

Approved March 16, 2020

MINUTES OF THE DRAPER CITY COUNCIL MEETING HELD ON TUESDAY, MARCH 2, 2021, IN THE DRAPER CITY COUNCIL CHAMBERS, 1020 EAST PIONEER ROAD, DRAPER, UTAH

PRESENT: Mayor Troy K. Walker, and Councilmembers Mike Green, Tasha Lowery, Fred Lowry, Cal Roberts, and Marsha Vawdrey

EXCUSED:

STAFF PRESENT: David Dobbins, City Manager; Mike Barker, City Attorney; Scott Cooley, City Engineer; Hazel Dunsmore, Human Resource Director; John Eining, Police Chief; Bret Millburn, Assistant City Manager; Rhett Ogden, Recreation Director; Christina Oliver, Community Development Director; Laura Oscarson, City Recorder; Clint Smith, Fire Chief; Bob Wylie, Finance Director; Heather Nowlin, Acting Communications Director; and Spencer DuShane, Assistant City Attorney

This meeting was held electronically.

This meeting will be an electronic meeting according to Draper City Municipal Code 2- 1-040.

Determination 2020-25, pursuant to Utah Code Annotated 52-4-207(4)

I, Mayor Troy K. Walker, do hereby determine conducting an electronic meeting of the Draper City Council with an anchor location presents a substantial risk to the health and safety of those who may be present at the anchor location and hereby authorize the Draper City Council to conduct electronic meetings without an anchor location.

The foregoing determination is based on the following facts:

- Federal, state, and local leaders, including the Draper City Mayor and City Council, have all recognized a global pandemic caused by the spread of the COVID-19 virus.
- COVID-19 cases and hospitalizations in Draper continue to fluctuate at high levels, both of which pose a risk of overburdening the local health care system and health care providers.
- It is difficult, if not impossible, to predict the number of attendees at any meeting and to manage issues regarding social distancing in order to comply with applicable health orders.

- COVID-19 poses a continuing and immediate threat to the health, safety, and welfare of Draper City residents and the public in general.
- The City has the technological capability to provide means by which the public may hear, or view and hear, the open portions of the meeting and to participate in public hearings.

Study Session

1.0 Training: New microphone system – Jake Sorensen

David Dobbins, City Manager, said that the Council probably noticed that they had new microphones. He said that the Council had appropriated funds to get the microphones replaced. He said that he thought they would make a big difference. The little microphones sometimes made it difficult for people to hear the audio.

Jake Sorensen, Network Administrator, provided a brief training. He noted that the previous system was 10 to 15 years old. He said that as was the case before, the speaker needed to push the button on the microphone and wait for the light to turn green. To mute oneself, the button could be pushed again, causing the light to turn red. He said that a nice feature of the system was that all of them were wireless. The city had 31 total mics that could be taken anywhere. He said that the sound person also could mute people through a touchpad. There were also some recording abilities.

As a reminder, he noted that the microphones did self-pickup and regulated their volume levels. However, a good distance to be away from the mics was about 12-15 inches.

2.0 Annual Ethics Training – Mike Barker

- 2.1 Mike Barker, City Attorney, said that not to make light of ethics, they had decided to inject a little levity into the training. He said there was a clip from a popular Netflix show to outline an ethical conundrum. He said that it was hoped that would spur some discussion before getting into the meat of the state statute, as well as what Draper City Municipal Code (DCMC) required.

- 2.2 Spencer DuShane, Assistant City Attorney, said that they were going to learn about ethics from the Rose Family from the Netflix show Schitt's Creek. He played three clips from the show.

Before talking about the particulars of the clips, Mr. DuShane went over some key definitions so that everyone was on the same page. The first definition addressed was interest found in section 9-2-010 of DCMC:

Direct or indirect pecuniary or material benefit accruing to a city officer or employee as a result of an official act or action by or with the city, with the exception of similar benefits made available to other Draper citizens similarly situated.

Interest included money, favors, or jobs and extended to the city officer or employee's extended family, people with whom one had a contractual relation, businesses for which one has some kind of significant leadership role, and businesses for which one has an ownership stake of more than 5%. It was noted that Draper's code was far more expansive than the state code.

The second definition outlined was gifts: anything given to you in an official capacity except:

- Items or services with a monetary value of less than \$50;
- That is given only occasionally;
- When accepting a publicly presented award; or
- When accepting a campaign contribution.

Mr. DuShane said that the councilmembers had been given a cheat sheet that addressed most of the ethical dilemmas they might be faced with to help them determine the right course of action. The cheat sheet referenced both state and city codes.

Mr. DuShane said that disclosure was key in resolving ethical issues. Conflicts of interests that should be disclosed included:

- The compensation received for assistance in a transaction with the City;
- Interest in a business entity regulated by the City;
- Interest in a business entity doing business with the City;
- Personal interest or investment creating a conflict of interest;

Referring back to the Netflix clips, Mr. DuShane noted that Moira did not disclose her conflicts of interest, which included her daughter, Alexis, who was going to receive the grant money from the city to do Singles Week when she was going to be collecting her entire fee.

Another example where a conflict of interest might arise, but one wouldn't necessarily need to be out of it. Say a city official owned a screen-printing business in Draper City. With the new city logo, that official decided that they wanted to follow the city's procurement process and bid on a job to make new t-shirts with the new city logo for various reasons that the city needs them. As long as the procurement process was followed and that official was not directly involved in deciding who was hired, the official needed to disclose that they owned the company, but would not be required to recuse themselves out of the running. In Moira's case, however, she not only should have disclosed but also recused.

When in doubt about if something should be disclosed, it's always better to disclose.

Mr. Barker said that the law says that disclosure is an ongoing process. When the councilmembers were sworn in they should have filled out a sheet. These are typically done every year. However, if there is a change or life event that occurs mid-year, the councilmembers needed to update their disclosure form.

Mr. DuShane elaborated on situations when a city official needed to disclose and recuse. He outlined a scenario where an official was a real estate agent who was helping a client with the purchase of a property that they also wanted to rezone. Because the re-zone was a legislative act that the councilmember would be taking part in, when the item came up for a vote, the councilmember would need to recuse. When a councilmember has an interest over which they influence how the decision is made regarding that interest, that is when a councilmember needs to recuse. He said that if a councilmember discloses and recuses themselves regularly, they are going to find themselves on the right side of ethics.

Returning to the Schitt's Creek example, Mr. DuShane said that Moira should have recused herself in the voting. He noted that in the clip it was not quite clear if she recused herself. She didn't quite vote, which under Draper City

rules would not be allowed; A councilmember is either voting yes, no, or recusing: there's no abstaining. Recusal means that a councilmember gets up and leaves the room and does not even participate in the discussion. This will keep folks on the right side of ethics.

Mr. DuShane spent a little more time talking about gifts. He said that gifts were something that the councilmembers should not seek out in exchange for anything. At that point, it would no longer be a gift, but a bribe. Bribes were not allowed by either state law or DCMC. Gifts could be accepted under \$50 in value. He provided an example of a gift situation that came up in his personal life. In his previous position with the Utah Division of Fish and Wildlife, he would write special use permits for rafting and tubing companies that would put in on the Weber River on Utah Wildlife property. One guide told him, "Hey, if you ever want to go float the river on the tubes, give me a call. Call my personal number and I'll take care of you." Mr. DuShane said that when he did go tubing he called the company directly and booked through the regular route. However, when the guide saw Mr. DuShane's name on the list of tubers and recognized it, he comped both Mr. DuShane and his wife's float. The typical fee was \$25. When Mr. DuShane worked with Fish and Wildlife, there was the \$50 state law, but the Department of Natural Resources, the agency umbrella which his job fell under, had a \$30 cap. Because of this, when he and his wife got to the river, he was fully prepared to pay the full fee. When the guides said, "oh no, we've got you covered," Mr. DuShane said that couldn't be because he couldn't accept a gift of more than \$30 so he paid for one of the floats.

He noted that gifts were pretty expansive.

- 2.3 Councilmember F. Lowry asked about the example that Mr. DuShane provided about floating. He clarified that the value of the gift that was given to his wife needed to be included in the total value of the gift.

Mr. DuShane said that both floats were comped for him. He wasn't giving his wife the float. He said that if they were talking about what an interest was, the Draper Code extended an interest to immediate family which already included his wife.

According to Mr. DuShane the best practice was: (1) when in doubt, ask the City Attorney, Mr. Barker; (2) if Mr. Barker was unavailable, ask Mr. DuShane,

the Assistant City Attorney; (3) if doubt still exists, disclosure is always a good idea; (4) if legal counsel is unavailable or does not have enough time to properly research the issue to give sound advice and you're still unsure, recuse yourself.

3.0 Presentation: Water Reuse to the residents of Draper – Scott Cooley

- 3.1 Scott Cooley, Public Works Director, said that the area was in the midst of a drought and had been for some time. A topic that would continue to come up soon was water, as it was a scarce resource. Fortunately, Draper had an asset that could be utilized to help the City and its residents, particularly those who have secondary irrigation. In the bigger picture, it was about water conservation.

Mr. Cooley wanted to talk about Draper's reuse water shares that come from sanitary sewer-treated water. WaterPro, also known as Draper Irrigation Company, was offering the city an opportunity to use its treated wastewater (reuse water) for the benefit of the residents of Draper. Under this plan, the city's effluent will be reused in WaterPro's existing pressurized irrigation system, which will significantly increase the water in the system. As a result of the contract, new parts of the system would be added. WaterPro was willing to budget \$21 million to improve existing infrastructure. They had already spent about \$3 million. WaterPro needs to get a loan for the remainder, but to be able to do that, they need the commitment from Draper City to be able to utilize the water shares. These shares would not ever be able to be used by the City. Where WaterPro has an existing system to be able to tie into, Draper City did not. In the bigger picture, the water was currently just being sent down the Jordan River. In the future, there was not a foreseeable use to be able to utilize the asset.

- 3.2 David Dobbins, City Manager, asked if Mr. Cooley could explain a little bit more exactly where the water came from.

Mr. Cooley explained that every time a toilet is flushed or a kitchen sink is used, that water goes to a sewer treatment plant. The effluent is the water that comes out of that sewer treatment plant. This water cannot be used for drinking. At some point, it might be able to be treated to be used as drinking water, but they were years away from that. Despite the significant cost to treat sewer water, Mr. Cooley said that someday the water shortages would make

that expedient. Right now, however, the plan was to use the effluent for irrigation purposes and to mix it with WaterPro's existing secondary water. He said that the effluent was cleaner than standard secondary water.

Mr. Dobbins asked Mr. Cooley to explain where the water goes and how it would go from the facility to WaterPro.

Mr. Cooley said that after the water came out of the strainer, the water treatment plant, WaterPro was developing a system of water wells that would tap into the Jordan River which would be mixed with the effluent to be sent into their secondary water system that provides water to a significant portion of Draper, especially on the west side. He said that there would be other opportunities to use the water. To invest in adding to the system, WaterPro needs Draper's permission to use the purified wastewater in the new system.

- 3.3 Councilmember F. Lowry verified that Mr. Cooley said that the purified waste would be of a higher quality than the water currently in the secondary water system.
- 3.4 Mr. Cooley said that was correct and that it would have the added benefit of having fewer restrictions because the water was not regulated in the same way as secondary water. It was water that the city had the right to use. He said that if there was an algae bloom on Utah Lake, that could affect the secondary water system. With the reuse of water, WaterPro would have a constant stream and would be pulling water out of the ground, so the quality of the water would not be affected by the algae bloom. He said that there were many advantages to this type of system, the primary one being that the water was used that was currently being wasted in the Jordan River.
- 3.5 Councilmember T. Lowery clarified that these were Draper's water shares. She asked if Draper was entitled to them for a certain period of time.

Mr. Cooley said that was part of the contract that had not yet been negotiated. He said that for WaterPro to get the system to work, they want to put in the agreement that they can use Draper's shares. If that was not acceptable, the City Council could state what was acceptable. He said to keep in mind that Draper did not have any facilities whatsoever to use the water.

Councilmember T. Lowery said at this point. She asked if 100 years from now, they would have given up their water shares in perpetuity.

Mr. Cooley said that agreement would only impact the water that Draper has now. As the City grows, there would be more capacity available that would not be included in this agreement. He said that the facilities to be able to use this water for drinking were well beyond what was being discussed for this project. He said he had no idea the cost of a project like that, but that it would be a lot more than \$21 million. He said that WaterPro already had a lot of existing infrastructure, that Draper did not have, to be able to utilize the water.

Councilmember T. Lowery reiterated right now. She said that water was only going to become more and more valuable.

Mr. Cooley said that an interesting aspect of Draper City was that a lot of its residents received their water from WaterPro. Draper City was the biggest shareholder in WaterPro. The water that was utilized in the city ultimately goes to Draper City residents. Even though the city might allow WaterPro to use water from Draper City's shares, most of the water would be used within the city.

- 3.6 Councilmember F. Lowry asked if Mr. Cooley could clarify where the water shares owned by Draper City are currently going. Mr. Cooley said that they were going into the Jordan River.
- 3.7 Mayor Walker asked if the agreement could be termed for 25 years so that down the road, it could be revisited and renegotiated if at that point some of the water needed to be used for drinking water.

Mr. Cooley said if that was what the Council wanted to do, staff could suggest that to WaterPro. He said that he wanted to get to the advantages the agreement would have to the city.

First, approximately one-third of Draper's reuse water could be used to irrigate Galena Park. The difference in rates for the potable water that is currently irrigating the park with the rate of secondary water would save the city approximately \$70,000 per year on irrigation costs for the park alone. The system that would allow the water to be brought to Galena Parks is estimated to cost \$500,000. WaterPro has indicated that they would be willing to upfront that cost. They would continue to charge the potable water rate and deliver the lower cost, secondary water and use the \$70,000 savings to pay back their

initial \$500,000. With current rates, it would take about seven years to cover the cost of the system. If the culinary rates went up and the differential became greater, it would take less time to pay off the system. Essentially, in a minimum of seven years, Draper would see \$70,000 in savings as a result of a system that they had to put no initial investment in. At the same time, drinking water would no longer be used to irrigate Galena park, freeing up culinary water that was currently being used for landscaping.

- 3.8 Councilmember T. Lowery said that she felt like it made a lot of sense to agree now and for the foreseeable future. She just wondered if at some point circumstances might tip over the other way, where the water was so important and valuable that the City might want to maintain some rights to it, or have the ability to renegotiate the contract.

Mr. Cooley said that if that was what the Council wanted staff to negotiate, that is what they would take to WaterPro. Councilmember T. Lowery said that she might be the only person who felt that way. She didn't know.

Mr. Cooley said that right now he just needed to know if the Council wanted staff to enter into a negotiation with WaterPro to reach an agreement about using Draper's treated sewer effluent and if so its desires about how much of the water shares WaterPro could use or any desired restrictions.

- 3.9 Councilmember F. Lowry said that he liked the idea. He felt that it could help get secondary water to the west side of the city. He said that they were able to get water to Galena Park, would it not also be possible to extend the water.
- 3.10 Mr. Cooley said the system could be extended at an additional expense.
- 3.11 Councilmember F. Lowry said that his only concern was that he wanted to make sure that the City did no lock up those shares forever. He wanted the ability to take back the water rights if need be.

Mr. Cooley said that WaterPro's whole system was going to be based on these types of contracts. It would not just be Draper that would be feeding into the system. They would also need water from Sandy, Riverton, and other cities. He said that there were other agencies that all have to agree to the contract, including the Jordan Water Conservancy District, the source of Draper's culinary water. If any of the parties don't agree, the system would not work.

He said that any terms the City Council wanted could be put on the table and WaterPro could decide what they wanted to do with it. He asked that the Council keep in mind that if the conditions of the agreement did not work for WaterPro, Draper still would not have a way to use the water now or in the foreseeable future. He said this might be the only opportunity in the foreseeable future to be able to utilize the water.

Councilmember F. Lowry asked if Mr. Cooley knew the read from other cities. Mr. Cooley said that he believed that both Sandy and Riverton had already agreed. He said that he thought that David Gardner, WaterPro representative, was on the line and could probably better answer the question.

- 3.12 Councilmember Roberts asked if there was a sense of what WaterPro was trying to get in terms of an agreement in terms of the contract length. He asked if they were trying to make it coincide with bond maturity.
- 3.13 David Gardner, WaterPro representative, said that it was his view that this needed to be a permanent contract. He said that the system was based on certain water volumes, so its function would be compromised if a water source was removed 20 years down the road. He also said that he felt that if a resident had to choose between drinking treated sewer water effluent and putting it on one's lawn, people would probably choose the latter.
- 3.14 Councilmember T. Lowery said she didn't think she was saying that. She said that right now, what was being presented was true. However, 100 years in the future, having lawns might no longer be an option, and using the water as drinking water might be a choice they might inevitably have to be faced.

Mr. Gardner said that he could see where she was coming from, but that he could not see people giving up their landscaping 100%. He said that right now 50% of all the water goes to landscaping.

- 3.15 Councilmember Roberts said that he was trying to understand the ask and why WaterPro needed to tie up the asset in perpetuity. He wanted to know why Draper could not extend WaterPro a long term that renews subject to Council approval in the future. He asked if that hurt WaterPro's ability to get the bond.

- 3.16 Mr. Gardner said that they want to utilize as much of the reuse water as possible because it was a benefit. Rather than have something temporary, they would look to develop more of their Utah Lake water in shallow wells. They do not feel as though they can have a source that was not reliable for the future. He said that it was like delivering water to a house, but that in 30 years a homeowner gets told, “well sorry, we contracted that for 30 years so now you don’t have water for your home. He said that their supplies had to go forward so that they were committed.
- 3.17 Councilmember Green said that every contract that he had ever as a Management Incentive Unit (MIU) agreement between an entity to another entity had a provision that allowed for renegotiation around renewal. He said that if WaterPro was stating that was not the case and that the contract was permanent forever, then he was a no. He was out.
- 3.18 Mr. Cooley asked for clarification that what Mr. Gardner was saying was that the size of the facilities built was going to be based on the commitment received. Because of this, if Draper said that they didn’t want to participate, the system would still be built, but it would not be designed for Draper’s water. As a result, the ability to use the water would no longer be viable, because the facilities would not be able to handle it.
- 3.19 Councilmember Roberts said that was true unless, in the future, Draper invested in the capital cost themselves. He asked how the benefit that would come to Draper could be more concrete in perpetuity. He wanted to know what Draper would get 50, 75, or 100 years from now.

Mr. Cooley said that the \$70,000 a year over 50 years would be significant and would be ongoing. That benefit would not be lost. The benefit was only gained by utilizing that water.

- 3.20 Councilmember F. Lowry said that the water that Draper was giving up was the reused water that had already been processed and that right now was going into the Jordan River and going away. If Draper entered into this agreement with WaterPro, they were just giving up the right to reuse the water that was going down the Jordan River so that it could be redirected to a treatment plant to be reused as secondary water.

Mr. Cooley said yes. The water was not even being directed to a treatment plant. The water was already treated, it was just being mixed with secondary water. It was usable water that was just going into the Jordan River.

Councilmember F. Lowry asked what percentage of the water used in irrigation ended up back in the system to be reused again. Mr. Cooley said the proposed system was only talking about sanitary reuse water. The City owned the rights to the water that came through the city's storm drains. Councilmember F. Lowry said that if the question of rights could be worked out, the idea makes sense to him.

- 3.21 Mr. Cooley said that all he needed to know was if the Council wanted staff to pursue negotiations with WaterPro.
- 3.22 Councilmember Vawdrey asked if most of the water that Draper residents drink comes from WaterPro. Mr. Cooley said about two-thirds. Councilmember Vawdrey asked if someday the water was drinkable, it would be back to a provider who was already providing drinkable water to the city. She also asked about a statement Mr. Cooley made about how if Draper uses more water, there would be more water in the supply. She wanted to know if there might be more shares available in the future. Mr. Cooley said that WaterPro was going to design the system based on the water commitments they were able to secure. He said that anything above what Draper commits would still be available to Draper. Councilmember Vawdrey said that she felt it would be foolish to walk away from the opportunity.
- 3.23 Councilmember Roberts said that it seemed like Draper was financing the infrastructure by giving the shares. Draper would have to install the infrastructure on their own, but WaterPro is going to do it through the shares. He said that he was trying to figure out the concrete benefits to Draper over time. They would be giving up water, which he realized right now they couldn't do anything with. But, to Councilmember T. Lowery's point, there might be a time where water becomes so valuable that it doesn't make sense. He wanted to know the concrete benefits Draper would see in 50 years if they entered into the agreement.
- 3.24 Mr. Cooley said that as more and more pressure gets put on the system as the demand for water increases with growth. As Councilmember T. Lowery said, this would make the water more and more valuable. However, that does not

mean that the infrastructure to be able to use the water would become any cheaper for culinary purposes. It just means that the water is more valuable. What that means, in reality, is that there would be cutbacks in people's yards and people converting their grass to rocks. He said the more Draper can utilize this type of resource, the better off everyone will be in the ability to conserve water.

Councilmember Roberts asked if Draper residents were the only ones that capture the benefits from the water shares, or did the benefit get put into a pool with other cities such that Draper did not capture 100% of the benefits.

Mr. Cooley said he was not sure what the percentage would be. He said that a third of the water going into the system would go to Galena Park. He said that they could certainly hook up more subdivisions down in the west side that would be able to utilize the secondary water. He said that some of the subdivisions had dry lines that were not being utilized. He said it would be an additional expense. This would be a way to get secondary water to Galena Park and pay for that infrastructure with the savings in water cost over the next seven years and then realizing that savings forever.

3.25 Mayor Walker asked if three councilmembers wanted to at least look into the opportunity more to get a little more information to see if it is worth doing.

3.26 Mr. Dobbins said that staff understood that one of the main questions was if this was an asset that the Council wanted to give up in perpetuity or not.

Mayor Walker said that since all of the water was facilitated through WaterPro if there was a point when residents had to drink the treated water they would probably be able to mix the types easily.

Mr. Cooley stated that what Mr. Gardner said was that there was always going to be an irrigation need. By investing in the system to be able to utilize the secondary water, that reduced the amount of culinary water that had to be used because this water would always go towards irrigation. Mayor Walker said that went right to water conservation.

3.27 Councilmember F. Lowry said that in his view if it came to the point where we needed to treat sewage water so that it could be reused as drinking water, it

would probably require the city to partner with someone like WaterPro to be able to establish the infrastructure to do that water treatment.

Mr. Cooley said that from his experience of analyzing some of these systems, it would never be cost-effective for the city to independently put in a system like that.

Mayor Walker said that they looked at that seven or eight years ago. Even then it was almost \$60 million. He said that there would be savings if Draper had its own well, but it would take almost 70 years of savings to break even. No Council wanted to spend that kind of money to break even 70 years down the road.

- 3.28 Councilmember Roberts said that WaterPro would put up the infrastructure and Draper would get the benefit. He said that he just wanted to make sure that Draper captured the whole benefit.

Mayor Walker said that after seven years the \$500,000 would be paid for and Draper would save \$70,000 a year forever. Councilmember F. Lowry asked Councilmember Roberts to clarify his question. He noted that it had been indicated that one-third of the water share would go back into Galena Park and wanted to know if Councilmember Roberts' concern was where the other two-thirds were going.

Councilmember Roberts said that Draper's effluent was a concrete quantity and wanted to know if that volume would get entirely captured by Draper City and residents or did it go into some pot where the water could not be tracked because five cities were contributing making it hard to say who was getting and paying for what. He wanted to make sure the cost matched the benefit.

- 3.29 Mr. Cooley said that there would not be any cost to the city to be able to utilize the system, except for whatever cost was associated with additional infrastructure to bring the water to where the city wanted to use it. Expanding that infrastructure would come at a cost to the city without a benefit. Residents would see a reduction in their bills, but the city would not.
- 3.30 Councilmember F. Lowry said that it did make it a more reasonable opportunity to get secondary water to the west side of Draper. Many of those areas had wanted secondary water for a long time.

Mr. Cooley said from a water conservation standpoint if they were able to bring the water to those areas, then there would be the ability to capitalize on the culinary water that would no longer be used for irrigation.

Councilmember F. Lowry said that was a good point and would help them get to the next step. He asked Mr. Cooley what his recommendation was. Mr. Cooley said that he recommended that the Council decide. He said that he thought that it was a good idea. He would not have presented it if he didn't. However, he understood the Council's reservations.

4.0 Council/Manager Reports

- 4.1 Councilmember F. Lowry after the discussion on Saturday about the Moto-Challenge, had a discussion with Wayland Mc McGary, Recreation Manager, and Rhett Ogden, Recreation Director, about the possibility of holding the event in August. The first Saturday of the month, August 6, 2021, was a reasonable date that could work without conflicting with other races. He said that if the event was something the city wanted to do, it could be done in August, but would need to fall on the sixth. In his opinion, that would be even better because it would be after the rodeo and things will have progressed enough that they likely would be able to have more than the 700 people attend. He said he'd like to pursue the event.

Councilmember Roberts said that he liked the idea as long as they could get assurance from staff that it would not pull too many resources away from Draper Days.

Councilmember F. Lowry said that one of the things that Mr. McGary said that having the event in August aligned best with his availability. Mr. McGary also said that some employees in Public Works had experience with Motocross who might be able to help with the track. It was thought that if the event was held after Draper Days, they would have more time to make the event work.

Mr. Dobbins said that he wanted a chance to sit down with Mr. Ogden and Mr. Cooley to verify that they could host the event.

Councilmember Vawdrey asked if there was a possibility that volunteers or board members could help with the labor, or does the city not like to share. Mr. Dobbins said that the biggest question for staff right now was the liability.

He said that per the city's insurance providers, they were no longer allowed to have volunteers use machinery. Staff would just have to be clear that there was something that volunteers could do like tickets. In terms of using city machinery, they wouldn't be allowed. He wanted to be clear that if someone gets hurt using a shovel, say has a heart attack, it's on the city. Draper would pay all the worker's compensation. If anything happens to someone while they are volunteering for a city event, the city has to cover all of those costs.

Councilmember Vawdrey asked if a volunteer was sitting at a ticket booth and had a heart attack if the city was liable. Mr. Dobbins said he would have to look at that. He said that answer would be probably. However, the odds of having someone suffer a heart attack with tickets wasn't too high. These were the types of cost-benefit analysis that staff did with all of Draper's employees.

- 4.2 Councilmember Roberts said that one item that was discussed on Saturday was getting the boards and commissions, for example, Parks and Recreation, on the agenda to get a sense of strategic initiatives and feedback to be able to provide the Council's guidance for the coming year. He asked if that was something they could try and do.

Mr. Dobbins said that staff intended to have the different committees come in, especially in anticipation of the budget so that any of the boards that have budget requests could present those at the same time. He said that it would probably be the next meeting when the boards and commissions would begin to be worked into the study session.

- 4.3 Councilmember T. Lowery said she had a resident reach out to her more than a year and a half ago about a neighbor who had encroached into Draper open space behind their house. The city was effective in getting that torn down. The same resident reached out to her again and informed her that the neighbor had built a guest house in the city's open space.

Mr. Dobbins said that staff had some additional information on that issue. Christina Oliver, Community Development Director, felt that it was not a structure, but a retaining wall.

Councilmember T. Lowery said that neighbor had pictures of the structure on his Facebook page and was calling it a "he shed." Mr. Dobbins said that staff was following up on the issue. He said there were two questions: (1) was it

constructed on city property, and (2) was/is a building permit needed. He said the staff was following up on both of those issues. The Council also received an email about a resident who made improvements to one of the city's retention basins, which, from the city's point of view were never approved. Staff is going to have to start actively enforcing some of these violations. He said that these behaviors come in waves, but the staff is back to the point where, especially with construction season coming, they want to start notifying residents who live adjacent to city property to make sure to know where their property lines are.

Mr. Dobbins said that he and the staff needed direction on how to respond to someone who has already encroached on city property. Were those cases that the Council wanted staff to actively enforce. He said that it put staff in a tough spot to not do enforcement.

Mayor Walker said that when he was a councilmember this issue came up a lot during his first term. Stupidly, they sold some people property that seemed like a good idea to begin with that turned out to be not a good idea. He recommended that the Council have people move whatever they built off of city property and noted that when he was a councilmember, they made someone move a pool. He said that he did not think that residents should get away with it and he didn't think the property should be sold to residents either.

Councilmember Roberts asked if encroachers were given a six-month grace period. Mr. Dobbins said that staff met today. They wanted to come back with a policy that outlined a noticing period and timeline for when structures needed to be removed, perhaps 30-60 days. He said that they wanted to be consistent in their enforcement. He said that one of the biggest challenges they have are people who move into properties and think that they own the land up to the fence, but the fence is 40 feet into public property and staff are telling a resident to tear something out that they are tens of thousands of dollars into. He said that staff would bring back some draft policies for the Council's direction in the next month or so. He asked if it was the Council's preference to not sell the property.

Councilmember F. Lowry said that he thought it would take very unique circumstances for the Council to consider selling property.

Councilmember Roberts said that he had a resident that had reached out to him on this issue, whom he sympathized with. He said that he went back and forth and that was the reason why they needed a policy that was uniformly applied. Otherwise, ad-hoc decisions are always being made.

- 4.4 Councilmember Vawdrey brought up boards and commissions. She noted that there was a goal to have the code changed to outline these entities' duties and have them report and indicate their goals to the Council. She said that those boards and committees also needed the Council to help them get more members. She felt that once the system was in place, she thought they should advertise through the newsletter and website to help get more volunteers.
- 4.5 Christina Oliver, Community Development Director, said that recently the big snow machine in Suncrest had been widening the street due to the amount of snow. The code enforcement officer had been going up there to issue courtesy notices. A courtesy notice communicates that an action is an egregious act where a resident has not tried at all to clear the snow. Many staff members recognize that the snow can turn hard very quickly up there and that there was also a lot of sludge when the machine comes through. The staff does not actively go and ticket individuals, nor do they levy fees. However, the staff is trying to educate the public.

She said that she knew that some of the councilmembers had been sought out regarding the notices so she wanted to be clear they were courtesy notices on a complaint basis. Sometimes the snow did become hardened to a state where it could not fully be removed.

Councilmember F. Lowry asked what was done about some of those sidewalks that had not been cleared for so long making the snow like concrete. He asked if there was a way for it to be cleared at that point. Ms. Oliver said lots of salt. A hair blow dryer. As someone with a lot of experience, she said a person really couldn't clear it up until it started to melt.

Councilmember T. Lowery said that she thought that the courtesy notices were great. It gave everyone a fair expectation of what the city hoped for and set a tone for the future.

- 4.6 Rhett Ogden, Parks and Recreation Director, said that the recreation division had finished the new fields at Galena Park. Since finishing them, there had

been a lot more opportunities, one of which being a softball tournament. Staff said that they would like to do that during Draper Days. What the staff wanted to do was something like what was done in St. George with the Heatstokers, play all through the night. Since Draper had never had a softball tournament like that he wanted to make sure that it was okay and see what the Council thought about the idea, especially because the lights would be on through the night and into the early morning.

Councilmember Roberts said that he liked the idea and might even participate. He asked if they would be close to the neighborhood. Mr. Ogden said that there were a few houses. However, the new LED lights installed on fields three and four, went dark way before the property lines. They'd need all four fields.

Councilmember T. Lowery said that she thought like it sounded really fun. Councilmember F. Lowry said he thought it was a great idea. If they pursued it he advised giving a heads up to the residents it might impact.

Mr. Ogden said they had talked about that and would make some door hangers letting them know about the event and that it would only be one night a year.

Councilmember F. Lowry asked if this also opened up the opportunity to bring other tournaments to that park. Mr. Ogden said yes. They had been pretty active in recruiting tournaments. He said there were a few pretty high-profile tournaments that had already booked the park that would bring some folks from out-of-state.

Councilmember F. Lowry asked how holding the tournament during Draper Days would impact staff who were also working in other areas. Mr. Ogden said that most of his full-time staff would be at Draper Park. This would involve a lot of umpires and scorekeepers who wouldn't normally work at Draper Days anyways.

Business Session

1.0 Call to Order: Mayor Troy K. Walker

2.0 Public Comments

3.0 Consent Items

- a. Approval of February 2, 2021, and February 16, 2021, City Council Meeting Minutes.

3.1 Councilmember T. Lowery moved to approve the Consent Items. Councilmember Vawdrey seconded the motion.

3.2 A roll call vote was taken with Councilmembers Green, Lowery, Lowry, Roberts, and Vawdrey, voting in favor. The motion passed unanimously.

4.0 Action Item: Ordinance #1475, City Initiated Chickens for Familial Gain Text Amendment (Legislative Item), on the request of Draper City for a Text Amendment to amend Sections 9-3-040, 9-9-080, 10-090, and 9-27-055 of Draper City Municipal Code. This application is known as the City Initiated Chickens for Familial Gain Text Amendment.

4.1 Todd Draper, planner, said that this was the long-awaited return of the chicken ordinance. He thanked the Council for their patience as the staff made some additional modifications based on the Council's feedback. Changes to the previously proposed ordinance included:

- a. The elimination of the reduction to the existing number of chickens allowed.
- b. The increase was recalculated so that the maximum number of chickens on a 40,000 square foot lot could be 25. An additional chicken for each 1,500 ft^2 in a property size above 11,500 ft^2 .
- c. The number of chicks and juvenile chickens (pullets) was increased to allow up to 50% of the chicken allotment.
- d. The proposed restrictions from high-density zones were removed but emphasized the existing restriction that the use is only allowed in conjunction with detached single-family dwellings.

Mr. Draper displayed a table of the potential egg production per lot size based on the increased number of chickens per lot, assuming peak laying conditions. He pointed out a few minor changes to the code since it was last presented to the Council. One change of note was that it was specified that compost piles needed to be five feet, as opposed to three feet, away from property lines, the

same distance as a run or coop. The Planning Commission forwarded a positive recommendation at their January 28, 2021 meeting with a vote of 5-0.

4.2 Councilmember Vawdrey moved to approve Ordinance #1475, City Initiated Chickens for Familial Gain Text Amendment. Councilmember Roberts seconded the motion.

4.3 A roll call vote was taken with Councilmembers Green, Lowery, Lowry, Roberts, and Vawdrey, voting in favor. The motion passed unanimously.

5.0 Action Item: Ordinance #1480, temporarily suspending collection of the Storm Water Impact Fee

5.1 Scott Cooley, Public Works Director, explained that in 2017 the Council passed an ordinance that adopted the current impact fee. It was based on a stormwater facility plan. Since then, actually, in 2020, new laws were passed that have different requirements for discharge from any site. The new law is more restrictive and prevents the discharge of as much water as was previously allowed. Some of the facilities that were outlined on the plan no longer applied. The problem with continuing to collect the impact fee was that the money had to be spent within six years or it had to be reimbursed back. The City did not want to get into a position where they had to reimburse stormwater impact fees. Because of this, staff wanted to temporarily suspend the impact fee until they could re-calculate what the City's actual needs were.

For example, previously it was allowed to have a discharge rate of .1 CFS per acre. Now the laws have changed such that 80% of the stormwater had to be retained on-site, and almost no discharge was permitted. The change was significant. Draper would not have to construct a lot of the facilities that they had planned on having to construct because the need wasn't there.

He also noted that while they do collect impact fees, they do not pay for the facilities on their own. Those facilities also required contributions on the part of the city.

5.2 Councilmember Green moved to approve Ordinance #1480, temporarily suspending collection of the Storm Water Impact Fee. Councilmember F. Lowry seconded the motion.

5.3 A roll call vote was taken with Councilmembers Green, Lowery, Lowry, Roberts, and Vawdrey, voting in favor. The motion passed unanimously.

6.0 Adjournment

6.1 Councilmember Green moved to adjourn the meeting.

6.2 A roll call vote was taken with Councilmembers Green, Lowery, Lowry, Roberts, and Vawdrey, voting in favor. The motion passed unanimously.

6.3 The meeting adjourned at 7:23 p.m.