

Approved 2.16.16

MINUTES OF THE DRAPER CITY COUNCIL MEETING HELD ON TUESDAY, FEBRUARY 2, 2016, IN THE DRAPER CITY COUNCIL CHAMBERS, 1020 EAST PIONEER ROAD, DRAPER, UTAH

PRESENT: Mayor Troy Walker, and Councilmembers Bill Rappleye, Jeff Stenquist, Alan Summerhays, Marsha Vawdrey, and Michele Weeks

STAFF PRESENT: David Dobbins, City Manager; Mike Barker, City Attorney; Rachelle Conner, City Recorder; Hazel Dunsmore, Human Resource Director; Russ Fox, Assistant City Manager; Keith Morey, Community Development Director; Rhett Ogden, Recreation Director; Glade Robbins, Public Works Director; Bryan Roberts, Police Chief; and Bob Wylie, Finance Director

Dinner

Study Meeting

[5:57:55 PM](#)

1.0 Discussion: Andy Ballard Arena Special Events

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1.1 Doug Vawdrey, Equestrian Center Board Chair, thanked the City Council for setting up the Equestrian Center Board and thanked the Boardmembers for all of their work. He indicated the Board would like to bring a couple of events into the arena this year. The activities include:

- Bull Riders Only with Mutton Bustin' and Cash Calf
 - Mascaro (Draper Days Rodeo Organizers)
 - 2nd week of September
 - Cost - \$10,000
 - Estimated revenue - \$19,000
- Edge Sports Motocross – Brian Green
 - Cost - \$47,000
 - Possibly reduce cost by using volunteers
 - Estimated to break even first year

Subsequent to discussion, all of the Councilmembers were in favor of moving forward with both of these events.

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2.0 Discussion: Adopting Signage Requirements for Road Projects

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2.1 Scott Cooley, City Engineer, indicated the City will be requiring signage as part of the permit process for all road construction projects, so it is clear who is responsible for the construction. He displayed an example of what the sign could look like. The proposed size would be 24" x 30". However, it could be larger if the Council wanted.

The group discussed options for size and required information for the signs. Staff is ready to implement this as soon as possible.

The sign will include the company's name that is responsible for the construction project, the permit number, and estimated completion date. Staff will come up with some mock ups for the Council to choose from.

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3.0 Discussion: Household Hazardous Waste Drop off Location (ABOP)

- 3.1 Glade Robbins, Public Works Director, noted he went with Councilmember Summerhays and Councilmember Weeks to Salt Lake County to visit their household hazardous waste collection point. This is where residents can drop off antifreeze, batteries, oil, and paint (ABOP). The goal is to keep those items out of the residential garbage cans and out of the landfill. This is a two-part system where the City provides a location for these items to be collected along with a forklift to load the materials onto the truck, and the County would provide the containers to collect the waste and a contractor to dispose of the waste. They would pick it up weekly. The cost for the City would be approximately \$44,000 to \$53,000.

Councilmember Weeks indicated the County will still participate in the yearly clean up the City has at the park.

The entire Council agreed to look at this as part of next year's budget.

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4.0 Council / Manager Reports

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- 4.1 Councilmember Rappleye stated he spoke with an individual who is interested in serving on the Parks and Trails Committee. He asked what needs to happen to get him appointed. The Mayor advised he interviews the applicants prior to them being appointed. Staff will get the list of names and set up those appointments.

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- 4.2 Keith Morey, Community Development Director, advised former Mayor Smith used to serve as a member of the Community Development Block Grant (CDBG) Review Committee; however, he is no longer able to serve in that capacity. Draper's representative cannot be an active City Councilmember or a City employee but has to be a Draper resident. They participate on a committee that reviews all of the applications for the CDBG funds and make recommendations to the Mayor's Committee. He asked whether any of the Councilmembers know of someone who would be willing to serve on this committee.

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- 4.3 Councilmember Vawdrey asked about the status of the splash pad. Mr. Dobbins indicated Mr. Ogden is working on that, but he is out of the office until tomorrow. Staff will obtain that information and let the City Council know.

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- 4.4 Councilmember Weeks indicated she is having a lot of residents ask about the church at Steep Mountain Park. They have heard that the church will be a Latter-day Saints (LDS) Stake Center, and that is a concern for the neighbors due to parking. Mr. Dobbins noted the parking requirement can be met, and there will still be vehicles that overflow onto the streets to park.

Councilmember Weeks then asked when Highland Drive will be open to Sandy. Mr. Cooley explained the State has agreed to fund an Environmental Impact Study. Sandy is in favor of this, and the estimated cost for the study is \$4.5 million.

Councilmember Weeks advised she had attended the SunCrest Owners Association meeting. They are not happy with how the City is maintaining the small pocket parks in SunCrest. They might be willing to maintain the parks with their homeowner fees if the City was willing to continue watering the park. Mr. Dobbins indicated Mr. Ogden will review it and get back with the Council.

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- 4.5 Councilmember Summerhays stated Jordan Valley Water Conservancy District made a presentation to the City Council at the last meeting. They are looking at water conservations efforts. Many of the City parks are set up for programmable mobile devices; however, there are not enough staff members to monitor the parks and set the clocks. This is really something the City should look into.

Business Meeting

[7:01:34 PM](#)

- 1.0 Call to Order: Mayor Troy K. Walker**

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- 2.0 Thought/Prayer and Pledge of Allegiance**

[7:02:00 PM](#)

- 2.1 The prayer was offered by Ian Lake of Scout Troop #556.

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- 2.2 The flag ceremony was presented by Scout Troop #556 and was led by Tanner Lybbert.

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- 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.

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- 3.1 Matthew Erickson, resident, commented that last year he worked at a retail pharmacy that sold electronic cigarettes. He spoke with people who said that they feel better when they smoke the electronic cigarettes rather than regular cigarettes. The electronic cigarettes produce less smoke, which means less material that gets in the blood stream. He disagrees with the intent to limit the purchase of these items.

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4.0 Consent Items

- a. Approval of the January 26, 2016, City Council Meeting Minutes**
- b. Approval of Resolution #16-07, Appointing Members to the Draper City Youth Council Advisory Board**
- c. Approval of the Neighborhood Watch ICE Blackbox Contractual Agreement**
- d. Approval of an Amendment to the Officer Involved Critical Incident Interlocal Agreement**
- e. Approval of Resolution #16-05, Amending the Consolidated Fee Schedule. The amendments include adding the current passport processing fees and fixing various formatting issues**
- f. Approval of a Memorandum of Understanding between Salt Lake County and Draper City for Enforcement of the UPDES Storm Water Discharge Permit**
- g. Approval of Resolution #16-08, Supporting Legislation Regarding Electronic Cigarette Regulations**

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- 4.1 Councilmember Rappleye moved to approve the consent items. Councilmember Vawdrey seconded the motion.**

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- 4.2 Councilmember Rappleye indicated he is glad to see the City Council supporting the resolution regarding electronic cigarettes. He was happy to see young people come to speak with the City Council about this issue. That is a great way get the support for this.

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- 4.3 A roll call vote was taken with Councilmembers Rappleye, Stenquist, Vawdrey, and Weeks voting in favor. Councilmember Summerhays voted no. The motion carried with a majority vote of 4 to 1.**

[7:11:07 PM](#)

5.0 Action Item: Consideration of an Interlocal Agreement with the Traverse Ridge Special Service District Administrative Control Board Regarding Road Maintenance and Repair within the Traverse Ridge Special Service District

[7:11:23 PM](#)

5.1 Russ Fox, Assistant City Manager, gave a brief history of the Traverse Ridge Special Service District Administrative Control Board (TRSSDACB). After the City created the Board, they created a working group with boardmembers and City staff to work out various issues. The City entered into an Interlocal agreement with the TRSSD in October of last year for snowplowing and street lights. They left the road repair and maintenance out of that Interlocal agreement because the two entities had not come to a consensus on who is responsible for the road reconstruction. The Board has a definition of road repair and maintenance they found in the State statute under B&C Road Funds. The main road that is currently under discussion is Deer Ridge Drive. That road is in serious need of repair. The last estimate the City received to reconstruct that road was \$1.9 million. The City does not agree with the Board's interpretation of who is responsible for the costs.

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5.2 Councilmember Summerhays said the estimate the City had a couple of years ago when they put it in the budget was \$1.6, so the cost has already gone up.

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5.3 Amy Baird and Nathan Lunstad, boardmembers, introduced themselves. Ms. Baird advised this agreement defines road repair versus road maintenance. She read from the proposed agreement pertaining to the repairs. The City and TRSSD have disagreed about who is responsible for the road repair.

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5.4 Councilmember Stenquist said it is his understanding that the Board would like to establish a definition of what the TRSSD would be responsible for. They would like the TRSSD to be responsible for repair, and the City would be responsible for construction. According to the Board's definition, the maintenance would be up to two inches. Councilmember Stenquist said he appreciates the intention of putting a more definitive definition around what the underlying document includes. He said he is not sure the City Council is prepared to move forward with that definition and approve this agreement. He asked what will happen if the City does not agree to this.

Ms. Baird stated they would have to speak with their lawyers, but they might have to have a court decide what the definition is.

Mr. Lunstad explained it is in the Board's best interest to negotiate with the City Council to avoid going to court. He stated he would like to work together to come up with a resolution.

Councilmember Stenquist agreed. He said he cannot fathom the City and the Board going to court over this or any other issue. The City Council tried to take a new tactic by creating the Board a few years ago. He was sure not how it would work out. It was difficult for the City to even find individuals willing to serve on the Board. He expressed appreciation to boardmembers for the time and effort they have put into the Board, but he never envisioned that the Board would try to renegotiate or redefine what the City's understanding has always been of the TRSSD document or to even contemplate litigating against the City. The City Council has authority that has been delegated by the State, and they have to abide by State statute. The City created and delegated some authority to the Board, and he cannot fathom spending TRSSD tax money to litigate against the City, and the City having to spend more tax money to defend that lawsuit. He indicated that to him it shows this relationship is not working the way it was intended to work. He said he would like to propose some alternatives to this definition. His expectation was that the Board would propose a budget and focus on those types of things rather than trying to redefine the original agreement. There are many who do not think that the TRSSD being responsible for the roads is fundamentally fair; however, that is how it was set up. He stated he would be open to the idea of taking the responsibility for the roads away from the TRSSD, and exchanging that with something like Fire services. That would make it more equitable to what the other residents in the city pay for. He said he personally cannot support the proposed agreement, and he does not see how he can allow this to go to litigation.

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5.5 Amy Baird indicated she is fine with negotiating on the road issue. The whole reason they had to come up with a definition is because the original agreement defines that the TRSSD is responsible for maintenance, and they have never paid for the actual reconstruction of a road up there. SunCrest and Traverse Ridge are both in the District, so the TRSSD would be responsible for those as well under the City's interpretation.

Councilmember Stenquist advised that it is difficult to talk about the roads because they are public facilities. The City and the Board would be arguing about this forever. However, the City cannot just remove the road component without adding something else both parties felt was equitable.

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5.6 Mike Barker, City Attorney, indicated that any change to the services provided by the TRSSD would have to follow a process regulated by the State Code. This is not something that could just simply be approved by the City Council. The City Council still has authority over the TRSSDACB, and they can withdraw the delegation of authority from the Board at any time.

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5.7 Councilmember Summerhays stated it is a tough decision for him to barter services for the roads. He suggested that if they wanted to get rid of the TRSSD, they would have to have a special tax assessment done on all of the homes up there to make them more

equitable to what the residents outside of the District are paying. These residents were not required to pay the impact fees that the rest of the residents did.

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5.8 Councilmember Rappleye noted the Board has asked the City Council to look at the wording of their Interlocal agreement, and the Council has gotten a little off track. One of the things he sees is that the original agreement was the enabling document that allowed the development to be built. It is hard to undo that because, in his opinion, SunCrest would not have gone forward without that agreement. It is hard to go back and rethink that. Most of the people in the valley get mad when they hear that the SunCrest residents do not want to pay for the road repairs and snow removal. The City Council has tried to strike a good balance, but he does not think he can agree to the proposed language in this Interlocal agreement. The definition the Board came up with is not pertinent to this Special Service District. He is fine looking at other options, but he is not sure they can do that without undoing the original document.

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5.9 Councilmember Vawdrey explained the definition of road construction for her means they build a new road. The words repair and maintenance means that they maintain what they currently have. She said she does not agree with the Board's definition either.

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5.10 Councilmember Weeks stated she is new on the Council, and she is still learning. She has been up on Deer Ridge, and the road is a mess. She agreed that it needs to be fixed. She commended the boardmembers for the great job they have done. They were able to get Class C Road Funds for the District, so the residents do not feel they are being double taxed as much. The City is trying to get money from the State to repair Traverse Ridge and SunCrest Drive, and at one point there was talk about the City taking over the repair and maintenance of those roads. She expressed concern that the more they debate about who is in charge of Deer Ridge, the more the residents are hurt. She stated she is only one vote, but she suggested they try to work out a deal where both parties put money into the project and get the road repaired. Everyone wants the road fixed, and she would like to see it done sooner rather than later.

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5.11 Councilmember Summerhays noted that 3 years ago the City put \$1.5 million into Traverse Ridge Road and paid for it with City funds.

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5.12 Councilmember Weeks asked the City Council if they are willing to compromise with the Board in order to get Deer Ridge repaired.

Councilmember Rappleye replied it is not that easy. The City Attorney has told them they cannot just do it because there is an agreement in place.

Councilmember Weeks then questioned whether it would be unlawful for the City to put money into fixing Deer Ridge Drive if the TRSSD put money into it as well.

Mr. Barker explained it would all depend on the circumstances and how it was structured.

Councilmember Rappleye noted they would still have to take \$1.7 million from another project in order to fix the road. That is a lot of money. If they give the Board \$500,000, the project would not get done. The City can typically do one road project each year, and some residents have waited 10 to 15 years to get their roads fixed. This would not necessarily be a compromise for the City; it would ultimately be a shifting of funds.

Councilmember Weeks suggested the TRSSD could put \$1 million into the project and the City could put in \$500,000 just to get the project done. She said she does not believe they have the money to completely do the road at this time.

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5.13 Councilmember Stenquist stated there is a lot of history behind this issue. It is not that it would be illegal for the City to do it, they would just be violating the agreement that is in place. This would be a violation of trust for the residents outside of the District. He would like to come up with an alternative, but the Council would have to agree that it is equitable to the entire city.

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5.14 Councilmember Weeks indicated the Board is concerned that the definition is vague, so they are trying to solidify the definition to make sure they know what they are responsible for. She would like to see this problem solved.

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5.15 Mr. Lunstad noted Blaine Carlton listened to the minutes when the TRSSD was established. There was specific language about reconstruction and construction. The discussions leading up to the approval of the agreement specifically excluded construction from the responsibility of the TRSSD.

Councilmember Rappleye explained that was because the developer had to construct all of the roads up there and pay for them. They are normally paid for with impact fees; however, that was not the case in the District.

Mr. Lunstad indicated it was their understanding that it was based on the Utah State Code definition of construction and reconstruction. Draper City owns the roads. Deer Ridge Drive went into complete failure within five years. It did not fail because of elevation or snow. It failed because it was under-designed.

Councilmember Stenquist clarified that it failed because the developer used faulty materials. There might have been some discussion about the definitions; however, that was not included in the adopted agreement. The City Council has had many discussions

about this over the years. The City has always maintained the position that the TRSSD is responsible for the roads.

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5.16 Councilmember Summerhays asked whether the District plans to budget any money for road repair next year if the City does not approve this agreement. Ms. Baird advised their current budget has \$100,000 for road maintenance and repairs. They set aside \$193,000 for Deer Ridge if that gets reconstructed. That would include the cost of 2 inches of asphalt. They do have a fund balance, but they would have to have a budget hearing if they wanted to use that.

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5.17 Councilmember Weeks said she is concerned about Deer Ridge. She stated she has looked at what it would cost if they wait five more years with the rising oil prices and the labor costs increasing. That is why she feels a sense of urgency to get this done.

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5.18 Ms. Baird stated a lot of people want Deer Ridge Drive fixed; however, the residents up there do not want to pay to reconstruct a public street when the residents in the valley do not have to.

Councilmember Weeks responded that she has not had her street paved in sixteen years, and there is a huge crack in it.

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5.19 Mayor Walker explained the issue at hand is whether or not the City Council wants to accept the definitions the Board has proposed with respect to road repair and maintenance. The agreement language is broad, not vague. That is a key distinction. He clarified that Councilmember Weeks had commented that the Board had obtained road repair funds. That is inaccurate. The City Council lobbied for and obtained money to repair SunCrest and Traverse Ridge Drive. The City, in their capacity of representing the District, obtained a significant amount of State funds to repair those roads. The issue really is the definition of repair and maintenance. The Board defines repair as two inches of asphalt. Fundamentally, the Council set up the TRSSDACB and granted them their authority. It does not make a whole lot of sense to grant the Board the authority to sue the residents of Draper if they do not like the City's interpretation of the agreement. That is not progress at all, and it is actually worse than what the City had before. The issue is actually the District's budget. If the City Council were to do away with the Board and take it back to how it was before, they would set a budget to repair roads. There is a good possibility that the residents in the District will refer the budget every single year so they might never get any money spent. That was the genesis for the creation of the Board. He stated this will keep coming back around if the Council and Board do not come to a consensus. The law is pretty clear with respect to who sets the definition. It is the City Council, as they are the ones who created the TRSSD. The legislative history is interesting, but it is certainly not the law. The law is what the ordinance is when it is passed. He expressed his opinion that the court would ask the City for their definition

because they are the ones who created it. The concept of the Board litigating against the City is nonsense. It does not make any sense for them to take TRSSD funds and sue Draper City because they do not like the definition that is in the agreement that created the Board. That is a problem the City Council should consider how to solve without litigation being an option. The City has already done an equitable split. They have apportioned the amount of property tax that already goes to City roads, and that has been credited back to the District. That was based upon recommendations from various agencies and consultants. He expressed his opinion that the District has to decide to fix Deer Ridge Drive because it is a District road. If the City wants to change the agreement, that is a different situation. The City created this Board with the intent of trying to negotiate. They have made different offers, and what they have now is the Board proposing a definition that places the burden entirely upon Draper City. Going forward, the Council needs to decide if they want to try further negotiations. The parties will need to get together and do it. It looks like the Board wants to have a narrow definition and then sue the City of Draper if they do not get what they want. The question tonight is whether or not the Council wants to accept that definition.

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5.20 Ms. Baird indicated they do not plan to run right to court if the Council does not approve this agreement. If the City is willing to work with the District, similar to what Councilmember Stenquist suggested, they are open to that. They are just trying to clear this up so they can move forward with how to do the budget. They need a clear understanding of who is responsible for what, and they are open to other ideas.

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5.21 Councilmember Stenquist moved to deny approval of the agreement with the Traverse Ridge Special Service District for road maintenance and repair. Councilmember Summerhays seconded the motion.

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5.22 Councilmember Stenquist noted he cannot support the definition that has been put forward in this agreement. However, he is open to negotiate with the TRSSD.

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

[8:02:33 PM](#)

6.0 Public Hearing: Ordinance #1188, Vacating a Portion of the 300 West Right-of-Way Located Generally Between River Chapel Road and 11600 South

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6.1 Mr. Fox indicated this street vacation is a continuation of a vacation the Council approved in November for the dealership between 11400 and 11600 South. This portion is between River Chapel Road and where they previously vacated the street.

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6.2 Mr. Dobbins explained the section going north that was previously vacated was a disputed partial right-of-way. Even if the City had intended to put a road through there at some point, they did not have the right-of-way.

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6.3 Councilmember Stenquist asked whether this would limit the development of the area. Mr. Dobbins explained it actually helps with the development. It is the same property owner, so it encourages it being developed as one parcel.

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6.4 Mayor Walker opened the public hearing.

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6.5 Doug Holmberg, property owner, indicated he is in favor of this vacation. They also supported the street vacation to the north.

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6.6 Mayor Walker closed the public hearing.

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6.7 Councilmember Vawdrey moved to approve Ordinance #1188. Councilmember Rappleye seconded the motion.

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6.8 Mr. Dobbins noted this property was recently dedicated by the property owner, so the City never paid for it. The property will just revert back to them with approval of the vacation.

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

[8:07:26 PM](#)

7.0 Action Item: Ordinance #1187, Amending Section 6-17 of the Draper City Code to allow for Large Scale Entertainment Events

[8:07:38 PM](#)

7.1 Keith Morey, Community Development Director, indicated the City has received a request for a special event that exceeds the normal parameters. Staff came up with amendments to allow for a longer event. The changes include:

- Large Scale Entertainment Event: an entertainment event with an expected attendance of at least 1,000 spectators at any one time which is located on public or private property
- A large scale entertainment event may be approved for the duration of six months with the approval of a Special Event Agreement with the City Council. An

agreement may be renewed for a subsequent duration at the City Council's discretion and subject to the denial criteria found in Section 6-17-100 of this Title.

- For a large scale entertainment event, in addition to the special event permit and business license, a special event agreement is required
 - The special event agreement shall be applied for through the City Manager's Office with approval or denial made by the City Council. Prior to any City Council meeting, the City Manager's Office may require application review by City staff or an outside agency, as may be deemed necessary, to ensure adequate conditions of approval
 - Such agreement will outline event specific conditions of approval and application requirements, including but not limited to the conditions and requirements listed in this chapter
- Sporting, musical, or other spectator or participation events, including all "public events", as defined in Chapter 7 of this title, shall furnish the City with names, addresses, state tax collection numbers and City business license numbers of all concessions and vendors making taxable sales at the event. Sporting, musical or other spectator or participation events charging admissions shall be required to obtain a City temporary use permit or special event permit, a temporary business license, and shall pay the required license fee and any additional fee as set forth in the City's consolidated fee schedule unless exempted by ordinance or other applicable local, state or federal law
- Deleting Section 6-7 as it was no longer being used

Mr. Morey indicated right now the special events agreement will be approved by the City Council. If they do not want that, they can change it to allow the City Manager to approve it.

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7.2 Councilmember Weeks moved to approve Ordinance #1187. Councilmember Summerhays seconded the motion.

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7.3 Mr. Morey noted the special event ordinance only requires a \$50 application fee. He said he is fine with that; however, he is not sure if it should be more.

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7.4 Councilmember Rappleye said he is fine with the \$50 fee. If they find that it takes a lot more staff time, the Council can look at increasing it.

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

8.0 Council/Manager Reports

8.1 These were taken care of in the Study Meeting.

[8:15:08 PM](#)

9.0 Adjourn to a Closed-Door Meeting to Discuss Property Acquisition, Litigation, and/or the Character, Professional Competence, or Physical or Mental Health of an Individual

[8:15:14 PM](#)

9.1 Councilmember Summerhays moved to adjourn to a closed-door meeting to discuss litigation. Councilmember Rappleye seconded the motion.

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

9.3 The meeting adjourned at 8:15 p.m.