

MINUTES OF THE DRAPER CITY COUNCIL MEETING HELD ON TUESDAY, MARCH 7, 2017, 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; Rhett Ogden, Recreation Director; Glade Robbins, Public Works Director; John Eining, Deputy Police Chief; and Bob Wylie, Finance Director

Dinner

1.0 Appeal: Draper South Point Apartments Amended Site Plan

6:00:05 PM

1.1 Mayor Walker explained this is an appeal on the request of Ryan Jamie, representing Traverse Chateaux Homeowner's Association. The appeal is regarding a decision made during the Planning Commission meeting held January 12, 2017, in which the Commission approved the Draper South Pointe Apartments amended site plan.

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1.2 Jennifer Jastremsky, Planner, said the property under appeal is located at 166 East Highland Drive, between the Traverse Chateaux and Chandler Pointe communities. The property has a split land-use designation with community commercial and open space parks on the southern portion of the subject property. Administration's determination regarding the boundary of the split zoning has also been appealed, and will be heard by a variance officer later.

The Planning Commission approved a conditional use permit on the subject property on January 23, 2014. That permit allowed a mixed-use building with up to 120 dwelling units. The applicant then obtained site plan approval on June 25, 2015, and later a six-month extension on June 9, 2016. At the time of the original site plan approval, the applicant did not own a certain small sliver of the subject property, which Ms. Jastremsky identified. After approval was obtained, the applicant acquired said portion. On October 21, 2016, the applicant applied to amend their site plan to incorporate the small section of land into the site plan; at the time, their previously obtained site plan was still valid.

The amended site plan was approved by the Planning Commission on January 12, 2017, with a 3-to-1 vote, which is now being appealed. With the extra land that was incorporated, the applicant amended their access points to the property to better provide fire access and serviceability to the site. The previous design had two building wings on underground parking. The current design has two building wings connected by a covered walkway. The site plan also amended the building elevation in the second design.

Building height is measured from the average finished grade to the average point in the highest peak of the roof. That height, after measuring all four sides, is 43 feet. The Code allows the building to go up to 45 feet in height. Ms. Jastremsky stated the height measurements look at the grade plane, so as buildings are adjusted on the property or the grading gets adjusted, the building height is altered. She noted the amended site plan does conform to Code. Upon approving the amended site plan, the Commission indicated that the new site plan was an improvement, and the property owners had a right to develop their property if the proposal complied with City Code. It is staff's position that the amended site plan complies with Draper City municipal Code.

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- 1.3 Councilmember Stenquist asked if the appeal was just on the amendment, not on the original site plan. Ms. Jastremsky said it was for the amendment. The appeal period for the original has passed. Councilmember Stenquist wanted to clarify that the changes in the amended site plan included building height, elevations, retaining walls and road access. Ms. Jastremsky said that was correct. The new plan has a drive access that goes back into the building which allows for better fire service. Changes to parking were also made.

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- 1.4 Councilmember Summerhays asked if they needed two accesses. Ms. Jastremsky answered affirmatively, and said the applicant has an access to Highland Drive, as well as a proposed emergency access into Chandler Pointe. Councilmember Summerhays asked if the emergency access will be gated. Ms. Jastremsky said it will not be gated, and will serve as emergency access for both communities.

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- 1.5 William Bush, appellant, said no members of the City Council met with him prior to this meeting. He said he would like to reserve five minutes for rebuttal at the end. He is representing the Traverse Chateaux Homeowner's Association (HOA), in place of Ryan Hymie who is out of town. Mr. Bush stated he is not an attorney, but a citizen. While he understands that one of the primary roles of the Council is to represent the City of Draper, he also understands they were elected by the people to represent the interests and rights of the people of Draper. He appreciates the opportunity to clearly describe their objections to certain aspects of this site plan for South Pointe Apartments, who would be their new neighbor.

Mr. Bush urged the Council to consider what is right and wrong in this development and its impact on the current homeowners. In the submitted appeal, they identified areas of the January 12, 2017, Planning Commission public hearing that they felt were highly irregular. The HOA found it absurd that two separate buildings should be considered as one building because they are connected by a walkway. No one in their neighborhood considers two separate single family homes as one building because they are connected by a walkway or a sidewalk. The HOA is of the opinion that the City and developer both exercised unusual creativity in calculating the building height to justify these four-story buildings.

The Planning Commission approved a site plan that is dependent on a possible rezone of the sliver of land, without which the developer cannot build this proposed site plan. Mr. Bush said the sliver of land required to implement their plan still has not been resolved, and as such the HOA challenges the rezone. They question whether this plan should have been approved solely on the developer's hope to build on the subject property. The developer is proposing to implement the absolute minimum number of parking spaces for apartment residents because the site footprint cannot accommodate any more. As a result, this will encourage parking on Traverse Ridge Road.

Mr. Bush said the site plan expired on December 6, 2016. If, as the City states, the developer, on October 21, 2016, applied to amend the site plan, why was the public hearing not held before December 6, 2016, when the site plan expired. Mr. Bush said the City has gone to great lengths to talk their way around this discrepancy but has provided no evidence. He opined that the decision by the Planning Commission members to proceed despite this procedural failure seems highly irregular. Mr. Bush said the City Attorney advised the Commissioners on January 12, 2017, to request a continuance because of the evident problem with approving a site plan that had expired. Considering these problems with the site plan, Mr. Bush said the Council should be concerned that the Planning Commission would approve this plan. The HOA has decided to focus the defense of their appeal on those items of greatest importance to their neighborhood community. They are as follows:

1. Access to Highland Drive. The proposed site plan details only one entrance/exit to the South Pointe Apartments. Mr. Bush said the amended site plan should never have been approved without the developer gaining guaranteed access to Highland Drive. Draper City's packet stating their position on this appeal, claim that "the future South Pointe development will also have multiple access points onto both Highland Drive in addition to the connection on Traverse Ridge Road providing residents alternative access points to the property." Mr. Bush said many of the HOA's traffic concerns would be alleviated if that additional access was available. This right-of-way should be required as part of the site plan with assurances that it will be implemented. They request that the City Council require confirmed access to Highland Drive as a condition of approval.
2. Protection of Traverse Chateaux's private roads. Mr. Bush said no matter where one wants the irrigation water to flow it will always take the path of least resistance. The same applied to traffic flow. Draper City has stated, "...it is anticipated that those exiting the development who need to go north would use Traverse Pointe Drive as a turnaround location after the median has been installed." Although this is what the City wants to have happen, they know that South Pointe Apartment residents exiting onto Traverse Ridge Road will either cross a double yellow line illegally in turning left, or they will use the Traverse Chateaux private roads to accomplish their turnaround. Drivers will go through their developments or turn around in their egress areas or parking lots because the Traverse Chateaux private roads are the path of least resistance. Mr. Bush said Traverse Pointe Drive is further east up Traverse Ridge Road, and as such is out of sight and is not the path of least resistance. The HOA invites the City Council members to drive up Traverse Ridge Road to test this hypothesis. Mr.

Bush said the Traverse Chateaux community should not have to bear the brunt of inadequate traffic planning by incurring the cost of gates to protect their private roads. Instead, they request Draper City to agree as a condition of approval that the City will protect their private roads by whatever means are necessary.

3. Protection of Traverse Chateaux's private property. For the City to approve a new development, City Code requires that "the proposed development plans will not be deleterious to the health, safety, and general welfare of the general public not the residents of adjacent properties." Mr. Bush said claiming a factual statement without legal proceedings or evidence is just opinion. Furthermore, per Draper City municipal Code Section 9-23-110, a six-foot high wall shall be used between commercial, industrial or office land uses, and residential zones. As a condition of approval, the site plan should protect the Traverse Chateaux private property by implementing this physical barrier as a continuation of the rod iron fence already extending along the north side of their development.

At the meeting held on January 12, 2017, Draper City provided an annotated height study that stated the highest point on the roof of the proposed development will not exceed 4,914.5 feet. Mr. Bush said this is a very specific measurement the HOA would like to have as a matter of record for this hearing.

In conclusion, Mr. Bush asked if any of the Council had walked the perimeter of their property or that of the property being proposed, to see how this development will impact the Traverse Chateaux community. He asked if any of the Council have stood where the new neighbors of South Pointe Apartments must dodge downhill traffic to navigate a left turn onto westbound Traverse Ridge Road. He asked if any of the Council have attempted a turnaround on Traverse Ridge Road to travel westbound. These are safety issues that should not have been ignored. He said if any of the Council have not been to the neighborhood in question, he wonders how they could pass judgment on the appropriateness of the subject site plan. He stated this development, as proposed, is too large for the space. The proposed buildings are massive, the property is not adequate to hold the proposed development, and the City has allowed unscientific arguments to justify their approval of the site plan.

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- 1.6 Councilmember Summerhays asked about the elevation. Mr. Bush said the elevation of the highest building of this new development is 4,914.5 feet, which he acknowledged is a major improvement over the original site plan.

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- 1.7 Chris Hogle, Attorney for the defendant, was opposing the appeal. He said what needs to be kept in mind is that the proposed amended site plan is a great improvement over what was approved by the Planning Commission in 2015. The record identifies many improvements. One Mr. Bush mentioned was that the building was reduced by one story, which is the equivalent of 12.5 feet. The roof lines were modified to create a more varied look to make it less of a massive, monolithic type structure. The sliver of land was added,

and this allows for better traffic circulation on the east side of the site. This improves traffic and safety. Emergency vehicles will have an easier time navigating the interior portion of the property. Distance between the retaining walls have been increased which allows for more landscaping. The sliver of land between the development and the Traverse Chateaux area is going to be landscaped with trees, providing a greater buffer than what was in the original site plan. Mr. Hogle said these changes are better for the Traverse Chateau community, and they should be applauding the amended site plan instead of opposing it. It is also too late to challenge aspects of the plan like external traffic flow, massing, and silhouette. Those items were approved in 2015.

Mr. Hogle said that contrary to Mr. Bush's remarks, the original site plan had not expired when the amended site plan was filed. There was a June 2016 extension, and the amended site plan application was filed October 21, 2016. Mr. Hogle said while the Traverse Chateaux property owners have rights, so does the owner of the South Pointe property. According to the Municipal Land Use Development Management Act under Utah State Law, when there is a complete application for an amended site plan that is filed, if the applicant pays all applicable fees and submits a proposal that conforms to municipal ordinances, the Planning Commission is required to approve said application. Mr. Hogle stated the amended site plan was in the statute provision Ms. Jastremsky cited in her report. As such, not only was the Planning Commission required to consider the amended site plan application which was timely filed and had all application fees paid, but they also had an obligation under that same statutory provision to approve it because it complied with Draper City Code.

Planning staff had made some suggestions about what the applicant could do to make a better proposal. For example, the covered walkway was from planning staff. Previously, as it was originally approved back in 2015, the two wings were connected by an underground parking structure. They are still connected by an underground parking structure, but now, in addition, there is the covered walkway. Those two physical connections means that it is one building for the purposes of international building Code (IBC), and as interpreted by the City's building official, the City's planning department, and by the experts who apply the IBC and its definitions and provisions on a daily basis.

The building height is measured as per the IBC, which is adopted by Draper City Code. The IBC outlines how to measure the building height when the building is on this type of a slope. In the case of this application, the height is well below the maximum of 45 feet. Mr. Hogle said the City can't change how to measure the height of a building just for one particular case. The City wants responsible development, which means applying IBC provisions.

There are two access points; one on Traverse Ridge Road, and another on the north side of Highland Drive. The access points for the project have not been changed since the original site plan was approved in 2015. It is too late to change those items now, and it is important to enforce these time limits in order to give assurance to developers, applicants, and property owners who invest a lot of money in these projects. Mr. Hogle stated in regards to traffic, the City's Engineer recommended this site plan for approval. A traffic study

isn't required according to the City's guidelines for a project that has less than 150 dwelling units. In the case of the subject development, there are 120 dwelling units.

Mr. Hogle argued that the path of least resistance isn't through the neighborhood streets of the Traverse Chateaux community, but rather around the LDS Church along Traverse Road. There is nothing in the record regarding said matter, and he said the appeal needs to be based on matters solely included in the record.

There was a contention about commercial deliveries in the written appeal. Per the amended site plan, a loading dock is not needed. There will be up to four retail units, and staff found it to be acceptable to have loading docks.

The building has been reduced in size by one story, which is an improvement; otherwise, the project is unchanged and it is too late to challenge the matter now. This is the CR zone, and as per Draper City Code typical developments in this zone are commercial centers with large scale master plan commercial centers with big box stores, offices, and various types of high residential uses. Therefore, Mr. Hogle argued the property is zoned for such usage. As such, the property owner cannot be denied uses that are typical to the zoning assigned to the property.

Mr. Hogle presented a diagram of a 24.5-foot setback from the closest point to the Traverse Chateaux property line. Before, in the original proposal it was only five feet.

Mr. Hogle said the notice was adequate. The appeal challenges the notice based on when it was received by Traverse Chateaux residents, but receipt isn't the test under the City Code. He stated the notice was sent properly.

In regards to parking, Mr. Hogle noted there are two stalls for every unit in the development, which was deemed adequate. Mr. Hogle requested the Council deny the appeal and allow this project to move forward.

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1.8 Councilmember Stenquist asked if there is still underground parking in addition to surface parking. Mr. Hogle answered affirmatively.

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1.9 Councilmember Summerhays asked how much parking is underground. Chris Jensen, architect, said there are two parking areas under the building. One holds approximately 35 stalls, the other holds approximately 65 stalls. In addition, there is parking underneath the plaza.

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1.10 Jim Allred, architect, said he has worked on the subject development from the beginning. They have tried to be good neighbors throughout this process. They are not deep-pocketed developers. They had approval for this project and scraped together \$44,000 for the building permit when they submitted their documents to the City. He said they had every

right to build that building. When they saw that they could build the project a story lower and loop a road through, thus making it safer for the public and staff, they felt they had a better project. They submitted the amendment with those facts in mind.

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1.11 Mr. Bush said the HOA does not want to stop this development. They recognize that this is someone else's property and they do have a right to develop it. Mr. Allred mentioned that they have made the site plan better. He argued the site plan is not at its best, which is the issue. He said the subject property does not have the right-of-way on the north end of the property. At this point, the site plan does not include two entrances and exits. It includes the possibility of two, but one is an emergency entrance only. He expressed concern about the safety of traffic, and said it was important for the developer to have this considered as one building. If it were two buildings, they would need commercial retail space on the lower level of each property which their site plan cannot accommodate at this point. While the applicant has gone to great length to describe it as one building, but Mr. Bush opined that it is two separate buildings. The HOA does not believe their requests are unusual. They will require small changes to the proposed development plan, which will have a tremendous impact for good on the residents of Traverse Chateaux and Chandler Pointe. The HOA requests the City Council require confirmed access to Highland Drive as a condition of approval.

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1.12 Mayor Walker asked the Council how they would like to discuss the matter.

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1.13 **Councilmember Summerhays made a motion to deliberate in private with legal counsel. Councilmember Stenquist seconded the motion.**

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1.14 Councilmember Vawdrey requested Mr. Barker review the scope of the appeal so the public and everyone involved could have a good understanding of the issue.

Mr. Barker said the appellant has the burden of proof to show that the Planning Commission's decision was not correct. The standard is correctness. This type of appeal on a site plan comes down to whether the site plan complies with City Code. If it does, the appellant is entitled to a denial of appeal. If the Planning Commission's decision was not correct, then the appellant would be entitled to a favorable decision. The correctness of the decision falls to the Planning Commission, and whether or not they applied correct standards, and whether or not the site plan complies with City Code. The appeals are taken off the record, but both parties stayed close to the record.

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1.15 Councilmember Summerhays asked Mr. Barker what he advised in terms of the Council making a decision tonight or at a later date. Mr. Barker said by listening to the presentations, both arguments stayed on point. He saw no reason why a decision couldn't be made this evening.

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- 1.16 Councilmember Stenquist asked since the appeal is to the amendments to the site plan, if they were to deny the appeal then the amended site plan would stand. He also asked if the Council were to uphold the appeal, if the site plan would revert to the original site plan.

Mr. Barker said it is within the Council's authority to uphold the Planning Commission, deny the Planning Commission, or make modifications to the decisions of the Planning Commission. The Council could substitute their judgment, but that would put the Council in the tough position of acting the part of developer; he did not recommend that route.

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- 1.17 Councilmember Weeks asked if there were two entrances and exits on the original site plan. Ms. Jastremsky said the entrance points to the property have not changed between the original and the amended plans. There is an entrance on Traverse Ridge and an emergency entrance onto Chandler Pointe. The applicant is showing a curved road, which will eventually connect to future development to the north.

Councilmember Weeks said the above statement was speculative, and asked if the developer currently has permission to connect. Ms. Jastremsky said the City requires cross connection in commercial zones, so all of the commercial property is owned by the same entity. They will have a road come in from Traverse Ridge, which will curve around and go into future developments. There will be access to Highland Drive and 65 East. Councilmember Weeks was also concerned with the traffic flow, and said if Chandler Pointe is an emergency exit only, there is only one entrance/exit.

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- 1.18 Councilmember Stenquist asked for clarification on what is considered emergency access. Ms. Jastremsky said Chandler Pointe is a private development with private streets. The development in question is also private and will also have a private street. Without these two property owners coming to an agreement there isn't legal access for people to generally use that entrance. That said, emergency personnel have rights to use emergency accesses.

Councilmember Weeks asked if there would be a gate at the emergency access. Ms. Jastremsky said there would not be a gate, but it will be marked "local traffic only, private road."

Councilmember Summerhays asked if the same property owner owns the property. He said it would be very simple to ask for access through the area instead of calling it an emergency exit. Ms. Jastremsky said the emergency exit is a different HOA and property owner. Councilmember Summerhays asked if the HOA is not going to allow use of the road. Ms. Jastremsky said without the HOA giving permission for general traffic to go through, the new residents will not have legal rights to go into the private streets of the neighboring HOA. Councilmember Summerhays asked if it was built by the same developer. Ms. Jastremsky said it was not. The property to the north is owned by the same people, whereas the property to west is a different community.

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

Business Meeting

[7:01:58 PM](#)

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

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2.0 **Thought/Prayer and Pledge of Allegiance**

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2.1 The prayer was offered by Marshall Quinton, Scout Troop #1260.

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2.2 The flag ceremony was presented by Scout Troop #1260 and was led by Ethan Howell.

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3.0 **Report: Parks and Recreation Department Annual Report**

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3.1 Rhett Ogden, Parks and Recreation Director, gave an update on what is going on in the Parks and Recreation Department. They added two parks this year: South Fork Park and the Dog Park. The Day Barn indoor pavilion was reserved 215 days out of the year. There were 411 outdoor pavilion reservations, and over 2,000 field reservations in the last year, which includes a lot of upkeep in the busy season. There are 25 playgrounds which are all busy.

Trails and open space. They opened Vertical, which is a downhill trail, South Maple Hollow, and Mister Hollow trail. Their staff has kept busy organizing volunteers for Eagle Scout projects or church volunteers, and volunteers from different businesses, totaling 3,000 hours of volunteer hours. They adopted their open space master plan this year which is going to guide their department for the next several years. They had a project in which they closed off the south side access with gates and boulders to cease the illegal activity with vehicles, which has been successful.

The recreation division is always very busy. In 2016 they added some new programs including a girls' softball league, and a boys' machine pitch baseball league, and private bike races. Currently there are 29 different programs offered through the recreation division. Over 5,000 kids participated in these programs, and nearly 2,000 adults.

They also do all permitting for community events that the City sponsors as well as all outside private events. They had 58 applications come through their office this year. They put on several events such as the Easter Egg Hunt, Haunted Hallow on Halloween, The Daddy/Daughter Dance, and the Tree Lighting Ceremony.

The amphitheater has been very busy. There were three or four concerts that were produced by the City, as well as three different shows from the Arts Council, a couple movies in the park and other miscellaneous rentals.

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3.2 Councilmember Summerhays thanked Mr. Ogden for all of their hard work.

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3.3 Councilmember Weeks said she saw that there was a program for tennis lessons for adults and asked if there will be tennis lessons for teens as well. Mr. Ogden said there will be. Councilmember Weeks said she saw that there are golf lessons for ages 10 and under. She asked if there are golf lessons for teens. Mr. Ogden said unfortunately there are not.

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3.4 Councilmember Rappleye thanked Mr. Ogden for his work. Mr. Ogden said he has a great staff. Councilmember Rappleye said the volunteer recognition breakfast was outstanding and was one of the better events they have had. It was well attended. He also said there is a growing need for certain types of activities, including a demand for pickle ball.

Councilmember Rappleye asked how maintenance was handled this year, and if it has been done to satisfaction. Mr. Ogden said there are many areas upon which they could improve, but overall they did a good job despite some challenges with staffing. They have already made goals to focus on ways to improve this year. Councilmember Rappleye said the management has been good.

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3.5 Councilmember Vawdrey also said the volunteer breakfast was excellent and gets better every year. Mr. Ogden said it was catered by staff.

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3.6 Councilmember Summerhays said the senior center has several places to have pickle ball courts. He said the splash pad is going to be a great addition to the City. He noted traffic may be an issue. Mr. Ogden said they have 110 stalls planned at the splash pad itself, and across the street will be another 70 stalls.

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3.7 Councilmember Weeks said the side of the hill at the dog park is getting muddy. She asked if there is any way to fix the problem. Mr. Ogden said this matter was discussed at the last meeting, and they are currently working on a solution.

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4.0 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.

4.1 No one came forward to speak.

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5.0 Consent Items

- a. **Approval of February 21, 2017, City Council Meeting Minutes**
- b. **Approval of March 1, 2017, City Council Tour Minutes**
- c. **Approval of Staffing Chart to Add Battalion Chief to Fire Department Staffing**
- d. **Approval of Resolution #17-19, Appointing Josh Christensen to the Parks, Trails, and Recreation Commission**
- e. **Approval of Agreement #17-36 with A to Z Landscaping, Inc for Mowing and Landscaping Service and Maintenance**

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5.1 Councilmember Vawdrey moved to approve the consent items. Councilmember Weeks seconded the motion.

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

[7:21:00 PM](#)

6.0 Action Item: Approval of Amendment to the Development Agreement with DJ Investment Group, David K. Mast, and Wasatch Land Company, Adjusting the Boundaries of the Hidden Canyon Estates and Mercer Mountain Development Projects

6.1 Mayor Walker advised this item will be continued to the next City Council meeting at the request of the applicant.

[7:21:32 PM](#)

7.0 Public Hearing: Providing Local Consent for Full-Service Restaurant License for Terra Mia

[7:21:44 PM](#)

7.1 Mr. Dobbins said the applicant has asked the City Council to approve a full-service liquor license for their restaurant.

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7.2 Councilmember Summerhays disclosed that he owns the building and the property it is on.

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

[7:23:17 PM](#)

7.4 Councilmember Weeks moved to provide local consent for a full-service restaurant license for Terra Mia. Councilmember Stenquist seconded the motion.

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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.

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8.0 Public Hearing: Authorizing the Surplus and Sale of City-owned Property Located Generally at 275 East Highland Drive and is Approximately 0.10 Acres

[7:24:20 PM](#)

8.1 Mr. Dobbins said the adjacent property owner is constructing a new development and is interested in purchasing the subject property.

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8.2 Mayor Walker opened the public hearing.

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8.3 Zane Morris, applicant, asked if a lot line adjustment was happening simultaneously with this application.

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8.4 Mayor Walker closed the public hearing.

[7:26:46 PM](#)

8.5 Councilmember Vawdrey asked Mr. Dobbins if there is currently a use for the subject property. Mr. Dobbins said there is no planned use for it at this time.

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8.6 Councilmember Stenquist moved to authorize the surplus and sale of City-owned property located generally at 275 East Highland Drive with the addition that the lot line will be adjusted simultaneously. Councilmember Rappleye seconded the motion.

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

[7:28:01 PM](#)

9.0 Public Hearing: Ordinance #1251, Request for Approval of a City Initiated Text Amendment to Section 9-10-040-A of the Draper City Municipal Code to Clarify that for Purposes of Locating an Accessory Building on a Corner Lot, the Front Wall Plane is the Plane of the Main Building Containing the Primary Entrance

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9.1 Dennis Workman, Planner, said this is a text amendment, and he indicated the text that would be added. He said Section 2-B states “accessory buildings over 200 square feet shall be located behind the front wall plane of the main building.” He said this is a very good section of the ordinance that they want to keep, but it can create problems when locating accessory buildings on a corner lot. Staff has proposed additional language within the ordinance to help define accessory buildings. The Planning Commission voted 4-to-1 to recommend approval of this text amendment.

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9.2 Councilmember Rappleye asked about building garages. Mr. Workman explained how a garage could be built on a corner lot per City Code.

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9.3 Councilmember Summerhays asked Mr. Workman if he was okay with this stance. Mr. Workman answered affirmatively, and said this was a very safe amendment to adopt. Councilmember Summerhays asked if the examples he provided in his presentation represent residents who are interested in constructing an accessory building. Mr. Workman answered affirmatively.

[7:34:24 PM](#)

9.4 Councilmember Stenquist asked if the definition of front entrance refers to the front pedestrian entrance or front driveway. Mr. Workman said it is the driveway to the front of the home. For purposes of locating an accessory building on a corner lot, the front wall plane is the plane of the main building containing the primary entrance. Councilmember Stenquist said he would assume that to mean the front door.

Mayor Walker asked if there is a definition of front entrance in the Code.

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9.5 Councilmember Weeks asked if they are looking to change the text amendment or if they want to adopt it as is.

[7:37:03 PM](#)

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

[7:37:21 PM](#)

9.7 Councilmember Summerhays asked to see Mr. Workman’s examples again.

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9.8 Councilmember Weeks moved to approve Ordinance #1251 as long as Councilmember Stenquist is okay with the definition of “primary entrance”.

Mr. Dobbins suggested that they call it the primary pedestrian entrance.

Councilmember Rappleye said it isn't clear enough. It is important the Council gets this right, because if it does not reflect what they want it to say, it could cause problems later. He proposed the Council continue this to the next meeting.

Councilmember Weeks withdrew her motion. She asked what is wrong with the term “front door.”

[7:40:30 PM](#)

9.9 Councilmember Weeks moved to continue this item to allow staff to make changes to the language. Councilmember Rappleye seconded the motion.

[7:41:08 PM](#)

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

[7:41:34 PM](#)

10.0 Action Item: Adopting the Draper City Feral Cat Policy

[7:41:46 PM](#)

10.1 John Eining, Deputy Police Chief, said they have been asked to draft a policy concerning feral cats. The purpose of the policy is to control the feral cat numbers either by managed colonies under a trap and release program, or humane euthanasia. Their policy would be that if they trap a feral cat that has been previously spayed or neutered, which is so indicated by the clipped ear, then that cat, if it is in good health would be sent to a managed colony. If that cat is not already a part of the program, it will then be humanely euthanized. A managed colony is a place where there is someone to take care of the cats. Another suggestion is to add a portion to Code to address feral cats, making it illegal to care for feral cats on public property.

[7:44:26 PM](#)

10.2 Mayor Walker said setting out cat food for feral cats would not be illegal.

[7:44:45 PM](#)

10.3 Councilmember Rappleye asked if there are three colonies in Draper. Deputy Chief Eining said he was only aware of two. Councilmember Rappleye said a third colony could not be managed. Deputy Chief Eining said there would be no need for a third colony. He said there could be other colonies that are not managed by humans. Deputy Chief Eining said that the new provision would only make it illegal to treat or care for feral cats on public property. Private property would be a different matter. There is also a difference between feral cats and stray cats. If an owned cat runs away it is a stray cat. If it then breeds, then the offspring are feral cats because they have had no contact with humans.

[7:47:36 PM](#)

10.4 Councilmember Weeks moved to adopt the Draper City Feral Cat Policy. Councilmember Rappleye seconded the motion.

[7:48:00 PM](#)

10.5 Councilmember Rappleye said this is an unusual thing to deal with, but there are a lot of cats that run loose. Having this policy is not only good for the animals, but good for the community.

[7:49:34 PM](#)

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

[7:49:56 PM](#)

11.0 Action Item: Resolution #17-21, Annexing Property into the Traverse Ridge Special Service District (TRSSD) and Repealing Resolution #16-67

[7:50:15 PM](#)

11.1 Mike Barker, City Attorney, said last November the City Council passed Resolution #16-67 which was based on a petition to annex land owned by MRECD AI Edelweiss into the Traverse Ridge Special Service District (TRSSD). The petition was a result of a requirement of the development agreement for Edelweiss that they annex into the TRSSD. Subsequent to the Council taking action, they approached the Lieutenant Governor's office. There were some discussions with their office regarding the fact that the boundary line between Utah and Salt Lake counties was not yet established. The action in November was to annex all of Edelweiss, which is bifurcated by that County line. The recommendation was they not finish that annexation but instead come back to Council with a reduced request by Edelweiss to just annex Phase I into the TRSSD. They have all other documents ready if the Council approves this modified annexation.

[7:52:25 PM](#)

11.2 Councilmember Summerhays asked if Mr. Barker sees any problems in this or any other phase with this annexation. Mr. Barker said the preferable action would be to determine where the boundary is going to be between the two counties, then bring all of the land in one mass action before the City Council.

[7:53:23 PM](#)

11.3 Councilmember Vawdrey moved to approve Resolution #17-21. Councilmember Summerhays seconded the motion.

[7:53:45 PM](#)

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

[7:54:01 PM](#)

12.0 Action Item: Resolution #17-22, Repealing Resolution #92-17 and the Draper City Manual of Administrative Rules and Regulations

12.1 Mr. Dobbins said over time the City has adopted Codes and policies that supersede old ones. Going back through the record they could not find when they were repealed, so they are asking to repeal all of it at once. It will not affect current policies.

[7:55:33 PM](#)

12.2 Councilmember Weeks moved to approve Resolution #17-22. Councilmember Vawdrey seconded the motion.

[7:56:05 PM](#)

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

[7:56:22 PM](#)

13.0 Council/Manager Reports

[7:56:25 PM](#)

13.1 Councilmember Summerhays said over the weekend he had people getting in touch with him saying one of the City Councilmembers had a political ad in the Draper newspaper. Councilmember Weeks said it was her letter. She said it was not a political ploy; rather, she detailed what she did this year and thanked people. Other Councilmembers have had letters published in the newspaper and there was nothing political about it. Councilmember Summerhays said he felt like it was a political ad, as did those with whom he spoke.

Councilmember Vawdrey said she believes the ad should contain information for the City. Although she admires Ms. Weeks's respect for educators, the event at the aquarium is not a City event and she does not believe they should showcase private events in the City newsletter unless they are going to open that up to everyone. If this is going to turn into a temptation to politic and self-promote, she thinks the Council should not do it anymore and let the Mayor be the spokesman for the City.

Mayor Walker said when someone writes an article, they can take credit however they want. However, where Councilmember Weeks may have crossed a line is when she advertised her Facebook page in the paper. Her Facebook page is not a government page, but a personal political page. A few years ago, when the City was considering the Recreation Center, the Council was going to sponsor a bond to go with it; however, government can't advocate for political points and purposes. They were going to put an information pamphlet out for the voters, and the language of the ad almost violated the law. The problem is Councilmember Weeks has the benefit of driving traffic to her Facebook page, paid for by the City taxpayer since that paper is funded entirely by the City's budget. The question is: where is the line? With respect to the teacher's issue, that wasn't a City sponsored event. Mayor Walker said his concern is the legal issue of the taxpayer funding a political speech.

Councilmember Weeks said she sent the letter to the communications expert who approved it. There are steps to make sure the City is protected, and she approved it. Other Councilmembers have included their Facebook pages in letters published in the Draper newspaper. She does not see it as a political ad, but as a letter. One thing residents wanted was transparency. They wanted more information about what was going on in the City before it happened, and this is an option of more transparency. Mayor Walker said a Councilmember's Facebook page is not transparency; rather, it is personal political speech. The Mayor's Facebook page is maintained by the City. Another problem is that staff is not liable. In the end, it is the elected official's responsibility.

Councilmember Weeks asked what Code she has violated. Mayor Walker said it is a State Code and a class B misdemeanor to use public funds for personal political agenda. The potential legal issue for the City is that taxpayer money gives traffic to a personal Facebook page. Councilmember Weeks said she thinks if it is a State Code, the person in charge of communication should be more aware of what is contained in State Code.

Councilmember Summerhays said it looked like an advertisement.

Mayor Walker said it is a matter of personal political agenda, and it is not staff's responsibility but the responsibility of the elected official. Councilmember Weeks said it would be staff's responsibility if the staff in charge of communication approved it. Mayor Walker said the problem is that when a Councilmember tells a staff member to do something, it is not staff's job to tell a Councilmember how to be a politician. Councilmember Weeks responded that this staff member in particular oversees editing the paper and what goes into the paper, and thus should be aware of these issues.

Councilmember Stenquist said it is inappropriate to put this issue on staff. Councilmembers are responsible for what they write, not staff. He understands Councilmember Weeks feels she didn't do anything wrong, but it is a concern of Draper residents. The perception is inappropriate. The City has never had this issue before, and it would be a shame to stop the practice of Councilmembers writing letters in the newsletter over one article. It would be a good idea for the Council to adopt some policies and/or a process. He wouldn't put it on staff, but perhaps have Council review a draft before things are published in the newsletter.

Councilmember Summerhays said staff members look to Council as their bosses. Councilmembers should be responsible for their own writing. He said somehow editing letters to newsletters is a good idea. Councilmember Stenquist said it is the Council's responsibility to police itself. In general, the Council needs some guidelines for general conduct to curtail concerns over inappropriate conduct.

Mayor Walker said the problem is using the public dime to advertise or drive traffic. He said perhaps the matter should be investigated. He asked what Council wants to do to address the matter.

Councilmember Stenquist said because people expressed concerns it is important for the Council to state as a body they didn't endorse or condone the newsletter, and that there are measures in place so this doesn't happen again.

Councilmember Weeks said she's okay with putting in measures; however, she does think the staff in charge of communications should make sure everything produced is legal.

Mayor Walker asked Councilmember Weeks if the citizens decide to sue, whether she thinks the City should be held responsible. Councilmember Weeks said she thinks she should have some protection as a City Councilmember. Mayor Walker said the question is who will make restitution if it is illegal.

Councilmember Vawdrey said the public holds the City Council responsible, and the City Council needs to resolve it somehow.

Councilmember Rappleye said that's the disturbing part about this issue. Ignorance to the law is not a defense.

Mr. Barker said City Code in terms of the ethical portion in Title 19 allows the City Attorney, at the request of the City Council or a City employee, to research these types of issues and give an advisory opinion, which would be something to guide future behavior. He would be happy to pursue the matter. He has looked at other audits that have been released. In Title 20 A of the State Code a definition of political activity is provided, but municipal Code has some areas that should be defined in terms of guidelines and policies.

Councilmember Summerhays said he wanted Mr. Barker to look into the matter.

Mayor Walker asked if the majority of the Council wanted the City Attorney to come up with an advisory opinion from which to make policy.

Councilmember Weeks said she would like to have a clear cut policy so she and other City Councilmembers in the future know exactly what policies are and have a safeguard to make sure that it is adopted.

Mayor Walker said another point that needs to be made clear from this discussion is Councilmembers do not direct staff's work. If a member of staff checks a Councilmember and staff members get blamed, it wouldn't be fair. He asked the Council if they were on board with making a memo to that effect.

Councilmember Weeks said she has an issue with that. The heads of departments know more information than Councilmembers do about their department. In the future, if something goes through the communications department, the staff in charge of communications should be able to advise Council on what can and cannot be in the paper.

Mr. Dobbins said the communications staff takes responsibility for putting the newsletter together. She has never edited, except for grammar. The Communications Director always gives deference to elected officials to determine what is in the paper.

Mayor Walker said as far as Councilmembers directing City employees, their interactions should be with the City Manager. Or, if they give direction as a body, they speak as a body. However, he said as far as individual Councilmembers going to department heads and telling them what to do – that is a problem. Department heads should not be directed by individual Councilmembers.

Councilmember Stenquist said other people in the City are not the personal secretaries of the Council and they do not work directly for the Council. As a Council, they should be more careful about giving people tasks. Mayor Walker said staff feels like Council is one of their bosses, which is not the case. Staff answers questions, but as far as direction goes, that direction should be made as the Council majority. He asked if the majority of the Council is okay with adding this as policy.

[8:25:04 PM](#)

13.2 Councilmember Rappleye said one of the areas that receive regular complaints is the roundabout by the post office. The complaints seem to be generated around the high school release time. The complaint is that as traffic comes out of the high school there is no break in the traffic to get through the roundabout which backs up the traffic.

Councilmember Rappleye also mentioned a discussion that came up in email. The question is whether to prepare for floods. He said the City could do more to address the matter, such as filling sand bags.

Councilmember Summerhays said the City should be prepared. There is twice as much snow in the mountains as there was last time flooding occurred in the City.

Councilmember Rappleye said there are certain measures the City could take, such as ensuring the channels are clear and the drains are free from debris over the winter.

Public Works Director, Glade Robbins, said one of the big concerns is Cherry Creek. He said he would coordinate with flood control in Salt Lake County. There are sandbags available and some that are filled. More can be stockpiled for use.

[8:31:30 PM](#)

13.3 Councilmember Stenquist said the legislative session ends tomorrow and there are a couple bills which have piqued the interest of Utah Leagues of Cities and Towns (ULCT). One such bill would enhance the B&C road funds.

Councilmember Rappleye asked about the alcohol bills. Councilmember Stenquist said ULCT didn't take a position on the alcohol bills.

Another bill will extend an outdoor recreation grant program from a pilot program to an ongoing funding mechanism. It would provide outdoor recreation grants for which they could apply if they wanted to help the trails, for example. He made mention of one bill regarding land use authorities; while it wouldn't necessarily affect Draper, Councilmember Rappleye said they needed to oppose it. He suggested a letter from the Mayor would be most impactful on the matter.

Councilmember Rappleye said there was a bill that changed the requirement of business licensing within Cities. Councilmember Stenquist said he didn't know if it passed or not. Councilmember Weeks said she read in the newspaper that it passed.

Councilmember Stenquist mentioned a newly appointed member of the Parks and Trails Committee was unable to attend tonight's meeting because his wife just had a baby.

[8:35:43 PM](#)

13.4 Councilmember Weeks said SB97 was just passed. It hasn't been signed by the Governor yet, but it allows public bodies to approve and maintain minutes verbally and does not make them have a written form of the meetings. She thinks it is important for Draper to have a written form of the meetings. She said she hopes the Council does not change their policies, and they keep a written form of all meetings available to the public.

Councilmember Weeks said she has been contacted about 700 East and inquired about the traffic studies done. The citizen expressed concerns in regards to speeding, and they asked if a sign could be installed to show drivers their speed.

Councilmember Summerhays said he agrees about speed signs.

Mr. Dobbins said residential roads are 25 mph unless posted otherwise. Councilmember Summerhays said there should be more signs which indicate the speed limit.

Councilmember Weeks said she has also received requests about salting the roads near Manila and Traverse Lane, to help increase safety on patches of black ice. She suggested a sign may also be helpful. Councilmember Rappleye said if there were to be a permanent sign on 700 East people would start to ignore it.

Deputy Chief Eining said the area in question is heavily policed.

[8:42:03 PM](#)

13.5 Councilmember Summerhays asked if there is any way to follow up on tickets that were issued, and the status of those individuals who received citations. Deputy Chief Eining said that was a court procedure not a police procedure.

[8:44:10 PM](#)

13.6 Mr. Dobbins asked if the Council was in support of event sponsorships. There have been some questions about the cultural arts facility. The request for information is going to keep

expanding. Before staff invests much more time on the matter, he wanted to know if it was a project that should be prioritized over others.

Councilmember Summerhays said he does not want it to be prioritized.

Mayor Walker said he has met twice with someone in the Philharmonic Society, and they are interested in building a cultural arts' facility. They want to know if the Council is supportive of the project.

Mr. Dobbins said they can ask staff what kind of revenue stream would be needed for a \$10 million bond. If it is a project the Council would like to pursue, it would have to be prioritized over other projects.

Councilmember Weeks asked if they are just looking for information on how to go about getting a bond or how much it would cost to construct the facility. She also asked what kind of information and demand on the staff's time a project of that size would require. Mr. Dobbins said cost would relate to bond amount, as well as how it would be issued. Staff is happy to answer basic questions; however, a Bond Attorney may be needed. Mayor Walker explained that a legitimate project proposal needed to be drafted in order for any considerations to be made.

Councilmember Weeks said she wanted to make sure basic information was available so questions from the public could be answered. Mayor Walker said when these groups ask for support, what they mean is they want to meet with the Council. Councilmember Weeks said a bond was mentioned in an email she received. She asked if they could get a bond on the ballot. If so, she wanted to know if the matter would have to go through the City Council, or if signatures were needed instead.

Mayor Walker said there are three ways to spend money: raise taxes, agree to put the item on the ballot as a Council (and forego the signature process), or get an item on the ballot with signatures from the public.

Councilmember Rappleye said there has been significant lead-up to this type of project. A facility of this size would probably be closer to \$30 million. He has been warning them how difficult it will be to get public money. There is a new facility in Salt Lake City and a new theater in Sandy which will both compete with the potential new theater in Draper. These and other matters make the issue very complex.

[8:53:55 PM](#)

13.7 Mr. Robbins reported Draper Irrigation Company is going to hold their annual stockholders meeting. There are two directors up for re-election. He wanted to know how the Council would like to vote their shares. He recommended the Council vote for the two who already hold the office.

Councilmember Summerhays says he has 180 shares and has already voted.

Councilmember Weeks asked what there is to know about the other person running. No one knew the other individual. The consensus was to keep the existing members on the board.

Mr. Robbins said a couple weeks ago the Council talked about the possibility of purchasing a drone. He visited a vendor and the recommended package came to about \$6,000. It has a zoom lens camera and a drone tracker, but he did not know if it was programmable with a map. He said it would be used by Parks and Recreation. Engineering would train someone to operate the equipment.

Councilmember Summerhays asked how often the City would use a drone and whether it would be more economical to rent instead. Mr. Robbins said the City paid a videographer \$200 per event which included drone footage and editing.

Councilmember Weeks said if the City rented for all drone usages it would come to \$1,400 to \$1,600 per year. Councilmember Summerhays said they should just rent. Councilmember Weeks asked if the Council would be okay with a drone allowance each year to rent drones. Councilmember Summerhays said they already have a budget, and was concerned with liability.

Councilmember Stenquist said it may be more cost effective to rent for now, but eventually it may be better to buy one.

Mr. Robbins said there have been requests for a street light on Suncrest Drive and Brookside Drive. Councilmember Stenquist said there are no homes in that area. Mr. Robbins said people can't see around the corner. It would be expensive because they would have to run a line to power the light.

[9:05:12 PM](#)

13.8 Mr. Ogden said last year the City budgeted four projects for beautification. The majority of those are going to be bid out within the next month. One of them is a triangle piece of land which will be landscaped. However, when trying to acquire easements for the splash pad the developer of nearby apartments said he would be interested in purchasing it. The developer wants to extend their driveway and add more units. The Council indicated they did not want to sell the land in question. Mr. Ogden said the City could improve the area and get rid of the asphalt or have it surplus.

[9:09:06 PM](#)

14.0 **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**

[9:09:11 PM](#)

14.1 Councilmember Summerhays moved to adjourn to a closed-door meeting to discuss. Councilmember Rapple seconded the motion.

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

14.3 The meeting adjourned at 9:10 p.m.