IVINS
CITY COUNCIL
MINUTES
July 15, 2021

***NOTICE: This meeting was held electronically and in person, with limited seating to observe social distancing. City Hall was the anchor location for the electronic meeting. You may listen to the audio feed by going to www.ivins.com under "City Council" on the right of the home page and selecting "Audio"**

1) WELCOME AND CALL TO ORDER

MAYOR AND COUNCIL: The meeting was called to order at 5:30 p.m. and announced there was a quorum present.
All present included Mayor Hart, Council Member Mehr, Council Member McDonald, Council Member Johnson, Council Member Gordhammer, and Council Member Larsen.
STAFF: City Manager/Attorney Dale Coulam, Director of Finance Lane Mecham, Building and Zoning Administrator Cody Mitchell, Public Works Director/City Engineer Chuck Gillette, and City Recorder Kari Jimenez.
EXCUSED: None.
Audience: Regina Roper, Chris Haddad, Terri Draper, Mitch Clowers, Cyndi Gilbert, Justin Egbert, Marcia DeLucchi, Ellen & Bill Wentworth, Patty & Mike Scott, CJ Koharcheck and others who did not sign in.

A. Acknowledgement of Quorum

Mayor Hart acknowledged there was a quorum present. Council Member Mehr and Council Member Larsen were in attendance via the Zoom application. All other Council Members were present in the Council Chambers.

B. Flag Salute

Council Member Johnson led the Flag Salute

C. Invocation

Council Member Johnson gave the Invocation

D. Disclosures

Council Member Larsen disclosed that he and his business partner have a $1,000 refundable deposit on a condo in the Black Desert Resort project. There were no other disclosures or conflicts of interest with items on this meeting's agenda.

2) REPORTS, PRESENTATIONS AND APPOINTMENTS

A. St. George Regional Hospital update

Mitch Cloward, Administrator of St. George Regional Hospital and **Cindy Gilbert**, Attorney and Chairman of that Board, provided a presentation and information to the Mayor and City Council. A copy of the presentation is available as an attachment to this agenda. They appreciated the community support during the pandemic but commented that we are not through the pandemic yet and that as of today, there are 37 patients in the hospital who are very sick with COVID. They encouraged vaccination against COVID and indicated that the patients that are being hospitalized with COVID are not vaccinated. They reported that the hospital has 284 inpatient beds for Medicine, Heart, Cancer, Mental Health, Women & Newborn and Adult ICU. There are 52 outpatient beds for Orthopedics, Spine, Weight loss, General surgery, Stroke/Neuro, Neuro rehab and same-day surgery. The hospital is a Level II Trauma center and

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has a Life Flight helicopter. They also have several community partnerships to help people live their healthiest life possible.

B. Department Reports: Building Department; Public Works/Engineering; Finance

Cody Mitchell reported for the 2020 calendar year, there were 146 residential building permits issued. Currently, a 135 residential building permits have been issued. There were 56 multi-family building permits issued in 2020 and there are currently 37 for 2021. They are on pace for another record year. The City has been receiving questions as to what stores and restaurants will be occupying the Canyon Crossing development but to date they do not have definitive information.

Chuck Gillette referred to the two (2) backhoes that they have been trying to sell and reported that it looks like the City is going to sell them for more than what they bought them for two (2) years ago. He reported that the Public Works crew has been exercising valve mains for maintenance and the City is in the process of acquiring right-of-way on Highway 91.

Lane Mecham introduced the new Director of Finance, Cade Visser who was with an accounting firm up north and is a CPA. **Lane Mecham** reported that all is well with the budget and the City finished the year very strong. The Department Heads are heads are maintaining their budgets and the fiscal year budget is almost closed out.

C. Quarterly Finance Report

Lane Mecham provided a presentation to the Mayor and City Council, a copy of which is available as an attachment to this agenda. He reported that the County is seeing rapid growth in the average monthly wages and gross taxable sales numbers. Ivins building permits are continuing and it appears that the economy is coming back strong and stabilizing after COVID. Ivins capital projects revenues are on track and there are no major concerns.

D. Planning Commission Report

Commissioner Anderson reported that the Planning Commission held a Public Hearing on the Class V Conditional Use Permit for Hidden Springs RV Resort. They also continued discussions regarding Development Agreements and exterior colors and approved a Final Plat for Azalea Townhomes and for Red Desert Phase 6.

3) CITIZEN COMMENT & REQUEST FOR FUTURE AGENDA ITEMS

A. Citizen requests to be placed on a future agenda

Mayor Hart indicated that there was one Citizen Comment submitted by Jenelle Young. **Jenelle Young** thanked Cody and the Building Department for working with her and answering her questions. She is building a home and chose a stone color that doesn't comply with the current City ordinance. She would like the City ordinance that requires certain shades or light reflective value for exterior home colors, to be revised or deleted. She would also like an appeal process in place. She understood that the City is currently reviewing the ordinance and requested time to see what happens with the ordinance before modifying the stone on her home. **Mayor Hart** clarified that if no changes occur with the current ordinance, she would be required to stain the stone to a compliant color. **Dale Coulam** commented that this may be pre-empted by House Bill 1003 which prohibits cities from regulating exterior colors and the City is already in the midst of the reviewing process so it would only be right to let that process finish. The Planning Commission will be holding a Public Hearing at their next meeting and he did not think that Ms. Young should be required to do anything until that is decided. **Cody Mitchell** referred to House Bill 1003 and commented that if there is a Development Agreement in place for the subdivision, it kicks the decision back to Ivins and has to be enforced but he did not have a problem with Ms. Young not making any changes at this time, as long as she

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understands that if there are no changes to the current ordinance, the stone on her home will need to be stained or removed. The **Mayor and City Council** agreed.

4) PUBLIC HEARING AND ACTION ITEMS

Mayor Hart requested that Lane Mecham explain how one could join the meeting electronically and make a comment for the Public Hearing. **Lane Mecham** provided instructions as how to make a public comment for the Public Hearing.

A. Public Hearing on amendments to Title 16, Chapter 12, Section 104 regarding limitations on height, size and location of garages and other accessory buildings in residential zones

Cody Mitchell reported that S&S Homes submitted a Citizen Request to consider allowing a caveat to the attached garage ordinance. The Planning Commission recommended that the ordinance remain as it currently is and it is now before the City Council. **Mayor Hart** opened the Public Hearing. **Justin Egbert** indicated that works with S&S Homes. They have several floor plans for homes that they build in other areas of the County but cannot build those homes in Ivins because of the current ordinance. S&S Homes is asking for the ability to build longer garages with a larger interior, based upon the overall frontage of the home. He clarified that the overall footprint does not change but they are currently required to add walls to accommodate Ivins ordinance. **Lance Anderson** commented that the intent of the Ordinance was to keep homes from looking commercial in nature and to not take away views of those surrounding the home. He understood that people want bigger garages and he wasn't against a bigger garage but was against massing as a whole. **CJ Koharcheck** lives on Puerto Drive and agreed with what Lance Anderson said regarding height because she was seeing people build up their lots and then put a motorhome size garage or two in addition and then a huge home and blocking the neighbors views. She suggested that some kind of height restriction be maintained. **Mayor Hart** inquired if there was anyone on-line who wanted to make a Public Hearing comment. **Lane Mecham** indicated that there was not. There being no other comments, **Mayor Hart** closed the Public Hearing.

B. Discussion regarding amendments to Title 16, Chapter 12, Section 104 regarding limitations on height, size and location of garages and other accessory buildings in residential zones

The **Mayor and City Council** discussed this agenda item at length, addressing height concerns, visual impacts, massing, frontage and square foot percentages, the ability for people to store items inside larger garages rather than outside and the procedure for submitting an application and paying for a zoning amendment. The **Mayor and majority of the City Council** ultimately determined that for the size of attached garages, the total square footage of any attached garage shall not be greater than fifty percent (50%) of the square footage of the footprint of the primary structure excluding the attached garage on lots less than one-half (0.5) acre, however, that percentage may increase up to sixty percent (60%) provided the garage frontage is less than fifty-five percent (55%). There were no other changes made to the ordinance.

MOTION: Council Member Johnson moved to approve amendments to Title 16, Chapter 12, Section 104 regarding limitations on height, size and location of garages and other accessory buildings in residential zones
SECOND: Council Member Larsen
VOTE: The motion carried.

Council Member Mehr	AYE
Council Member Johnson	AYE
Council Member Gordhammer	AYE
Council Member Larsen	AYE

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Council Member McDonald	NAY

The City Council meeting recessed at 7:25 p.m. and reconvened at 7:35 p.m.

C. Public Hearing regarding the creation of a Public Infrastructure District by Ivins City, Utah, to begin at 6:00 p.m. or later

Dale Coulam indicated that representatives of Black Desert Resort have requested Public Assistance Financing in two forms, one being the CRA (Community Reinvestment Agency) that required TIF (Tax Increment Financing) but the City Council said no to that so they proceeded on a PID (Public Infrastructure District) request, without considering a TIF component. The City has excellent Counsel working on this who helped draft the PID legislation. They City has also been working with Attorney Damon Georgelas who represents Black Desert Resort and he has been involved in Community Reinvestment Agencies in the Sale Lake City area and so both sides are represented well and both are in attendance via the Zoom application. There has been very good collaborative discussions and they have gone through several drafts of the PID governing document. It is extremely important to get this document because once it is created and approved, it stands on its own and the City can no longer control it. He felt like the parties have negotiated that document well and they are bringing it forward for a public comment. **Mayor Hart** opened the Public Hearing. **Mike Scott** resides at 1050 Grandview Drive and commented that he was concerned about the PID because of potential risks for home owners. If the area was a blighted area and needed to be rejuvenated it might be worth taking some risks but the area is not a blighted area. If the Council proceeds with the PID, he felt there were some things in the governing document that need to be addressed. The governing document requires that buyers get a disclosure notice but he did not think that the way it is described, is an adequate disclosure. As an example, the governing document says that the extra tax is $2,750 on a property worth $500,000 but doesn't explain that is for a primary residence because the tax is double that, $5,000 as a second home on a $500,000 home. The notice only applies to first-time home buyers and he felt that would create some surprises for future buyers down the road. The notice also only has to be given at closing. He was told that disclosures do have to appear in marketing materials and if that's the case, make that a requirement in the governing document as well. He inquired what happens to home owners if the District defaults on the debt. He understood that it is "buyer beware" when one buys in a typical development but the City is creating the PID so he inquired if the City had a moral or legal responsibility to protect the homeowners from potential risk from the high level of debt. He referred to section V.A.1.(a) and inquired why the City would let the District finance and develop outside the District when only the District can generate the added real estate taxes to pay for the debt. He commented that the City needs the right to reject any dedication of public improvements and it needs to be clear that any dedications to the City from the PID are debt free. The governing document also indicates that all parks and trails are open to the public but then it says that trails that are interconnected with City trails are free of charge. That suggested to him that all of the parks and trails are open to the public but not free of charge, otherwise why the distinction? He referred to section V.A.6.(b) inquired why the City would allow the District to withdraw any area from the District and inquired if that would reduce the assets in the District that pay the taxes, the pay the debt. He referred to the section referencing the PID debt being paid by extra real estate taxes but the District may also rely on other revenue sources like fees. He inquired if that meant that homeowners will potentially, in addition to paying the extra 1% in real estate tax, also be

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paying some extra fees because of the PID and the debt associated with it. **Mayor Hart** inquired if there was anyone online who would like to make a comment. **Lane Mecham** clarified that there was nobody online with their hand raised. **Mayor Hart** closed the Public Hearing.

D. Discuss and consider approval of Resolution No. 2021-10R, a Resolution of Ivins City, Utah, providing for the creation of the Black Desert Public Infrastructure District as an independent district authorizing and approving a Governing Document and Interlocal Agreement

Mayor Hart inquired if Randy Larsen would respond to the comments just made by Mike Scott. **Randy Larsen** indicated that he would. **Dale Coulam** referred to Mike Scott's first comment regarding the disclosure notice and questioned the example and inquired if there could be a better example for the disclosure because it only applied to primary residences and most of these homes would be secondary. **Randy Larsen** stated that if the disclosure is currently limited to solely primary residential, their typical practice is to also include the tax impact on commercial or secondary homes and agreed with that addition and inquired if his colleague Aaron Wade was in attendance online. **Aaron Wade** indicated that he was and agreed with Randy Larsen. **Dale Coulam** referred to the next item Mike Scott brought up, that being that the notice only applied to first time buyers and would be a surprise for future buyers. **Randy Larsen** described how that works in the context of can or cannot be required. There will be a notice by State law that is required to be recorded in the County records, which is evidence that the District was created and that will show the tax impact per $100,000.00. State law requires that, whether or not it is in the governing document. That will remain available to all home buyers of the property. They can only require the developer to give disclosure to the first buyer because they are the ones that Ivins is in contract with and the City can require that the disclosure be included in the developers Real Estate Purchase Contract (REPC). Under current Utah law, the City does not have the ability to reach through to subsequent home owners. They will get notice by virtue of the recording. **Mayor Hart** inquired if a title search would bring that forward. **Randy Larsen** indicated that it would. **Dale Coulam** referred to the next issue regarding timing and that it appears that the notice only had to be given at closing and the person making the comment was under the belief that the notice would be in marketing materials as well. **Damon Georgelas** representing the developer indicated that the notice will be in the REPC and part of the due diligence process where a buyer can either accept or decline the purchase based on completing the due diligence process. **Mayor Hart** commented that the question boils down to whether or not the notice requirement should be specified in this governing document. **Dale Coulam** stated that he had raised that as a concern so if it is not in the governing document, it needs to be. **Dale Coulam** referred to the next question of what happens to homeowners if the District defaults on the debt. **Randy Larsen** indicated that nothing happens to the home owners because they are in complete control of their property. There would be no increase of property taxes to them so long as they pay their property taxes. The revenues that the bonds will be secured by are an additional property tax. As an example, say for some reason that development does not occur as expected and there was insufficient revenues to pay debt service on the bond. Bond holders accept that risk and underwrite that expressly over the window for the property tax to be charged and as long as a property owner makes their payment, irrespective of whether there is sufficiency to pay the bonds, that's the only burden that can be put on property owners. There's no enhanced interest rate, no penalties or anything like that that can be incurred to a property owner by virtue of a default or failure to pay on the bonds. **Dale Coulam** inquired if there would be a foreclosure on the property if the property taxes were current. **Randy Larsen** indicated there would not and

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one would have to be delinquent for five (5) years just like any other property tax and could only be foreclosed upon on the unpaid taxes. There will be a line item on the property owners tax bill like the School District, County, City and other Special Districts that may provide services and tracks like a regular property tax because it is a regular property tax. **Mayor Hart** referred to this agreement and inquired if that needs to be explained in a sentence or paragraph in the agreement. **Damon Georgelas** stated that language could be added. **Dale Coulam** referred to the next question of why they should let the District finance and develop outside of the District when only the District can generate the added real estate taxes. **Aaron Wade** commented that this would still be for improvements benefitting the District. As an example, if there needed to be a sewer connection that was outside of the District boundaries, it is still to the benefit of the District but they would have to reach outside to tie-in to the existing systems, whether that's trails, roads and all of those types of things. **Randy Larsen** agreed and commented that it is only intended to affect the geographic location, to permit improvements outside of the District boundaries but not to affect their benefit to the boundaries within. **Dale Coulam** referred to the comment about the City needing the right to reject any dedication of public improvements and to be clear that dedications are to be debt free. **Randy Larsen** stated that is contemplated and indicated that by State law, any public infrastructure that would normally be owned by the City or the County or by a District, has to remain owned by that entity. For example, water, sewer, roads, sidewalks, curb and gutter and anything that would normally come to the City, needs to be owned by the City and that's intentional. There would be no debt or foreclosure rights or removal of the public improvements based upon any shortfall or default on the bond. The only collateral for the bond is the property tax for the window of time authorized by the governing document. **Dale Coulam** referred to all parks and trails being open to the public and free of charge. **Damon Georgelas** assumed that was intended to reaffirm that there would be no charge for trails. **Randy Larsen** stated that could be clarified to say that all financed public trails would not have any charge, irrespective of whether they were interconnected or not. **Damon Georgelas** agreed. **Dale Coulam** referred to the question regarding why the City would allow the District to withdraw any area from the District and wouldn't that reduce the assets that pay the taxes that pay the debt. **Aaron Wade** clarified that relates to pre-bonding. If the developers were going through this process and decided that certain portions, before the bonds were issued, would be removed. Under State law, once the bonds have been issued, any property that's removed from a District that has outstanding debt, needs to either pay off their portion of the debt or would have the property tax follow. **Dale Coulam** inquired if that needs to be further clarified in the document or does referenced PID Act cover that. **Aaron Wade** indicated that referencing the PID Act and the State law provisions regarding debt in general that apply to all types of Districts, including PIDs, that covers the basis. **Mayor Hart** commented that it would be very simple to add the pre-bond information to the document. **Dale Coulam** inquired if the Council wanted to add that withdrawal of area from a District only applies to pre-bonding. **Randy Larsen** stated that it could still be withdrawn post-bonding, so long as that property paid its share of the bond. **Dale Coulam** inquired if the provisions of the PID Act governs that. **Randy Larsen** indicated that they do and the bonds themselves do as well. The reason this is in the document is there are boundaries for the PID right now. Development is not fully platted and complete yet so if there's a space that ends up being open space or something that doesn't require any maintenance or other parts that are on the edges or some portion of the District, if that were to be released from the District prior to bonding, that would make sense and be prudent to allow that to occur. However, when they go to issue bonds, an investor is going to

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ask what are the boundaries and what are the anticipated developments. At that point there will be a covenant from the District to bond holders to say they will not release any property subject to the property tax so that bond holders have that comfort but it certainly is not a provision to allow some properties out and stack the burden on the other properties. **Dale Coulam** referred to the next comment about the PID debt being paid from extra real estate taxes but the District may rely on other revenue sources like fees. Does that mean homeowners will pay more than the 1% real estate tax for the PID debt? **Randy Larsen** stated no. The additional fees may be for administration of the District. There is a requirement of the District to have an annual audit as well as a budget and the District has Open Meeting laws when they set that and that will incur some third party costs for an Accountant to do that so the fees that may be applied by the District are to the existing property tax and not something additional. That is under State law. **Dale Coulam** inquired if there could be home owner association fees to maintain the common grounds. **Randy Larsen** indicated yes but that those would not be charged by the PID, that would be by the HOA. **Mayor Hart** inquired if that could that be clarified and defines what fees are. **Randy Larsen** stated it could. **Dale Coulam** referred to the final comment regarding the District relying upon Community Reinvestment Area revenue but why is that in this agreement when the CRA was not approved? **Randy Larsen** clarified that it is a permissive flexible option. Should a CRA be created in the future, it would permit the District to pledge that revenue, along with its property tax revenue, to further create bonding capacity. **Dale Coulam** commented that he was showing a few clarifications, changes or additions, those being a better example for disclosure and a couple of ways to clarify that, one is the REPC, specifically requiring notice in the REPC. Clarification on the trails that none of them are going to be fee based to the public and clarify the meaning of fees. **Randy Larsen** added that it in relation to the statute so homeowners shouldn't feel like they're going to be charged an additional fee. **Dale Coulam** inquired if it would be okay for the Council to proceed and adopt the governing document tonight, as amended with those changes. **Randy Larsen** indicated that he was fine with that and asked that in the motion that the clarifying language be in form approved by Gilmore & Bell and Dale Coulam so that the language matches up. **Aaron Wade** referred to language in the Resolution under paragraph 9 and stated that it indicates that prior to certification of creation by the Lt. Governor's office, any Council Member or the City Manager/Attorney is allowed to make corrections, additions, deletions which may be necessary to conform to the intent of this discussion. **Randy Larsen** recommend that be part of the proposed motion, to make the motion approved with those amendments and authorize Dale Coulam and Gilmore & Bell to review that so that the language satisfies those amendments intentions.

Mike Scott requested to be able to respond. **Mayor Hart** allowed that. **Mike Scott** commented that he appreciated the time they took to clarify those points and referred to the section where the District could finance or do projects outside of the District. He understood the explanation but suggested that be clarified that that the work would be for the benefit of the District. He referred to the District being able to dedicate infrastructure or property to the City but the way he reads the document, it says the District can dedicate to the City but it doesn't say the City can say no they don't want the parking garages. He inquired if there was a way to clarify that so the City has the ability to deny the dedication that doesn't fit the parameters. **Randy Larsen** indicated that the City does not have to accept anything unless it follows the already existing procedures but there is no harm in saying "with the City's consent". **Mayor Hart** inquired of the Council if they were comfortable with approving this, assuming that they intend to, with amendments and added language that they have not had the opportunity to see. **Randy Larsen** commented that

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revisions can be made but not without the approval of the City Council so the Council has two options - the Council can approve this as it is without any amendments or to approve it with the amendments and then delegate the City Manager/Attorney to confirm that those amendments intent. There is actually a third option and that is to table this until the Council could see the language. **Council Member Gordhammer** preferred to table this and look at the actual verbiage because this governing document is a big deal. **Aaron Wade** indicated that he made the changes in the document during the discussion. The document with the changes was displayed on the screen through the Zoom application. **Council Member Mehr** commented that this will likely go forward in some form. He is not a fan of this but if it does go forward, he would like it to go forward in the best way possible for Ivins residents. He referred to the very first part of the document where it refers to the need for the District and the public benefit and commented that they should remind themselves what the benefit is. An argument can be made that there's a benefit for the development but inquired if an argument could be made for them going through this process, setting a precedent, starting a PID and inquired if every other developer going to come and want to participate in this additional funding. He referred to the paragraph that begins with "It is the intent of the District to dissolve upon payment..." and inquired why that can't just say the District will dissolve. **Randy Larsen** stated he did not have a problem with that and commented that expressing its intent by State law, it has no powers once bonds are paid off. **Damon Georgelas** no problem with that at all. **Council Member Mehr** referred to the operating functions and understood that the reason for the funding that the developers is requesting, is because they want to fund capital. They need capital to build the parking garage so when operating functions are mentioned, to him that crosses a line of appropriate use of the intent of the PID. **Randy Larsen** indicated that he read the language to do exactly what you want it to do, which is the District has no operation and maintenance funding. They are clarifying that and noting that. The parking structure is a good example. The city has no intention of owning, insuring or maintaining that. They are clarifying that should the District finance the parking structure, the District will need to find alternative sources to operate and maintain that. Even if the City wanted to give the District operations and maintenance functions, State law would prohibit that. **Council Member Mehr** commented that once rules are in place, individuals and corporations will do their best to use them to their full advantage and stated that the Council should see all of the changes in writing. The other Council Members agreed. **Damon Georgelas** stated that he appreciated this process and expressed concern about interest rates potentially changing drastically in the near future and suggested that all of the changes and additions discussed could be reviewed in real time and that they could get to a point of approval tonight. **Aaron Wade** clarified that he had been making the changes as they have been going along, which was on the screen before the Council. **Randy Larsen** agreed with Damon Georgelas about making the changes in real time and getting to a point of approval. **Aaron Wade** referred to the governing document on the screen and went through all of the changes discussed during this agenda item. All of the discussed changes and additions were noted and Ivins representatives and the developers agreed to the changes. The **Mayor and City Council** were satisfied with the changes and additions.

MOTION: Council Member Johnson moved to approve Resolution No. 2021-10R, a Resolution of Ivins City, Utah, providing for the creation of the Black Desert Public Infrastructure District as an independent District authorizing and approving a Governing Document and Interlocal Agreement, as amended

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SECOND: Council Member Larsen
VOTE: The motion carried.

Council Member Johnson	AYE
Council Member Gordhammer	AYE
Council Member Larsen	AYE
Council Member Mehr	NAY
Council Member McDonald	NAY

5) DISCUSSION AND POTENTIAL ACTION ITEMS

A. Continued discussion on the Planning Commission's recommendations regarding proposed amendments to the current Outdoor Lighting Ordinance

Mayor Hart referred to updated version and indicated that he had a few ideas he would like the Council to consider. He referred to page 2 "16.23.101 Purpose" and stated that in the text the purpose of that chapter is to "...encourage the quantity and level of lighting necessary for safety, security and the enjoyment of outdoor living." Further down it is stated that the other purpose is to preserve the night sky and he felt that should be part of the "Purpose" statement even if it's repeated later on. He proposed that the first sentence go beyond enjoyment of outdoor living to read something like "...while preserving the night sky" or words to that effect. He referred to the same page in the paragraph that begins with "In order to effectively regulate these activities communities are empowered to establish regulations and standards for all outdoor lighting. This chapter contains standards and guidelines to preserve, protect, and enhance the night sky in Ivins City." and indicated that should also state "to promote safety and security and to preserve, protect and enhance the night sky". He referred to page 3 and the purpose of "To enhance community personality" an inquired if communities have personalities and suggested that the word "personalities" be replaced with the word "image" because personalities apply to people. He referred to page 7 at top of the page where it states "...do not otherwise violate this chapter." under "(1) Type of Lights Recommended" "(a) Incandescent or Tungsten Halogen Lamps" and commented that he did not think that Tungsten Halogen is even available anymore and the same thing with Compact Fluorescent Lamps. **Council Member Mehr** commented that they are out there and this document is saying that if they are being used, this is what's being imposed. The City Council agreed to leave those two in the document. **Mayor Hart** referred to the Canyon Crossing project and inquired if the Council has had the opportunity to see the lighting that is 3000 kelvins. He inquired if commercial development should be required to follow the streetlighting requirements with amber filters. He encouraged the Council to go look at that sometime before the next City Council meeting because the City would be asking a lot of commercial developers to filter their lighting and he wondered if that was a fair request. **Chuck Gillette** referred to "Types of Lights Recommended" and commented that he would not recommend the use of incandescent lighting because they are not energy efficient and indicated that as it relates to LED lamps, they should include "and other future energy efficient technologies." The **Mayor and City Council** agreed. **Mayor Hart** referred to page 7 item "(5) Fully Shielded Fixtures" and commented that there is gap with no direction between 1800 and 2000 lumens. **Council Member McDonald** suggested specifying under 2000 lumens. The **Mayor and City Council Members** inquired as to what lumens are in watts. **Cody Mitchell** clarified that 1500-1800 lumens is 120 watts and 125 watts is 2000 lumens. **Mayor Hart** indicated that they are talking about 100 watt lightbulbs behind frosted glass and that flies completely in the face of everything else the City has done. He personally would like to see that removed and the fixtures contained within the area they are intended to

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provide light to and proposed that that section disappear. As it relates to "(6) Spotlights" that section needs two additional components, they are shielded and shall not trespass onto neighboring property. **Mayor Hart** referred to page 9 under "Parking Lots" and commented that another point needs to be added under that, having to do with shielding because parking lot lights need to be shielded so that they are contained within the area they are intended to light and not spill over into adjacent property. The City Council agreed. **Mayor Hart** referred to page 10 "(19) Residential Lighting (b) Compact fluorescent fixtures" and commented that those are not made any more so if they remove that, they're not saying that a person has to remove that type of lighting, it would be saying that they are not used for future development. **Mayor Hart** referred to "(20) Signs" regarding lighting of signs where the lettering is lit so that it creates a shadow. It is not called "backlit" but the shadow lighting is allowed although he did not see that spelled out under this section. **Dale Coulam** clarified that the type of lighting he is referring to is like the lighting on the Ivins City entrance signs on Highway 91. **Chuck Gillette** commented that he read section (20) as a spotlight being allowed on a sign. **Mayor Hart** clarified that is allowed. **Cody Mitchell** stated that signage lighting is also addressed in Title 16, Chapter 21, Section 116, Table 21-1 under "illumination" which states that "...all lighting sources must be fully shielded and no bulb or lighting source shall be exposed or visible from any road, street or adjacent property." He did not interpret that it can't be a backlit sign because the bulb is obstructed with the signage. **Dale Coulam** clarified that he thought that when they were talking about Ivins entrance signs, the lighting was referred to backlit lighting or back lighting. **Chuck Gillette** clarified that a backlit sign produces 40 lumens per square foot of sign surface and it doesn't make a difference if it's backlit or has a spotlight on it because the 40 lumens per square foot protects against too much illumination. **Mayor Hart** commented that those were his thoughts after going through the ordinance again and indicated that they could start where they left off. **Dale Coulam** stated that they left off at 16.23.106 "Outdoor Site Lighting Requirements". **Council Member Gordhammer** referred to (1) under that section and commented that she was not in favor of the Planning Commission's recommended changes and suggested that they keep the original verbiage. **Council Member McDonald** indicated that the changes help people understand that the City is not saying they can't have lighting, it is just explaining that the City wants to protect the night sky but that residents are allowed to have lights. **Council Member Gordhammer** suggested they retain the original verbiage but specifically objected to the Planning Commission's added verbiage in that section of "that otherwise violates this chapter must incorporate motion sensors so as to be no on unless motion activated and to turn off no longer than 5 minutes after the motion ceases." She inquired if lighting is violation of the chapter, how is it legal?. She inquired if one would be allowed to have a spot light that can shine anywhere as long as it has a motion sensor and as long as it shuts off after 5 minutes? She did not think that was the intent but that is how the verbiage reads. **Council Member McDonald** was fine with first part of that section struck, that being "To protect the night sky, all outside lighting shall be "downlighting" and no..." because that has been defined earlier in the text and he didn't think it was a bad thing to include the verbiage as it relates to safety and security purposes. **Council Member Gordhammer** indicated that she did not object to that. **Chuck Gillette** commented that it still has to be shielded and not allowed to trespass. **Council Member Gordhammer** would like to see the verbiage "that otherwise violates this chapter must incorporate motion sensors so as to be no on unless motion activated and to turn off no longer than 5 minutes after the motion ceases." be removed, as she was not okay with that verbiage. **Mayor Hart** and **Council Member McDonald** indicated that motion

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sensors are allowed elsewhere in the ordinance. **Council Member Gordhammer** clarified that she was fine with motion sensor lighting. She was not fine with verbiage that says "lighting necessary for safety and security purposes that otherwise violates this chapter must incorporate motion sensors..." **Mayor Hart** agreed and was not okay with that verbiage either. **Council Member McDonald** suggested the following verbiage for that section "Exterior lighting shall be allowed at levels necessary for safety and security purposes." and then leave the first sentence off about protecting the night sky because that has been addressed elsewhere in the ordinance. **Mayor Hart** commented that it is a two prong thing where the City is trying to provide for safety and security and protect the night sky so all of the detail is how you reconcile those two. **Council Member Mehr** commented that they are an Ivins City Council and not a City HOA. They all want to protect the residents life, liberty and the pursuit of happiness but they also have an understanding of the treasure that is here to be protected they are trying to find that balance. **Mayor Hart** clarified that Council Member McDonald is suggesting that the first sentence in 16.23.103 (1) be removed as it relates to the night sky and Council Member Gordhammer does not want to see the verbiage that starts with "Lighting necessary for safety and security purposes that otherwise violates this chapter must incorporate motion sensors so as not to be on unless motion activated and to turn off no longer than 5 minutes after the motion ceases" and strike all of that. **Council Member Gordhammer** clarified that what she objects to is the verbiage "...violates this chapter...". **Council Member Larsen** commented that Council Member McDonald and Council Member Gordhammer both have good points but there might be a situation where you might have a fully shielded light but because of where it's located on the home and how close you are to your neighbors' yard, it's on a motion sensor and there's no way to keep it from spilling onto a neighbors' yard because of the physics. In that circumstance, the code is saying the City yields to safety and he would keep the reference there as it relates to safety and security. **Mayor Hart** stated that if you put language in the code that says "otherwise violates this chapter" and that opens it up to anything. If someone has a shielded fixture that spills over onto the neighbors lot, that's different than someone placing spot lights all over their home and if they go on, they only have to go off 5 minutes after the activity ends. **Council Member Johnson** commented that she did not see why the verbiage was necessary because you can still have the option to do all of those things in other parts of the ordinance i.e. safety lighting and similar. **Council Member Gordhammer** agreed and stated that those were defined elsewhere in the ordinance. **Council Member Johnson and Council Member Gordhammer** indicated that they would strike item 16.23.106 (1) in its entirety. **Mayor Hart** agreed that the verbiage contained in that section is described elsewhere but this is the section entitled "Outdoor Site Lighting Requirements". **Chuck Gillette** stated that there are some inconsistencies with security lighting as it relates to timers and shielding so there needs to be some clarification of are the timers 5 minutes or 10 minutes and is shielding required. **Dale Coulam** agreed with (1) being stricken or at least the long sentence be stricken. **Council Member McDonald** indicated that (1) be removed. The **Mayor and other Council Members** agreed. **Mayor Hart** referred to sub (3) and sub (4) and the City Council agreed to accept the Planning Commission's recommendations to strike those two, leaving a total of 3 subsections under 16.23.106. Mayor Hart referred to section 16.23.107 regarding Lighting of Drive-Through Facilities and Gas Island Canopies. **Cody Mitchell** referred to the recent construction of the Canyon Crossing project, canopies are not designed or illuminated as identified in current diagram in the ordinance. LEDs are more of a pancake style light and the luminaire is recessed up in and pancake into the top of the canopy. They do not recess a box to

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house a halogen bulb. **Mayor Hart** commented that the manufacturers of canopies do not have a provision to make the canopies as required in Ivins current diagram so Ivins diagram is obsolete. **Cody Mitchell** agreed. **Council Member McDonald** inquired if there was a different diagram that the Council should be looking at or how do they address this? **Cody Mitchell** clarified that the ordinance requires shielding so the recess up in the fixture itself offers an element of shielding but you are also looking at an elevated light source and is a struggle to shield those. The canopy does drop down below the lights so the skirting around the canopy, offering a second element of shielding. **Chuck Gillette** commented that he could redraw the diagram showing the lights attached to the canopy and the skirting adjusted. Mayor Hart commented that instead of using the word "recessed" that would need to be changed to "shielded". **Mayor Hart** referred to section 16.23.108 "Review Procedures" and inquired if those were okay. **Cody Mitchell** indicated that they are good as amended by the Planning Commission. The **Mayor and City Council** agreed. **Mayor Hart** referred to section 16.23.111 "Enforcement". **Dale Coulam** stated that the changes are to clarify that these provisions apply going forward, it does not apply retroactively. Anything existing prior to this ordinance is treated as a legal non-conforming use, which means it cannot be added to. The **Mayor and City Council** would like to see the final changes at the next City Council meeting. Chuck Gillette will prepare the exhibits and diagrams. The **Mayor and City Council** will review the final draft of everything at the next City Council meeting and then set the Public Hearing.

B. Discuss and consider approval of a Preliminary Plan for Indigo Trails Phase 2 Subdivision located on the south side of Highway 91 at approximately 600 West/Kwavasa Drive. AnA Enterprises-Owner, Lance Anderson-Applicant

Cody Mitchell reported that this subdivision consists of 37 lots on 18.270 acres. The property is zoned Re-12.5 Single Family Residential, minimum lot size 12,500 sq ft. It is a conventional subdivision and the improvements appear to be in compliance with City Ordinances.

MOTION: Council Member McDonald moved to approve the Preliminary Plan for Indigo Trails Phase 2 Subdivision located on the south side of Highway 91 at approximately 600 West/Kwavasa Drive. AnA Enterprises-Owner, Lance Anderson-Applicant
SECOND: Council Member Johnson
VOTE: The motion carried.

Council Member Mehr	AYE
Council Member McDonald	AYE
Council Member Johnson	AYE
Council Member Gordhammer	AYE
Council Member Larsen	AYE

6) CONSENT AGENDA

A. Approval of City Council Meeting Minutes for July 1, 2021
B. Appointment of Poll Workers for Ivins City Municipal Primary Election

MOTION: Council Member McDonald moved to approve the Consent Agenda
SECOND: Council Member Gordhammer
VOTE: The motion carried.

Council Member Mehr	AYE
Council Member McDonald	AYE
Council Member Johnson	AYE
Council Member Gordhammer	AYE

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Council Member Larsen	AYE

7) CONSENT AGENDA ITEMS FOR DISCUSSION

8) REPORTS

A. Council

Council Member Mehr - no report

Council Member Larsen - no report

Council Member Gordhammer - no report

Council Member Johnson reported that as part of Heritage Days, they have added another event, that being the Mini-miss pageant for 3 to 6 year olds

Council Member McDonald reported that the Washington County Solid Waste District hired a new District Manager who will be moving to Ivins

B. Mayor

No report

C. City Manager/Attorney Dale Coulam

No report

D. Items to be placed on future agendas

9) CLOSED MEETING

10) ADJOURNMENT

MOTION: Council Member McDonald moved to adjourn

SECOND: Council Member Johnson

VOTE: The motion carried.

Council Member Mehr	AYE
Council Member McDonald	AYE
Council Member Johnson	AYE
Council Member Gordhammer	AYE
Council Member Larsen	AYE

The meeting adjourned at 9:40 p.m.

Respectfully,

Kari Jimenez
Ivins City Recorder

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