

Approved 8.1.2017

MINUTES OF THE DRAPER CITY COUNCIL MEETING HELD ON TUESDAY, JULY 18, 2017, IN THE DRAPER CITY COUNCIL CHAMBERS, 1020 EAST PIONEER ROAD, DRAPER, UTAH

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

STAFF PRESENT: Mike Barker, City Attorney; Rachelle Conner, City Recorder; Hazel Dunsmore, Human Resource Director; Rhett Ogden, Recreation Director; Clint Smith, Fire Chief, and Glade Robbins, Public Works Director

Dinner

Study Meeting

[5:57:30 PM](#)

1.0 Council/Manager Reports

1.1 Councilmember Summerhays indicated one of the booth vendors at Draper Days sold a small knife to a six year-old girl. He expressed concern with the matter and asked that the vendor be prohibited from Draper Days in the future.

Councilmember Summerhays also asked staff to look at installing pedestrian crossing warning signs about 300 feet prior to the crossings to make it safer.

1.2 Councilmember Vawdrey stated she received a complaint after the rodeo that the numbering on the new bleachers was too close together, and the spots were not wide enough for stadium seats. She asked Rhett Ogden, Parks and Recreation Director, to look into the issue. He indicated that he has checked, and the seating is standard size.

1.3 Councilmember Weeks noted she received an email after the parade concerning the “Confederate Flag” entry in the parade. She compared it to campaigning and said it should not be allowed. The consensus of the City Council was to look at the parade policy.

Councilmember Weeks then asked for an electronic speed sign to be placed on 13200 South between 1300 East and Fort Street to help minimize the speeding problem.

Councilmember Weeks questioned how the water is at the Dog Park now that they have the new system in place. Mr. Ogden explained the water is flowing great, and it is clear.

Councilmember Weeks noted there has been some concern from the equestrians about the Highland Drive tunnel and the separator used to divide the bikes from the horses. Councilmember Stenquist explained the Parks, Trails, and Recreation Committee has talked extensively about this issue. The tunnel needs more lighting, which will help. They have also installed gates along the tunnels that require the bicyclists to slow down.

- 1.4 Mr. Ogden indicated staff has just finished the permitting of the Larry Miller “Tour of Utah” that will take place on August 5th. The route through Draper will be from the frontage road to Highland Drive to 1300 East to Draper Parkway and will then proceed into Sandy City. There will be full lane closures during the event, and the event is paying for the cost of the officers.
- 1.5 Glade Robbins, Public Works Director, updated the Council on the Suncrest Drive project. The paving will start tomorrow.

Councilmember Stenquist asked that when the restriping is done that they give adequate room for the bike lanes.

Councilmember Weeks indicated when it is foggy the striping is difficult to see. Mr. Robbins replied there are special LED lights that can help with that.

Business Meeting

[7:00:55 PM](#)

1.0 Call to Order: Mayor Pro Tem Bill Rappleye

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2.0 Thought/Prayer and Pledge of Allegiance

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2.1 Glade Robbins offered the prayer.

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2.2 Mike Green led the Pledge of Allegiance.

** *Item 3 was taken out of order to allow time for those being recognized to arrive.*

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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 June 20, 2017, City Council Meeting Minutes**
- b. **Approval of July 11, 2017, City Council Meeting Minutes**

- c. **Approval of Resolution #17-26**, Repealing Chapters 7000 – Compensation and Benefits and 8000 –Time Off of the Personnel Policies and Procedures Manual and Replace with Chapter 6000 – Compensation, Benefits and Leave Time. Staff: Hazel Dunsmore
- d. **Approval of Resolution #17-35**, Amending the 2017 Emergency Operations Plan
- e. **Approval of Resolution #17-41**, Appointing Members to the Tree Commission
- f. **Approval of Resolution #17-42**, Appointing Members to the Planning Commission
- g. **Approval of Resolution #17-44**, Designating Emergency Interim Successors. Staff: David Dobbins
- h. **Approval of Resolution #17-45**, Reappointing Ken Murdock and Ryan Summerhays to the Parks, Trails, and Recreation Committee
- i. **Approval of Agreement #17-133**, Assessment-in-Lieu, Clark's Quality Roofing - 12746 South Fort Street. Staff: Glade Robbins
- j. **Approval of Agreement #17-140**, Assessment-in-Lieu, Andrew Thomas - 12143 South 800 East. Staff: Glade Robbins

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5.1 Councilmember Vawdrey moved to approve Items A-J as listed. Councilmember Summerhays seconded the motion.

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5.2 Councilmember Weeks made a motion to remove Item H from the Consent Items. Councilmember Stenquist seconded the motion.

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5.3 A roll call vote was taken on Councilmember Weeks’s motion 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.

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5.4 Councilmember Weeks expressed concern about reappointing Mr. Summerhays to the Parks and Recreation Committee as a possible conflict of interest. Many committees have members that are related to members of the City Council.

Councilmember Stenquist said the definition for the term conflict of interest is that a person has a financial interest in what is going on with a particular issue. In this case, he did not understand how it meets the definition. He asked how it benefits Mr. Summerhays financially to be related to members of the City Council.

Councilmember Weeks said it benefits his causes and the commission he serves. She said he has undue influence.

Councilmember Vawdrey noted it is her understanding that it is not a violation of the ethics ordinance; it is not nepotism because there is no gain. Not all of the City’s boards have enough members and they need to have enough people who are willing and able to serve.

She said these are volunteers that are not paid, and Councilmembers serve on boards as well. She does not see any conflict of interest with the volunteers of the City.

Councilmember Weeks disagreed. She thinks there are people who would like to be on these committees. Different boards that have members related to Councilmembers tend to get more funding compared to other boards that don't have relatives serving on the Council. Therefore, she takes issue with this appointment.

Councilmember Summerhays said he has never heard anything from his son and his work. He has only received positive feedback about the Parks and Trails Committee from citizens. His son donates time, money and labor and he does not benefit financially from serving on the committee. He discussed the importance of encouraging children to serve, which he has always done in his own family.

Councilmember Vawdrey said the only thing volunteers get is tired. In terms of appropriating funds for a project, it takes three votes from the Council in order to approve expenditures.

Councilmember Weeks said it has undue influence on the Council. Some of these committees don't get as much money as others. She said there were other members of the community who wanted to serve and there was a monopoly on what views were being represented.

Councilmember Summerhays said the fact that current volunteers haven't been voted off of their respective boards and committees is because they are doing good work in the City. The reason why the Equestrian Center got money this year was because it needed the funding.

Councilmember Stenquist said everyone on the Council voted in favor of that financial decision. Councilmember Summerhays said this was not nepotism; rather, it was sound financial planning to designate more money to the Equestrian Board.

Councilmember Stenquist said the ethics ordinance forbids family members of the Council from getting employment from the City, but when it comes to volunteering for the City, there is no restriction. He said it is good to encourage family members to volunteer their time.

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5.5 A roll call vote was taken on Councilmember Vawdrey's motion excepting Item H from the Consent Items. Councilmembers Rappleye, Stenquist, Summerhays, Vawdrey, and Weeks voted in favor. The motion passed unanimously.

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5.6 Councilmember Stenquist moved to approve Item H. Councilmember Vawdrey seconded the motion.

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- 5.7 A roll call vote was taken with Councilmembers Rappleye, Stenquist, Summerhays, and Vawdrey voting in favor. The motion passed unanimously. Councilmember Weeks abstained from the vote saying she likes one of the members that is being reappointed, but she has an issue with the second individual.

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3.0 **Presentation to Miss Draper Sage Nielsen**

- 3.1 Stefani Walker, committee member, thanked the Council for supporting the Miss Draper program. Councilmember Summerhays thanked everyone for their work.

Ms. Walker said they had 16 girls participate in this year's pageant. They also recently had 200 kids volunteer from a local LDS Church stake in helping clean the parks for Draper Days. Ms. Walker said volunteering develops a sense of community. She indicated she agreed to serve on this committee because no one else stepped up to help out.

- 3.2 Mayor Pro Tem Rappleye thanked Sage Nielsen for her year of service as Miss Draper 2016-17, and introduced the new Miss Draper 2017-18 Tabitha Wilson. He presented Stefani Walker and Lisa Armstrong with certificates of appreciation for their efforts in working with the Miss Draper Pageant.

Sage Nielsen, Former Miss Draper, talked about why she loves Draper and the different opportunities she's had as a volunteer for the City.

Tabitha Wilson, Miss Draper, shared her platform about domestic violence and domestic abuse awareness.

Councilmember Rappleye recognized the following members of the Miss Draper Committee: Lisa Armstrong, Stefani Walker, Sierra Hall, Maridene Alexander, Kim Granger, Carol McCulloch, Jamie Smith, Mindi Smith, Ann Rasmussen and Brynn Garfield.

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6.0 **Public Hearing Item: Plat Amendment and Street Vacation - 12200 South Lone Peak Parkway**

- 6.1 This item has been withdrawn. No further action is needed at this time.

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7.0 **Public Hearing: Big Willow Creek Preliminary Plat, on the Request of Bryon Prince, Representing Ivory Development, for the Approval of an 115-Lot Single-Family Subdivision in the R3 and R4 Zoning Districts for the Property Located Generally at 571 West 11400 South**

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7.1 Jennifer Jastremsky, Planner, said these properties came in last year for a rezone. The properties have a residential-medium land use and are split zoned. The applicant obtained a development agreement and is proposing a five-phase development. The primary access will be on 11400 South. The applicant will be limited to 30 lots with their phase one until one of their stub roads goes through. The development includes 115 lots ranging from 20,000 square feet along the creek to 10,000 square feet closer to the frontrunner. The development agreement requires at least three acres of open space along the creek. The applicant is including 3.23 acres along the creek which will include a trail. The applicant is proposing to modify the entrance road down from a 60-foot-wide road to a 40-foot-wide road.

Councilmember Stenquist asked if the change was included in the development agreement. Ms. Jastremsky replied that it is not included in the agreement, and the Council would have to approve the deviation. The Planning Commission and Staff recommended approval.

Councilmember Stenquist asked whether it meets the road standard. Ms. Jastremsky said code requires a 60-foot-wide road, and anything smaller requires approval. Councilmember Summerhays asked why the change was needed. Ms. Jastremsky explained that there is a private lane that runs along the east side of the proposed road. The applicant is proposing the 45-foot-road and the private road both access 11400 South. The applicant also submitted an alternative design. The applicant has a purchase contract for the private lane which allows the applicant to shift the road over, eliminating the two access points on 11400 South so there is only one access point. It also allows them to move further from the detention pond so there isn't as much impact in the area.

Ms. Jastremsky said according to this plan the private lane encroaches onto the applicant's property. Staff's opinion is this is a fluid design because it has to go through UDOT approvals. This design is contingent upon the applicant acquiring the adjacent property. There are neighbors on the private lane that may possibly have rights to the lane in question. However, staff has looked for easement documents and they couldn't find any.

Councilmember Summerhays asked if there was a possibility of keeping the road at 60 feet. Ms. Jastremsky said the nearby retaining walls are steep. There is liability concern for the roads and the retaining walls. With the design of two roads accessing 11400 South, the applicant will curve the road which would require Council approval. With this design of shifting the road, they won't be affecting any City property.

Councilmember Weeks asked if the private lane has a different access onto 11400 South. Ms. Jastremsky explained the residents' current access is a private lane and either design would need to be approved by UDOT.

Ms. Jastremsky stated the Planning Commission forwarded a negative recommendation. Staff is recommending approval of both the street modification and preliminary plat.

Councilmember Stenquist said the street would be a public road. Once the road was constructed it would be dedicated to the City and become City property. Ms. Jastremsky said this is correct.

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7.2 Councilmember Weeks expressed concern for the individuals who would have to walk to school. This proposed plan would eliminate sidewalk on one side of the road.

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7.3 Bryon Prince, applicant, said the development agreement was put in place in February, and they have been working with Staff ever since to come up with a design that meets the standards. He said it is unfortunate that Draper didn't have a seat at the table when UDOT widened 11400 South and put together the Corridor Coordination Agreement. It left this 100-acre piece with geographic constraints. UDOT has agreed to grant access as long as a design is presented that meets State standards. He said the worst thing the City could do is push the traffic from these subdivisions onto 700 West. It is critical that the City establish access on 11400 South. They proposed a single, 45-foot-wide right-of-way to eliminate the scenario of the private lane and the public right-of-way right next to each other, and to allow alignment of the right-of-way with the existing left turn.

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7.4 Councilmember Summerhays asked if there was a sidewalk along 11400 South. Mr. Prince said there is an existing sidewalk that will be connected and will run all the way into the neighborhood. Councilmember Summerhays expressed concern about kids' accessibility to sidewalks. Mr. Prince said they did a comprehensive traffic study.

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7.5 Councilmember Stenquist asked if the applicant has the subject property under contract for this road, and Mr. Prince answered affirmatively. Mr. Prince said they could have moved forward with a previous design; however, by buying the piece of land and shifting it over, it has a positive impact to the area. It is an investment they are making to try to make the intersection work. The intersection design will be decided by UDOT.

Councilmember Summerhays commented UDOT will do what they want. Mr. Prince briefly explained the location of sidewalks.

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7.6 Mayor Pro Tem Rappleye opened the public hearing.

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7.7 Ted Smith, representing the Housleys and Holts who strongly oppose this preliminary plat, said Ivory Homes assumes a right-of-way that his clients own. To assume his clients have no legal right to utilize the private road is presumptuous. He said the safety issues have not been resolved.

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7.8 Craig Holt, resident, said they have been using the private lane for 22 years. They want to retain use of the private lane.

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7.9 Katherine Holt, resident, said approving this plan would cause trouble. There are too many variables in this plan. Ivory Homes has not officially submitted their application for a road yet. She said there is a live spring nearby and there have been no geotechnical studies about building a road over the live spring. She concluded by stating this is not yet a good plan.

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7.10 John Housley, resident, said his biggest concern is traffic. The road is not safe, and the traffic is increasing. The issues need to be resolved before the plan is approved.

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7.11 Nancy Dial, resident, said she is concerned about the traffic and explained that turning onto 11400 South is dangerous.

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7.12 Mayor Pro Tem Rappleye closed the public hearing.

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7.13 Councilmember Summerhays said the spring could be a field drain. He asked Mr. Prince if he is aware of the spring. Mr. Prince said he is aware of where the water is coming from but he does not know if it is a spring or a field drain.

Councilmember Summerhays asked how many entrances and exits there will be after the road is done. Mr. Prince explained the proposed connections and stub roads.

Councilmember Summerhays said residents have been in contact with The Utah Department of Transportation (UDOT), and they said UDOT was not aware of this proposal. Mr. Prince said after the rezone and development agreement was put in place they started talking with UDOT and staff. Staff recommended they be involved in the process of the applicant with UDOT, so Draper City is the applicant for the design of this intersection. They have not made a final application because they are waiting to formalize the design. Regardless of what is decided, UDOT will decide how the intersection works.

Councilmember Summerhays asked if the private lane is a private easement, a right-of-way, or if it is adjoined with a property. Mr. Prince explained that there have been four property owners that have utilized the private lane, but there has been no formal easement recorded. They are not taking anything away. Ivory Homes has just as much right to use the private lane as access as the other property owners. As the property owner, they have the right to improve the access as long as they provide and maintain their access to 11400 South.

Councilmember Stenquist said this private road will change to a public road, meaning anyone from the public will be able to use the road. Mr. Prince confirmed this to be the case.

Mr. Prince explained the conversations he had with the other property owners. He said he is not taking away access from anyone; rather, he is improving property that he owns.

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7.14 Councilmember Weeks said she has been contacted by neighbors about issues with beavers and flood control. Mr. Prince said his involvement is that he has been served with the same notice as the rest of the neighbors; he has talked to flood control just as the neighbors have done. He has met with neighbors and with the County about the issue as well, and he will follow State law.

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7.15 Councilmember Stenquist said this is a preliminary plat. At this point there hasn't been engineering work done.

Ms. Jastremsky said one condition of approval is compliance with drainage plans. Final plat applications would have to provide engineering information. Draper does require more information on preliminary plats than most cities. Councilmember Stenquist said the situation with the road has changed since the Planning Commission reviewed this item. The concerns raised by the Planning Commission seemed to have been addressed with the acquisition of the other property and the road plan. Ms. Jastremsky said a lot of the safety aspects of the road have been addressed. The other concern was about the private lane, and that has not yet been resolved.

Councilmember Weeks asked whether the lack of sidewalk played a part in the negative recommendation. Ms. Jastremsky said it did not. They made a positive recommendation on the reduction in width.

Councilmember Stenquist asked if the Planning Commission approved the 45-foot-width. Ms. Jastremsky said they are still requesting a 45-foot-width with the new design. She explained the differences between the old plan and the new plan.

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7.16 Councilmember Summerhays asked about the springs. Ms. Jastremsky said the consultant approved the geotechnical report.

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7.17 Councilmember Rappleye said there are a lot of outstanding issues on this item.

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7.18 Councilmember Stenquist moved to approve the Big Willow Preliminary Plat contingent upon them meeting all of the requirements given to them for approval. Councilmember Summerhays seconded the motion.

[8:34:14 PM](#)

7.19 Councilmember Stenquist said as long as the preliminary plat meets the requirements of the City, they have no justification to deny it. It is the best solution they could expect. Councilmember Summerhays agreed.

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7.20 Councilmember Weeks said at the beginning they deviated from the original development agreement on the width of the road, and because of that the Council does have a right to deny approval. Ms. Jastremsky said the road width was not within the development agreement, so they are fully in compliance. All the roads within the subdivision are 60 feet wide except for the entrance. The development did not call out the road widths themselves.

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7.21 Councilmember Stenquist amended his motion to include the deviation from the road width. Councilmember Summerhays seconded the amendment.

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7.22 Councilmember Rappleye stated he is also concerned about the changes to the road design.

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7.23 A roll call vote was taken with Councilmembers Stenquist, Summerhays, and Vawdrey voting in favor. Councilmember Weeks and Councilmember Rappleye voted no. The motion carried with a majority vote of 3-to-2.

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8.0 Action Item: Edelweiss Phase 1B Final Plat Re-approval on the Request of Nate Shipp Representing MREC DAI Edelweiss, LLC, for Re-approval of Plat 1B of the Edelweiss Development

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8.1 Dan Boles, Planner, stated that on December 6, 2016, phases 1A and 1B of Edelweiss were approved. Code stated that those plats have to be recorded within six months of approval of the final plat. Phase 1B was not approved because of the County line. It was not changed by the deadline.

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8.2 Councilmember Stenquist clarified this missed the deadline, but it was no fault of the developer. It was because of the process they had to go through with the County.

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8.3 Councilmember Weeks moved to approve the Edelweiss Phase 1B final plat. Councilmember Summerhays seconded the motion.

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8.4 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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**** Councilmember Stenquist moved to reopen the public comment portion of the meeting. Councilmember Summerhays seconded the motion.**

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

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**** Doreen Neiderhauser, Draper Days volunteer, stated she stood watch at the south parking lot during the Draper Days events. She thanked A.J. Clayson for his kindness and professionalism. In contrast, she spoke about another situation that took place in the same evening in which she was approached by Lavar Christensen and belittled in front of a crowd. A passerby caught the altercation on video, and there were a number of other witnesses as well. Ms. Neiderhauser said she planned to release the video if and when Mr. Christensen decides to run for office. She requested the City provide a list of names of patrons who are allowed to park in the south lot to the volunteers who are assigned to man the lot in question. She also requested the City provide people in wheelchairs, using crutches or who are handicapped a safe area in the south lot where they can be dropped off during the Draper Days event. She said she witnessed close accidents. In closing, Ms. Neiderhauser thanked the Draper Fire and Police for their kindness towards her that evening.**

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9.0 Adjournment

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9.1 Councilmember Summerhays moved to adjourn the meeting. Councilmember Stenquist 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 8:46 p.m.