

Approved 05/27/2014

MINUTES OF THE DRAPER CITY COUNCIL MEETING HELD ON TUESDAY, APRIL 29, 2014, IN THE DRAPER CITY COUNCIL CHAMBERS, 1020 EAST PIONEER ROAD, DRAPER, UTAH.

“This document, along with the digital recording, shall constitute the complete meeting minutes for this City Council meeting.”

PRESENT: Mayor Troy Walker, and Councilmembers Bill Colbert, Bill Rappleye, Jeff Stenquist, and Marsha Vawdrey

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

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Records Denial Appeal

Mayor Walker explained this meeting is for an appeal to a records request denial.

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David Dobbins indicated Stacie Powell Jacobsen submitted a records request through the Police Department. That request was denied by the Police Department, and per City Code, the appeal first comes to the City Manager. He read from the State Code pertaining to the classification of records and what constitutes a record under GRAMA. The document Ms. Jacobsen had requested was a journal of a juvenile female involved in a case the Police Department was investigating. The case was not pursued by the District Attorney, but the Police Department had a copy of the journal as part of their case report. Mr. Dobbins advised he denied the request based on it being a private document that was written by a private person and was not a document prepared by the City for the City.

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Stacie Powell Jacobsen distributed a handout to the Council Members. She reviewed the process she had gone through with the requests and denials. She said she feels at a disadvantage due to this being an open meeting, because she does not want to disclose too much personal information about the case. The handout is pretty factual in terms of the appeals process. She was initially given incorrect information about the appeals process. She was told to appeal the denial through the State Records Committee, which was not accurate, and she was directed back to the City of Draper. She advised State Code Section 63G-2-202 reads that the City Council shall disclose a private record to the subject of the record or the parent or legal guardian of an unemancipated minor who is the subject of the record. From her understanding, her son is the subject in this record that was provided to the Police Department as evidence, so she feels that she should receive a copy as the parent of her minor child. She said it is her understanding that this is the first time the City has had anyone appeal a records denial, so she understands that there might be some confusion. Utah State Section 63G-2-201(5)(b) allows a government entity to release a

private record if the head of the government entity determines that there is no interest in restricting the access or the interests favoring access are greater than or equal to the interests favoring restriction of access. She said she feels the interests in this case are greater. This case has affected her family, and she does not feel like she even knows all of the facts and answers surrounding it. The facts changed several times throughout the investigation, so she does not know what is true and what is not true. Apparently, the final story came from the journal pages that she is requesting copies of. The case was not pursued, no charges were filed, and the case was closed. However, due to this situation, her ex-husband's wife will no longer allow Ms. Jacobsen's son to go for visitation. This has been going on for almost one year, and it is adversely affecting her son. Ms. Jacobsen expressed her opinion that reading the journal would allow her to see what help, if any, her son needs to try to resolve this.

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Councilmember Rappleye asked whether Ms. Jacobsen's son is still a minor. Ms. Jacobsen replied that he is. She advised the allegations are that this occurred six or seven years ago.

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Mayor Walker asked whether this document was produced pursuant to the criminal investigation. Mr. Dobbins replied it was not. This is part of a journal. When the charges came out, pages of the journal were copied for the police report.

Mayor Walker clarified that the only reason the Police Department came into possession of the copies of the journal was due to the criminal investigation. Mr. Dobbins stated that is correct.

Mayor Walker asked whether the District Attorney's Office dismissed the case with prejudice or if they have just not filed charges. Bryan Roberts, Police Chief, advised he is not sure; however, he does not believe it is their intent to pursue this any further. They chose not to pursue prosecution of the charges filed by the Police Department.

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Councilmember Colbert requested clarification that the journal was written by the other individual and not her son. Mr. Dobbins stated that is correct.

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Mayor Walker asked Ms. Jacobsen what she thinks knowing what the journal says will help her or is anyway relevant to helping her son receive treatment. Ms. Jacobsen replied there were so many different stories being told, and being able to see what was actually written in journal about her son, would help her determine whether or not her son does need help. This is affecting her son, the other kids, and the entire family. She does not understand why her ex-husband's wife is so adamant. Ms. Jacobsen noted reading the journal would answer some questions.

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Mr. Dobbins indicated the City did not provide copies of the journal to the Council Members, because it would then go into the public domain. He understands the difficulty Ms. Jacobsen is going through; however, he was looking at this case based on the classification and she is

looking at it in terms on content. At the end of the day, he determined that this is a private journal that is not meant to be in the public domain.

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Councilmember Colbert asked whether there is any way for Ms. Jacobsen to be allowed in private to receive a summary of what was included in the journal, so she can somewhat understand what was involved. Mr. Dobbins stated he does not see a way of doing that without creating a public document.

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Mayor Walker stated this document was provided in the process of a criminal investigation. The document being a private document will never be revealed unless it was used at trial. Without that, it would not see the light of day. If charges were filed, the defense attorney would receive a copy; however, no charges were pursued. Mayor Walker advised Ms. Jacobsen is not being harmed by not having a copy, because no charges were filed. The government function is complete. He understands Ms. Jacobsen's desire to know what the journal says; however, it is not the Cities business to reveal private documents to her just for her own personal knowledge.

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Ms. Jacobsen disagreed saying this does affect her. Mayor Walker clarified that it is not the governments business to regulate the content of information. The interest of prosecution is to get evidence in order to prosecute the cases. If that is quelled by everyone's private documents becoming public records, it prohibits the ability of law enforcement to do their job. He expressed his belief that Ms. Jacobsen would hear that from the District Court judge as well if she chooses to go that route. The intent is not to hide the record; rather, it is allowing the free flow of information to the investigators. In this case, the evidence shows the free flow of information occurred, and the District Attorney's Office did not charge her son.

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Ms. Jacobsen stated she still feels under the State Code that the public entity should disclose a private record at the request of the subject of the record or their parent or guardian.

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Councilmember Rappleye asked at one point does that paragraph in the State Code validate itself. Mr. Dobbins stated the City looked at that Section and felt it did not apply because the subject of the record is the person who wrote it and not the people who might be named in it.

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Councilmember Colbert stated he reads it that same way.

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Councilmember Vawdrey noted Mr. Dobbins also indicated this is not a record by definition. Mayor Walker stated it is not a public record because it was not produced by the City. It was evidence obtained in the investigation. Until the government formally declines charges, it could

still be a pending investigation. They have a window of time in which to make their charges. Just because they have not, it does not mean they will not.

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Chief Roberts noted this was screened by the Juvenile District Attorney, and they decided not to pursue charges.

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Ms. Jacobsen stated she was told that if she pursued this, the District Attorney might look at reopening the case. She felt that was not right and felt that it was almost a threat. Mr. Dobbins noted that was not a part of any of the denials of the record. He thinks that might have been a comment made by someone in the Police Department.

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Mayor Walker stated the Police Department does not make the final decision about charging. It is the District Attorney that makes that decision.

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Councilmember Colbert asked how long the City would keep this evidence before it is destroyed. Chief Roberts indicated the City keeps the case files for years.

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Ms. Jacobsen noted she knows that once a case is closed, evidence can be destroyed if the officer gives approval. Chief Roberts stated the journal is still there as part of the file.

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Councilmember Colbert asked Doug Ahlstrom, City Attorney, how he interprets the subject of the document. Mr. Ahlstrom stated the subject is the person who wrote the journal, and he believes this is not a record under the GRAMA statute.

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Ms. Jacobsen noted she does not want to come across as offensive; however, she knows that this GRAMA Code is completely up to interpretation by each agency. She is familiar with another municipality that would have already released this document to her. It is frustrating to her. Mayor Walker noted that does not have a lot of meaning to him, because he does not have any way to prove that.

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Councilmember Colbert indicated if the Draper City Council denies the appeal, Ms. Jacobsen is free to appeal this to the District Court.

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Mr. Ahlstrom advised that any decision made has to be put in writing. If there is an appeal, the Court will need something to look at.

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Councilmember Colbert moved to deny the appeal. Councilmember Rappleye seconded the motion.

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Councilmember Colbert indicated the basis is he concurs with the City Attorney's position and the findings stated in the letter that this is a private document and the subject of the document is not requesting the release of the journal.

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Councilmember Rappleye concurred with Councilmember Colbert. He agreed that there is an interpretative nature to this; however, this document is not part of a criminal investigation piece that is available to a defense attorney, so the document belongs to someone else.

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Councilmember Stenquist advised in addition to that, they are talking about a private journal of a minor. In that sense, it is prudent for the City to error on the side of protecting that information with respect to protecting the privacy of a minor. He understands the difficult situation and family dynamics Ms. Jacobsen is dealing with, and even though reading the journal might provide her with some comfort to see what was written, he does not see any reason to believe that Ms. Jacobsen's ex-husband's wife is going to change her mind about the son.

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Mayor Walker called for a vote. Those voting aye: Councilmember Colbert, Councilmember Rappleye, Councilmember Stenquist, and Councilmember Vawdrey.

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Mayor Walker indicated the Draper City Council has unanimously denied the appeal. The next step in the process is the District Court. He indicated a written denial will be provided by the City.

Study Meeting

1.0 Dinner

2.0 Budget Work Session

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2.1 Michael Jensen, Unified Fire Authority (UFA) Chief, briefed the City Council on the proposed rate increases for the next fiscal year, which included:

- Retirement increase 2.18 percent
- Merit increase
- Ambulance revenue is slightly down
- This is the first year they will not receive the hazmat funds from the County
- Health insurance increase

Chief Jensen stated it looks like the rate increase for the Cities will be approximately five percent.

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2.2 Chief Jensen then discussed the calls for service for the SunCrest Fire Station. When the station was built, they expected more homes in the area. He advised they are open to having the discussion about still having a presence up there for response. He would like to keep people up there no matter what.

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2.3 Councilmember Colbert noted if they need to make some adjustments, he would at least like an ambulance up there with EMTs. Most of the calls up there are medically related. Chief Jensen agreed and said he would also like some brush units up there from May to October to help with urban interface fires.

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2.4 Councilmember Colbert indicated there is strength in having a four-man crew, so he suggested they have that at the central station and keep an ambulance at Suncrest. During the summer they can do something with the brush fires. Chief Jensen stated they will run some scenarios and get back with the City. They are always open to looking at things.

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2.5 Councilmember Stenquist stated the Council recently made a decision not to build a Public Work Facility up in SunCrest. He would like to look at having the fire station up there possibly serve dual purposes by allowing fuel storage and salt storage during the winter months. Chief Jensen advised they are willing to have that discussion. Chief Jensen then discussed issues with the wild land fires and the costs involved for UFA.

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2.6 Bob Wylie, Finance Director, reviewed the tentative budgets with the City Council.

Business Meeting

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1.0 Call to Order

1.1 Mayor Walker called the meeting to order and welcomed everyone in attendance.

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2.0 Comment/Prayer and Pledge of Allegiance

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2.1 The prayer was given by Monsignor Joseph Mayo of the Saint John the Baptist Parish.

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2.2 The pledge was led by Russ Fox.

3.0 Citizen Comments

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3.1 Mayor Walker briefed the audience on the process for the citizen comments. He then advised that the City Council has talked with many neighbors on 13400 South, and the Council has determined that it is not prudent to open up 13400 South at this time for through traffic. The City might do this in the future; however, it would be constructed with curb, gutter, and sidewalk at that time.

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3.2 Tina Mercer, 14226 South Daisy Field Drive, noted she is representing the homeowners association (HOA) for the Fields of Draper. They have spoken with DR Horton, Draper City, and Salt Lake County, and everyone is passing the buck in reference to an eight to ten foot gap between the Fields of Draper and a DR Horton development to the east. DR Horton said they disclosed to the homeowners about the gap; however, she has spoken with at least five of the homeowners and they know nothing about the gap. They do not plan to take care of the area. There is a retaining wall on the east side that has issues. By Southfork on the northeast corner, there is a big swamp and poor drainage. Being a resident of Draper since 1996, she is well versed with the problems that occur when a property is not taken care of. The only result they have gotten is when they contacted Draper City Compliance Officer Kassie Hall. She was always willing to help with the infractions. The Draper City Attorney replied to an email saying that the City will take no action in reference to this gap. This problem is due to deeding errors. Draper Hillside should lay claim to this property through a quiet lawsuit or corrective deed. Once DR Horton is finished with this project, they will pull out and the gap will remain. It is unacceptable for this to happen. She asked the City Council to talk with the HOA and try to come up with a solution.

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3.3 Colleen DeRose, 1031 East 13400 South, thanked the City Council and staff for their consideration of the neighbors in reference to the opening of 13400 South. This is her first experience in working with the City, and she was surprised at how readily available the Mayor and City Manager were to meet with her. It was a great meeting, and she felt that she was listened to. She emailed the rest of the Council Members and heard back from most of them within twenty-four hours. They put out an invitation for the Council to come and look at the project, and many of them did stop by. She expressed appreciation for the response. The decision tonight shows that the safety of the children in the community trumps all. That is a loud message the City sent today, and her neighbors will be speaking very highly of the City to their friends and neighbors in the future. She said it has been a very positive experience. She said they know the road will go through, and she appreciates that the City will do it right when that happens.

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3.4 Chris Bowman, 14873 South Manilla Drive, read the City's mission statement, which states – Draper City is a community that preserves its unique identity and heritage, and provides protection and services for its citizens. He indicated the excessive speeding in his area is out of control. They have been working with the Police Department, and they are trying to do more speed enforcement in the area, but they are busy with other things in the city. The police gave out twelve citations last Saturday in the course of two hours. Many of them were in the excess of thirty to forty miles per hour. The City has already placed electronic signs in the area, and they have not helped. The neighbors have directed their children to walk through the fields rather than walking on this street. He asked for the City to look at other options for speed control such as speed bumps.

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3.5 Brianne Harris, 14837 South Manilla Drive, noted she has tried to address the speeding problem on Manilla Drive with the City many times since 2012, and it is still an issue. This is a scary street, and she would like to have speed bumps constructed to help solve the problems. The City acknowledged there was a problem in 2012 and put up the electronic signs; however, that has not helped at all. The speed limit is twenty on that street and it might be one in twenty vehicles that actually goes twenty-five. The rest of them are much faster than that. She does not believe it is deliberate; it is just a very steep street. Every neighbor she has talked to is concerned about the safety. Ms. Harris indicated she is not a very outspoken person, but she has come to City Hall many times. The Police Department has finally gotten involved to help, and she would appreciate some guidance as to what they can do about the situation. The neighbors have even agreed to help with the funding of speed bumps. This is a serious problem and not just an annoying complaint.

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3.6 Mike Spencer, 788 Old English Road, advised he installed a water filter when he moved into his home. He displayed a new cartridge. For the first few years, he changed the cartridges once a year. When he took them out, they were a very light cream color. Now he has to change them out every three months, and they are a dark brown. He talked with someone at WaterPro, and they said it is not a big deal. This is water that is inside his home. If the residents do not have filters, they are drinking the stuff his filters are catching.

***Councilmember Rapple left the meeting at 7:27 p.m.*

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4.0 Consent Items

- a. Approval of April 15, 2014, Minutes.
- b. **Resolution #14-35**, Approving a Cooperative Agreement Between the Utah Department of Transportation and Draper City for the SR299(187); Salt Lake County Traverse Ridge Road Transfer Evaluation.
- c. **Agreement #14-20**, Approving the Amended Communities that Care Agreement.

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4.1 Councilmember Stenquist moved to approve the Consent Items. Councilmember Vawdrey seconded the motion.

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

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5.0 **Public Hearing: Ordinance #1098, Electronic Signs Text Amendment, for the Purpose of Allowing Electronic Signs on Commercially Zoned Property in Certain Areas of the City.**

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5.1 Keith Morey, Community Development Director, noted this application is being brought at the Council's request, so the City is the applicant. Staff was cautious in the drafting of the language because there could be serious repercussions in the community with signage. The Planning Commission had some concerns with the language, so they forwarded a negative recommendation to the Council. The Planning Commission Members knew there was some interest in doing this by the City Council, so they did not want to just kill it or manipulate it to meet their interests. They forwarded it to the City Council to provide comments or make adjustments that the Council thought necessary. That being said, the Planning Commission did recommend a couple of things:

- 12300 South corridor extended too far and they thought it might be arbitrary
- Draper has historically been different and introducing electronic signs into the community would change the character of the city
- The standards for lighting were not enforceable
- There is not enough data to know if there is a real need or demand for this type of signage

Mr. Morey then reviewed the proposed text for the City Council. He also displayed maps of the areas that would be allowed to have the electronic signs.

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5.2 Councilmember Stenquist noted the proposed language would prohibit temporary signs if a business has an electronic sign. Mr. Morey stated that is correct. If they are permitted to have an electronic sign, they would not be allowed to obtain a permit of the temporary signs.

Councilmember Stenquist noted that makes sense. He asked Mr. Morey what types of signage the businesses are allowed to have right now. Mr. Morey explained they can have a sign over the building, a monument sign, and they could apply for temporary signage.

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5.3 Councilmember Colbert clarified that they can have eighty percent brightness during the day. He asked what determines full brightness. Mr. Morey noted the problem staff found is that there is a lot of variation between the companies that make the signs. There are inconsistencies with how the light is measured.

Councilmember Colbert said the City should be able to determine the standard for how it will be measured. Sometimes the signs are too distracting, especially at night, when they are really bright. Mr. Morey agreed. He said staff is happy to add any language the Council desires. This was their first stab at how to handle it. They could not find a consistent measurement system they could apply equally to everyone.

Councilmember Colbert said they need to find something because it needs to be measured. The City will have to determine what the standard is and have a way of metering the light. He questioned how often they can change the message. Mr. Morey noted staff did not put in a standard for that.

Councilmember Colbert expressed that a standard for that would need to be included. He said he is more inclined to support this change if the signs look like a regular sign. The City cannot control the billboards, but they change so much it is distracting.

Mr. Morey noted so much of that is dependent upon the speed on the street. The traffic on 12300 South is different than other parts of the city. Councilmember Colbert stated he is not supportive of them changing more than once every three to four hours.

Mr. Morey indicated the reason the businesses want this type of sign is because they want the opportunity to have more information out more frequently. If the City is opposed to that philosophically, it would kill the reason behind doing this. It is important for the City Council to think through this and give staff some feedback as to what they want.

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5.4 Councilmember Vawdrey indicated the signs that were displayed on the slides were less than one hundred percent. Mr. Morey stated most of the signs shown were at fifty percent.

Councilmember Vawdrey expressed her opinion that they look better at fifty percent.

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5.5 Councilmember Stenquist stated he knows there is an ongoing debate statewide about electronic billboards. He asked whether this would in any way open the door to electronic billboards. Mr. Fox advised it would not. The State statute allows all the billboards to be changed to electronic signs along the freeway, but there are no billboards in the city. There are certain regulations under the Outdoor Advertising Act that UDOT regulates. The Draper City Code mimics a lot of the regulations set by the State.

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5.6 Mayor Walker asked Mr. Morey to display the slide where the quality of the image is shown. Mayor Walker indicated the City can decide if they want to require the higher quality display. Mr. Morey stated that is correct. The lower the quality of the sign, the harder someone will have to look to figure out what they are reading.

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5.7 Mayor Walker opened the public hearing.

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5.8 Gordon Mueller, 11710 South State Street, noted he owns a business in Draper. He has an older style monument sign by the road. Most people that pass by his business have no idea the type of business he has. An electronic sign would give them the ability to identify the products and services they provide. It would be really useful for him to have that. He is changing the appearance of his building and would like to update his sign as well. He does not want anything flashy or wild, but he would like to identify for the public what his business does.

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5.9 Al Jensen, 1863 East Foxborough Lane, advised he is in the LED and solar business. He worked with the Canyon Crest Project and helped Dan Boles with remodeling some of the proposals there. He stated he is the first to stand in line to object to signage that is tawdry, cheap, loud, flashing, or anything that would degrade the City of Draper. He is against cheap signage, but there is digital signage available that is high quality. One of the things that should be clarified in the ordinance language is more detail. The brightness can be measured and it should not exceed 5,000 nits. He would like to control the signage. He does not want the LED signs to be obnoxious or too bright. The second thing is that each sign should be allowed to have at least thirty-two square feet and should not be restricted to fifty percent. If the digital sign is a retrofit, the entire sign should be updated as well. Mr. Jensen advised he would like to improve the quality of the sign, but there is a need for this sign in Draper. They need to be tasteful, detailed, and controlled. He thanked the Council for their time.

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5.10 Shawn Benjamin, 360 West 13165 South, noted commercial speech is regulated in a different way than regular speech. There is a court case right now where the court established criteria determining whether or not a regulation stands up in court. He read from the case in reference to the findings. Mr. Benjamin recommended the Council look at what is being proposed and try to judge the regulations this way. He stated he did not like the exclusion of temporary signage if there is an electronic sign situation. In a strip mall scenario, this could allow an owner to raise costs high for advertising on the signage.

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5.11 Councilmember Colbert indicated they can close the public hearing and still allow this to take the normal course.

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5.12 Mr. Dobbins advised Councilmember Summerhays asked that the public hearing be continued.

Councilmember Colbert stated they would need a motion to do that.

Councilmember Stenquist indicated the vote would have to be unanimous to do that.

Councilmember Colbert noted he is not inclined to continue the public hearing. However, since two of the Council Members are gone, he is fine allowing this item to follow the normal course of business.

Councilmember Stenquist said he is not sure it makes any difference. He appreciates those that showed up tonight, but they did not fill the chambers with people wanting to speak on this issue. He is not sure continuing the public hearing will make that much difference. They have heard people from the business community, but they have not heard how the general public feels about this. Most residents are not even aware the City is even discussing this issue. If they were to continue the public hearing, it might give them the opportunity to hear more from the residents.

Councilmember Vawdrey noted it is her feeling that they go ahead and extend the public hearing. She said it would be fair since the other two are not here.

Mayor Walker indicated the request was to allow the public hearing to stay open to allow more input from the residents and businesses. It is an important change the City is proposing to make.

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5.13 Councilmember Vawdrey moved to continue the public hearing to the next meeting. Councilmember Stenquist seconded the motion.

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5.14 A roll call vote was taken with Councilmembers Stenquist, and Vawdrey voting in favor. Councilmember Colbert voted no. The motion failed for lack of a majority vote.

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5.15 Mr. Dobbins advised the Council is meeting next Tuesday, but they only have a short window to adopt the tentative budget. They are going to Summit Academy for a Town Hall Meeting at 7:00 p.m. The next meeting is scheduled for May 27th because most of the Council will be out of town on May 20th.

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5.16 Councilmember Stenquist advised he is comfortable with the Council taking their time on this issue and receiving more comments and input.

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5.17 Councilmember Colbert noted he needs more input from staff before he will support it. He wants to know more about how the brightness is measured and whether it matters how big a sign is. It would be terrible for the city if they do it wrong, and the residents will be “through the roof”. He said he does not mind electronic signs. He has seen some electronic signs that look like regular signs when they are not moving or changing. If the message is not changing too often, it would be fine.

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5.18 Mr. Dobbins noted when the City does this type of amendment, they do not notice anyone individually because it affects the entire city. This was noticed in the newspaper, but most people do not read those to see what is on the agenda. If the Council is interested in making sure the public has more notice, and if they want to keep the public hearing open, staff could try to get the word out through the non-typical means. They could also put the information on the website.

Councilmember Colbert noted in reality the City Council will not take action on this for at least a month. He said there is plenty of time to receive input. He is more interested in the technical side of managing this. He wants to provide the opportunity for businesses to get their message out without the signs being a distraction or hazard.

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5.19 Councilmember Stenquist moved to continue this item and hold the public hearing at least two weeks after the next publication of the City newsletter that contains information for the public about the change to the electronic sign ordinance. Councilmember Vawdrey seconded the motion.

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5.20 Councilmember Colbert asked when the next newsletter will go out. Mr. Dobbins indicated the next one will go out in June. Staff will continue to obtain the information the Council has requested during that time.

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

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5.22 Councilmember Stenquist noted in addition to his motion, he thinks the City is already more liberal in their signage than he would prefer them to be. In a lot of ways, it is hard to pull back from what they have done. The one redeeming quality he thinks this

ordinance has is that it removes the temporary signage with these signs. He would like Draper to move toward a very minimalist amount of signage.

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5.23 Councilmember Colbert asked staff to contact the sign manufacturers to obtain more technical information.

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5.24 Mr. Dobbins noted from a staff perspective, they would prefer that what is adopted is very clear and represents the Council's true intent and expectations. Staff will start getting the word out.

Councilmember Colbert noted it might be beneficial to hold an open house in reference to this and maybe see some sample signs.

Mr. Morey indicated there will be sign vendors at ICSC, and they will have displays and information.

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6.0 Public Hearing: Ordinance #1096, Amending the Zoning Ordinance by Adding Two New Zoning Categories Called R4 and R5.

[8:09:04 PM](#)

6.1 Mr. Morey noted this is another City initiated text amendment. The proposed change will allow developers to have different zone options. There have been a lot of requests in the past from people who want to build quality homes on smaller lots. In an effort to be responsive to that, staff is proposing this ordinance change. The Planning Commission had very few comments about this. He reviewed the uses that would be allowed in the R4 and R5 zones and the development standards that would be required. He advised that in order to be consistent, it is important to amend the RM1 and RM2 as well. The RM1 would require 6,000 square feet, and the RM2 would require 4,000 square feet.

[8:11:34 PM](#)

6.2 Councilmember Colbert asked whether there is still a requirement for a two-car garage. Mr. Morey replied the ordinance specifies a two-garage on a single-family home.

Councilmember Colbert stated when the City increases the density, there seems to be a problem with parking on the street.

[8:12:32 PM](#)

6.3 Councilmember Colbert noted another issue they may need to look at is the chicken ordinance. He said he is not sure it will be a concern for residential chickens when they start getting the smaller lots. Mr. Morey noted staff can look at that. It may be that it is not appropriate on a lot this small.

[8:12:57 PM](#)

6.4 Councilmember Vawdrey questioned whether all of the preexisting RM1 or RM2 be nonconforming. Mr. Morey advised they conformed to the ordinance at that time. Anyone that comes in for the RM1 or RM2 in the future would have to meet the current standard.

Mr. Dobbins noted if someone has an RM1 lot today that is 10,000 square feet, they are vested and will go ahead and build at that. The minimum square footage is 4,000, so if they have more they are still conforming.

[8:14:30 PM](#)

6.5 Mr. Morey reviewed the text for the ordinance change. He indicated there is potentially a concern that they may be inviting a lower quality product in the community. Staff is sensitive to that as well, and that is not what they are trying to do with this. They have heard from multiple developers that want this, as well as people who want to move to this community and do not want to maintain large yards. In attempt to moderate that, staff has created Exhibit C, which provides requirements for this zone, and the developers will have to pick seven of the fifteen to comply to. Those are just architectural amenities that need to be included in the development.

[8:16:33 PM](#)

6.6 Mr. Dobbins clarified that this list is for the RM1 and RM2 zones for the R4 and R5. Mr. Morey stated it will be for the RM1 and RM2. Because they changed the lot sizes in those zones, they wanted to make sure the city got a quality product.

[8:17:08 PM](#)

6.7 Councilmember Colbert noted he worries that they are cutting the lot size in half. Mr. Morey noted this is only a suggestion. Staff is responding to a request from the City Council to make a new zone. They looked at the table as a whole.

[8:17:58 PM](#)

6.8 Councilmember Stenquist noted one option would be to leave it at 10,000 and 8:000 square feet for RM1 and RM2. That way the difference for R4 and R5 would only allow single-family homes, and the RM1 and RM2 would have the option for multifamily. Councilmember Colbert agreed.

[8:18:15 PM](#)

6.9 Mr. Dobbins indicated the RM1 and RM2 are typically multifamily zones. They usually do not get a lot of single-family homes in these zones.

[8:19:11 PM](#)

6.10 Councilmember Stenquist stated under the R4 or R5 they would not be able to do multifamily. Mr. Dobbins stated that is correct.

[8:19:23 PM](#)

6.11 Russ Fox, Assistant City Manager, explained the City Council passed a rezone at the last City Council meeting, and they required a development agreement because the developer requested 7,000 square foot lots for single-family homes. This change would limit the number of development agreements the City would enter into.

[8:20:54 PM](#)

6.12 Mr. Morey reiterated that this was staff's attempt to respond to the Council's request. They may not have hit the mark, so staff can do additional work on it if necessary.

[8:21:06 PM](#)

6.13 Councilmember Colbert noted with this kind of density, he almost thinks they should just have one RM zone and just choose the lot size.

[8:21:17 PM](#)

6.14 Mayor Walker opened the public hearing.

[8:21:30 PM](#)

6.15 Shawn Benjamin stated he lives on a small lot, and he likes it. He said he is not sure if his development had a development agreement at the time or not. The setbacks on a lot this small are something the City would have to be careful to not take away the buildable area.

[8:22:28 PM](#)

6.16 Mayor Walker closed the public hearing.

[8:22:36 PM](#)

6.17 Councilmember Colbert asked whether there is an advantage to having two RM designations and questioned what it does to the other RM2 zones the City has approved. Mr. Dobbins noted the maximum dwelling units does not change because it only affects the single-family homes that are built.

[8:23:34 PM](#)

6.18 Councilmember Stenquist indicated there is one aspect to this, even if the Council writes this into the City Code, someone would have to come in to make the rezone request before anything can be built. Mr. Morey noted that is correct. Staff even talked about looking at the map and proposing areas it would work; however, they decided not to do that. Someone will come in and make a request, and the City Council can decide whether that location makes sense or not.

[8:24:14 PM](#)

6.19 Councilmember Colbert moved to suspend the rules. Councilmember Stenquist seconded the motion.

[8:24:25 PM](#)

6.20 Councilmember Vawdrey noted the only question they have really talked about is the lot sizes.

[8:24:39 PM](#)

6.21 Councilmember Colbert noted he is ready to talk about the chicken ordinance, but that is a separate thing.

[8:24:50 PM](#)

6.22 Councilmember Stenquist stated from what he can tell, he is fine with the R4 and R5. However, some of this discussion has caused them to think about the change from RM1 and RM2. The Council recently approved a rezone with a development. He said this would not have necessarily worked for them because they wanted a 7,000 square foot lot. They would have still had to ask for an RM1. He would be a little hesitant if someone was to come in with a request for a 6,000 square foot lot and the City Council changed it to the RM1 zone. They could then change their mind and do multi-family. He would still want a development agreement so that did not happen.

[8:26:56 PM](#)

6.23 Councilmember Colbert noted the reason he is in support of this application is that they are still limited with the number of units. The developer still has the flexibility in laying things out and making a mixture without requiring a development agreement.

[8:24:24 PM](#)

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

[8:27:37 PM](#)

6.25 Councilmember Colbert moved to approve Ordinance #1096, amending the zoning ordinance by adding two new zoning categories called R4 and R5. Councilmember Stenquist seconded the motion.

[8:27:52 PM](#)

6.26 Councilmember Colbert advised this gives the developers more flexibility while still allowing the City to maintain high-quality developments in the city.

[8:28:24 PM](#)

6.27 Mayor Walker noted the developments that have done the smaller lot sizes are selling for a lot of money. This gives more people the opportunity to live here, and he thinks they will continue to see high-quality projects moving forward.

[8:28:57 PM](#)

6.28 Councilmember Stenquist noted before they had the RM1 and RM2 with the 10,000 or 8,000 square foot single-family option. With these zones, it actually makes it more restrictive and gives the City more control.

[8:29:32 PM](#)

6.29 Mr. Dobbins clarified that the development standards that Mr. Morey showed the City Council are for the RM1 and RM2 zones. The City does not have those kinds of standards for single-family homes including the R4 and R5.

Councilmember Stenquist stated he understands that. At some point, they could talk about doing that.

[8:30:43 PM](#)

6.30 Mr. Fox noted single-family homes are a conditional use permit in the RM1 zone. He said he is not sure that is necessary. Councilmember Colbert stated that makes them have to abide by the architectural standards, and he is okay with that.

[8:32:01 PM](#)

6.31 Councilmember Vawdrey noted there is a cap, but she is concerned that more people will want to come in and request the maximum density.

Mr. Fox stated he did the math on a ten-acre project. At eight-units per acre, they could be eighty units. If they did the 6,000 square foot lots without taking into consideration the roads or other requirements, they could only do seventy-two units. He expressed they will have a hard time reaching the maximum density with those lot sizes.

[8:34:02 PM](#)

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

[8:34:13 PM](#)

7.0 Public Hearing: Ordinance #1097, Ivory Homes is Requesting to Rezone 3.92 acres from RA1 to R3, Located at Approximately 491 E. Kimballs Lane. The Rezone Request is Linked to a Development Agreement that Would Permit Minimum Lot Size to be 9,000 Square Feet.

7.1 Mr. Morey indicated this is a perfect example of the discussion they just had. The developer was moving along with the development process while staff was looking at the new zones. The developer chose to continue on with the current zone options. Mr. Morey then reviewed the proposed project. The development agreement includes the developer pay \$65,507 for park improvements in the Cranberry and Honeybee parks. This was determined using a specific formula the City has used in the past and was not just an arbitrary number. Mr. Morey indicated if the R4 and R5 zone were in affect already, the developer probably would have requested one of those zones. If the City Council moves

forward with this application this evening, the project is vested under this zone with this development agreement and those standards. The developer might feel like there is more advantage to him to pursue this development under the R4 or R5 zone. In order to do that, he would have to withdraw this request this evening and start a new process.

Councilmember Colbert indicated there is a risk that the City Council would not approve that zoning. Mr. Morey noted the developer is aware of that.

[8:39:50 PM](#)

7.2 Councilmember Colbert asked Mr. Morey to display the plat map. He noted there is an open space parcel. He asked whether that is a detention basin.

[8:40:42 PM](#)

7.3 Mayor Walker opened the public hearing.

[8:40:54 PM](#)

7.4 Julie Myers, 11733 High Berry Circle, noted there is a fence that has been thrown together in the park area. She would like some of the improvement money to be used to upgrade that fence. The neighbors would be willing to do the labor if they would get the paint. A maintenance free fence would be better, but she does not know the expense involved in that.

[8:42:46 PM](#)

7.6 Bryon Prince. Ivory Homes, noted there was a question about the open space on the site plan. That open space is not large enough to build a home on. They worked out an agreement with the property owner to the north, so that area will be deeded to that property owner. The economics do not work for an HOA, and the City does not want to incur the burden to maintain another park.

[8:43:39 PM](#)

7.7 Councilmember Colbert asked whether the plat is marked so no one can build a home at some future date. Mr. Prince stated it is small. The biggest challenge would be the shape of the lot. The setbacks would make it tough to build a home.

Mr. Dobbins noted if the Council is concerned about it, they can add that to the development agreement.

[8:45:16 PM](#)

7.8 Mr. Prince indicated the dimension of the parcel is very unique. Ivory actually platted it out with that included; however, it is not buildable. Ivory lowered the lot count in this development because they are concerned about the fit of the homes. They want to build a development that the people moving to Draper want. He is not opposed to adding language to the plat saying it will not be built on.

[8:46:01 PM](#)

7.9 Mr. Prince then noted the R5 zone makes more sense for this development than the zone he is asking for right now. He asked what the timing would be if the City Council approves this application and then Ivory made a new application for the new zone designation. Mr. Morey replied Ivory would be able to apply for the new zone right away.

Councilmember Colbert cautioned that it does not guarantee that the City Council would approve it.

[8:47:29 PM](#)

7.10 Mayor Walker asked Councilmember Colbert why he cares if the language is added to the plat if the property is going to be deeded to the property owner to the north. Councilmember Colbert stated because it is marked as open space, and the neighbors would not want a home built there.

Mr. Prince indicated the map will not show open space on it. It will not be incorporated into the subdivision.

Mayor Walker advised they are not saying it is going to be open space.

[8:48:22 PM](#)

7.11 Councilmember Stenquist stated the developer will still have to go through a subdivision plat approval process, so maybe some of those details will be ironed out. His concern is that someone is maintaining it. Mr. Prince indicated that was the primary reason it is being deeded to the other owner.

[8:49:31 PM](#)

7.12 Councilmember Colbert asked whether they have a signed development agreement. Mr. Dobbins clarified that the action tonight is to rezone the property with the development agreement.

[8:50:10 PM](#)

7.13 Ms. Myers asked whether the neighbors would have a chance to make comments if the developer were to come back and ask for the smaller lots. She said she is not trying to rain on Ivory's parade, but the neighbors would be concerned with smaller lots. They are okay with the 9,000 square foot lots because that is the size of the lots there already.

[8:51:52 PM](#)

7.14 Mayor Walker closed the public hearing.

[8:52:06 PM](#)

7.15 Councilmember Vawdrey moved to suspend the rules. Councilmember Stenquist seconded the motion.

[8:52:18 PM](#)

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

[8:52:27 PM](#)

7.17 Councilmember Vawdrey moved to approve Ordinance #1097, which rezones 3.92 acres from RA1 to R3. Councilmember Stenquist seconded the motion.

[8:52:44 PM](#)

7.18 Councilmember Vawdrey asked whether Councilmember Colbert wanted something added to the motion.

Councilmember Colbert indicated he worries that when people buy into a development they have expectations with their home size. He hesitates approving something later because it is not what the neighbors bought into. The empty lot should be clearly noted that no structure will ever be built on that lot. Mr. Morey stated that would be added to the plat.

Councilmember Vawdrey agreed to add that to her motion. Councilmember Stenquist also agreed.

[8:54:06 PM](#)

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

[8:54:14 PM](#)

7.19 Mr. Morey requested clarification that the development agreement will be amended to include that when the plat is recorded that area is designated as an unbuildable lot. Councilmember Colbert noted that is correct.

[8:54:53 PM](#)

8.0 Action Item: Ordinance #1099, For Approval of an Amended Development Agreement for the South Mountain PUD.

[8:55:12 PM](#)

8.1 Mr. Morey advised this project has been in existence for quite some time. He gave a brief history of this project. The developer wants to amend some of the requirements that were previously approved, which included:

- Driveway width changed to 30 feet
- Garage setback removed
- Exterior design standard changed to Craftsman architecture

[8:56:57 PM](#)

8.2 Councilmember Colbert asked what that means as far as the current standards for a garage.

Mr. Morey explained it is slightly different but is similar to those approved at South Mountain. The applicant was told that the City Council might have a problem with this.

[8:58:18 PM](#)

8.3 Mr. Fox indicated the City requires that each single-family home have a two-car attached garage. There are also two additional parking spaces in the driveway. The standard depth is eighteen feet, so with a twenty foot setback, they will still meet that.

[8:59:11 PM](#)

8.4 Ryan Bybee, applicant, stated they are really excited to get his project back up and running. It has been a long haul with foreclosures and banks, and this should be a great project.

[8:59:47 PM](#)

8.5 Councilmember Colbert asked whether staff has inspected the roads already. Mr. Morey noted they are in.

Councilmember Colbert explained they have been sitting for some time. He questioned whether they will need some maintenance. Mr. Dobbins noted the City called the bond on it, and the City went in and finished it.

[9:00:41 PM](#)

8.6 Councilmember Stenquist moved to approve Ordinance #1099, which amends the amended development agreement for the South Mountain PUD. Councilmember Colbert seconded the motion.

[9:00:56 PM](#)

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

[9:01:11 PM](#)

9.0 Action Item: Ordinance #1100, Amending Section 6 of the Draper City Code Pertaining to the License Hearing Board.

[9:01:26 PM](#)

9.1 Mr. Morey noted the current City Code requires a separate body to hear the business license appeals. The City recently revoked a business license due to non compliance, and the business owner requested to appeal that action. Staff discovered that the board was not active, and the terms have all expired. Staff was able to work with the business owner, and he is now in compliance. Staff would like to amend the City Code to make the City Council the appeals board. He reviewed the proposed changes to the ordinance.

[9:03:42 PM](#)

9.2 Councilmember Vawdrey moved to approve Ordinance #1100, which amends Section 6 of the Draper City Municipal Code pertaining to the License Hearing Board. Councilmember Colbert seconded the motion.

[9:03:58 PM](#)

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

[9:04:12 PM](#)

Mayor Walker indicated he has an item he would like to go to a closed session to discuss regarding personnel.

Council/Manager Reports

[9:04:32 PM](#)

Councilmember Colbert indicated the bill from the Mountainland Association of Governments (MAG) came for the dues for next year and will need to be included in the budget.

[9:05:07 PM](#)

Mr. Dobbins noted the bid for the 20-acre parcel closes on Thursday. That will give the City an idea of the interest in purchasing it.

Councilmember Colbert noted he is not interested in selling it cheap. If they do not get any decent offers, he would like to hold off on selling it.

Mr. Dobbins advised it would have to come back to the City Council for approval. He spoke with bond counsel, and the funds to purchase the property were tax exempt. The City is fine to sell it as long as the proceeds are used for improvements of the property, such as a water system. That is what the City planned to do with them.

[9:07:43 PM](#)

Mr. Fox indicated the construction on the parking lot for the police building will start soon. The City has all of the permits for the building, and they are hoping to start construction on that at the end of the month.

Mr. Fox then advised there was a rezone request a few years ago for the Riverview Chapel. PRI was looking at dividing off a piece of land for the church, but they pulled the request for the rezone. A road has been constructed in the area, but it has not been dedicated to the City. The property is currently zoned A5. The City will need to rezone the property down to a smaller zoning classification, so the Church can divide off the property and dedicate the road to the City. The Church is requesting the City do a City-initiated rezone for that property. One of the classifications the City has is an A2 zone, which allows for a two-acre zoning. This would still be agricultural. The question for the

Council is if they are willing to initiate a rezone in this area to the A2 zone and a commercial zoning designation for PRI. The City will be able to divide off the property, get the road, and get Lone Peak Parkway corridor preservation.

Mr. Dobbins explained the City is trying to find a solution so they can subdivide the road off. They cannot do that under the current zoning.

Councilmember Stenquist noted the City is still paying for the corridor preservation funds. Mr. Fox noted that is correct. When they first did this, they received funds from the Wasatch Front Regional Council. The City has been holding on to that money, but they cannot do anything with it until they divide the property.

The Council agreed to move ahead with this.

[9:15:58 PM](#)

Mayor Walker noted he is the chairman of the Council of Mayors (COM). Their big push has been to try to get a local option gas tax to bring money in to fix the roads in the City. COM was united in trying to get this, but during the Legislative session, it fell apart. Mayor Walker noted he does not see this passing anytime soon. Mayor Walker recommended Draper City have a study done to find other funding options. One City charges a road fee. Everyone drives on the roads, and there is a clear economic impact for having poor roads. There is no solution to fixing the roads, and he thinks the residents need to help solve the problem. The State is not going to come in to help to solve the Cities transportation problems. Draper needs to get ahead of this.

Councilmember Stenquist indicated in approximately 2008, the Previous Public Works Director, David Decker, recommended the City Council add funds to the City Budget each year for six years in order to have the funds to maintain the roads. The City did not really do this, but were able to maintain the roads okay. However, due to the building boom, there are a lot more roads the City has to maintain. He agreed that the City needs to do something.

The Council agreed to look at options.

Mayor Walker then noted the City needs to be careful with how events are held on the City trails. The City needs to be sure they have the agreements in place to cover the City.

[9:27:16 PM](#)

10.0 Adjournment to a Closed-Door Meeting to Discuss Litigation and the Character and Professional Competence or Physical or Mental Health of an Individual.

[9:27:22 PM](#)

10.1 A motion to adjourn to a closed door meeting was made by Councilmember Colbert and seconded by Councilmember Stenquist.

[9:27:30 PM](#)

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