduled for tonight, and the time change from the notice that went out to the residents, staff made phone calls to the affected residents to let them know of the time change. Several of them are here tonight; however, some of them are not. He asked the Council to continue this matter until next week to allow for comments. Public funds are going to be used for this, so it falls under the nature of a public hearing.

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- 4.2 Councilmember Stenquist clarified that the recommendation is to wait until next week to take action to allow additional time for comments. Mr. Ahlstrom stated yes because the original letter gave the starting time as 7:00 p.m. He expressed his opinion that the City owes those residents the courtesy of holding this open until next week.

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4.3 Mayor Walker opened the meeting for public comment.

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4.4 Nate Walsh, 1185 East 13200 South, indicated his parents are currently serving an LDS mission and cannot be here this evening. He expressed his opinion that there is no need to widen the road. The City can put a curb, gutter, and sidewalk with no park strip and accomplish the needs of safety and security for the children traveling to and from school, as well as improving the road. Any congestion caused by traffic is dealt with by the people that live on the road, and they know what is best for them. The contention the property owners have is that the City Engineer came up with a plan, but it is his understanding that the Council told the City Engineer to come up with a different plan. Mr. Walsh said to his knowledge, that possibility has not been examined other than suggesting that the property owners come up with an alternate proposal for the Council to look at. The property owners did that; however, the Council rejected that plan. He said he does not understand why the City does not examine pushing 13400 South through. He cannot imagine that it would cost the City any more money than buying all of this property. This action will ruin his parent's lot, and will put their home out of Code. If anything were to ever happen to their home, they would not be able to rebuild it. That destroys their property value. He expressed his opinion that he does not think the City Council has taken this into account.

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4.5 Derek Coulter, 1017 East 13200 South, agreed with Mr. Ahlstrom that this meeting should be postponed for public comment. There is a lot of interest from people who were not aware of the time change and could not be here this evening due to the late notice. He recommended the City consider bringing in a third party to work with the neighborhood owners and the City. This is something that has not been explored at this point. The Utah Land Ombudsmen's Office is really good with helping reach a compromise and coming up with solutions. The neighbors' are not against the reconstruction project. They are concerned with the way this has been handled. Adopting a plan prior to actually having public comment is not the way they should go about doing this. He said he would like to go back to the original agreement with the City Council in trying to work out a compromise. Where the City is going with this process will really entrench all of the parties in litigation and will be very expensive and time consuming. There is no one in this neighborhood that is completely unreasonable to work with. There concern is with how this process has been handled. There are alternatives to handle this without litigation, and he suggests bringing in a third party to work with neighbors and City.

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4.6 Michael Carlson, 14800 South 1300 West in Bluffdale, noted he owns the property at 13200 South Fort Street. The attorney mentioned the City has the right-of way through his property; however, the City does not have deed of conveyance to the right-of-way. Mr. Carlson noted he pays taxes on the property to the center of the street. The City's

right-of-way is a claim only. Mr. Carlson advised he had an engineering firm survey the property, and they confirmed that he owns .58 acres. The proposal the City gave him stated the City will pay for 3,600 square feet rather than the 10,000 square feet he owns. The appraisal they received from the City with a letter stating that if he does not sign off on this the City will sue him to take the property. He noted this is getting way out of control to threaten him without having any negotiation with the City. No one with authority has sat down and talked with him. Mr. Carlson also noted that the appraiser for his property has a reputation in the valley for providing low appraisals for the entity that hires him. He expressed his opinion that the appraisals are not accurate and cannot be trusted.

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4.7 Brittany Hansen, 1180 East 13200 South, stated her biggest frustration is that for the past year the neighbors have tried to work with the City to come to a compromise, but that is not happening. She said she still does not have a clear understanding of what they plan to do with Fort Street. The safety of the children on this street is what is most important, and sidewalks will help improve that. The widening of the road and the park strips are unnecessary. She would like to take more time to put together a better plan and better options.

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4.8 Mary Chidsey, 1244 East Spring Ridge, noted her father owns property on this street, but he had a previous engagement and could not make it to this meeting. She said she is glad this item is being continued to the next week. Her father strongly feels that once eminent domain is declared, and they have to go through the courts, it is a waste of tax payer money. Litigation is very expensive. The neighbors would prefer to work this out so they do not have to spend unnecessary money.

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4.9 Mr. Ahlstrom advised that Mr. Walsh had indicated that if anything were to happen to his parent's home they would not be able to rebuild it. That statement is incorrect. The law gives the property owner the right to rebuild their home even if they have a substandard lot.

Councilmember Stenquist questioned whether that means the new lot would be a non-conforming lot and there would be some limitations as to what the property owners could do. Mr. Ahlstrom stated that is correct.

Mr. Ahlstrom continued saying Ms. Chidsey had stated that the City should not spend money unnecessarily. Mr. Ahlstrom noted he is in full agreement of that. He would rather pay the property owners the extra \$1,000 instead of getting another appraisal on their property. He has tried to negotiate with all of the neighbors up and down the street to work out issues. He is not trying to "railroad" the neighbors. He has to watch out for the City's dollars, but he also has to offer the property owners a fair value. Mr. Carlson indicated they have not even met to negotiate, which is true; however, the City has made

overtures to him and requested a meeting. Mr. Ahlstrom said he wants the Council to understand that staff has been trying to work with the neighbors for two years. There have been many hearings where the resident's have asked for a redesign of the project. The Council told the engineer to do that and meet with the neighbors and discuss that, which he did. The recommendation is still to have a sixty-six foot road with a park strip and sidewalk. That is the model the staff is working off of, and that is what he is trying to purchase. Mr. Coulter's property has some very nice landscaping in front that would be affected. Behind each area the City needs to take, they are asking for a seven-foot wide temporary construction easement that allows the City to go in and set the forms for the sidewalk and to try to bring the level of the lawn up to the sidewalk. The City does not want to rip out the residents grass and trees in that area if at all possible. This would protect all parties. He is trying to be as reasonable as possible with this. Where driveways are short, he knows the City needs to provide other remedies for driveways. In Mayor Smith's situation, they will have to turn a garage to get him off the street safely. Those are the types of things staff is working on.

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4.10 Mayor Walker suspended the comments until the next meeting.

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4.11 Councilmember Summerhays said he spoke with Mr. Carlson right before the meeting started. Mr. Carlson is willing to sit down and speak with Mr. Dobbins when it is convenient.

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4.12 Councilmember Colbert noted a lot of the residents own property out to the street. He asked whether the City is buying the right-of-way out to the street. Mr. Ahlstrom clarified that the property that is under asphalt now does not have to be paid for. State law says that once a road has been continuously used for ten years, it becomes the property of the state. Contrary to what Mr. Carlson says, the property under the street has already escheated to the public use. The City is proposing to pay for the property up to the edge of the asphalt.

Councilmember Colbert noted if Mr. Carlson is paying taxes on the property line, he should realign his property line. Mr. Ahlstrom agreed.

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4.13 Councilmember Stenquist asked what the City is looking at in terms of a construction schedule. Mr. Ahlstrom advised there are still holdouts, and if he has to file eminent domain action against those property owners, it will take over one month to get right of occupancy from the court. The City is looking at the fall before they can start the work.

Councilmember Stenquist asked whether staff has lost hope in getting this constructed and completed in this construction season. The Council has taken their time in listening

to the residents and the issues, but the understanding has been that they wanted to start construction this year. He said he hopes that their willingness to listen and look at options has not delayed them another year.

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4.14 Councilmember Summerhays asked whether there are any legal challenges for the city in reference to Mr. Carlson owning to the middle of the road. Mr. Ahlstrom stated the State law concerning the ten years has been on the books for some time.

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4.15 Councilmember Colbert moved to continue this public hearing to March 25, 2014. Councilmember Rappleye seconded the motion.

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

[6:09:38 PM](#)

5.0 **Public Hearing: Resolution #14-22, Approving the Allocation of Community Development Block Grant Monies Beginning July 1, 2014.**

[6:10:00 PM](#)

5.1 Councilmember Colbert moved to continue the public hearing to March 25, 2014, Councilmember Vawdrey seconded the motion.

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

[6:10:23 PM](#)

6.0 **Public Hearing: Resolution #14-18, Approving Budget Amendments.**

[6:10:43 PM](#)

6.1 Councilmember Stenquist moved to continue the public hearing to March 25, 2014, Councilmember Vawdrey seconded the motion.

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

7.0 **Adjournment**

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7.1 A motion to adjourn to a Redevelopment Agency Meeting was made by Councilmember Stenquist and seconded by Councilmember Colbert.

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