IVINS
CITY COUNCIL
MINUTES
November 4, 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, Parks and Recreation Director Benny Sorensen, Chief of Police Bob Flowers, Director of Finance Cade Visser, Public Works Director/City Engineer Chuck Gillette, Building and Zoning Administrator Mike Haycock and City Recorder Kari Jimenez
EXCUSED: None.
Audience: Pam Gardiol, Barb Pridie, Michelle Delosso, Sally Jacobsen, Laela Gaylor, Scott Johnson, Nancy Martinez, Suzy Appel, CJ Koharcheck and others who did not sign in.

A. Acknowledgement of Quorum

Mayor Hart acknowledged there was a quorum present. Council Member Johnson was in attendance via the Zoom application. Council Member McDonald, Council Member Gordhammer and Council Member Larsen were present in the Council Chambers. Council Member Mehr was not present at the time.

B. Flag Salute

Council Member Gordhammer led the Flag Salute

C. Invocation

Council Member Gordhammer gave the Invocation

D. Disclosures

There were no disclosures or conflicts of interest with items on this meeting's agenda.

2) REPORTS, PRESENTATIONS AND APPOINTMENTS

A. Department Reports: Parks and Recreation; Public Safety

Benny Sorensen provided an electronic report, a copy of which is available as an attachment to this agenda. He reported that the youth cross country was very popular with 30 registered participants who practiced three (3) times a week and participated in several meets. Bingo-in-the-Park started on October 26th and ended tonight. It was held every Tuesday and Thursday evening. Flag Football finished on October 15th. They had two separate age groups with a total of 179 registered players, which was a large increase from last year. Youth basketball registration ended on November 15th for the 2022 season. The Parks crew has been working on landscaping the new City Hall and there were seven (7) burials in October.
Bob Flowers provided an electronic report, a copy of which is available as an attachment to this agenda. He reported that that they were notified that their accreditation was approved and there are other public safety departments who have asked for help from Ivins to assist with their

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accreditation. The Public Safety Department is working on speeding on the Parkways and approximately 30 individuals have been assisted by the City's Victims Advocate in the last 3 days.

Fire Chief Randy Hancey reported that they had 115 total calls, with 95 of those being medical calls. There were 4 illegal burn fires and various other calls. They typically receive 115 to 125 calls for the month but that has been increasing every year as the populations of the cities grow. They received a letter from Senator Lee thanking them for assisting with fires throughout the State and the Region. **Council Member McDonald** inquired if those numbers were for Ivins City or for both cities. **Randy Hancey** indicated that they were for both cities and clarified that of the total 115 calls, 68 of those were medical calls in Ivins and 5 were fire calls. **Mayor Hart** inquired how many of those calls served the Southern Utah Veterans Home. **Randy Hancey** stated there were 4 over the past month and that is about average.

B. Quarterly Finance Report

Cade Visser provided a PowerPoint presentation to the Mayor and City Council. A copy of the presentation is available as an attachment to this agenda. He reported that post pandemic, the unemployment rate in Washington County is 2.3%, which is the lowest it has been for over 20 years. Revenues and expenditures are as expected, capital projects are on track and there are no major concerns. **Council Member Larsen** referred to sales tax for Washington County and inquired if that is kept track of separately for Ivins. **Cade Visser** indicated that the data comes from Department of Work Force Services and is only broken out by County but he would look into that and report back.

Council Member Mehr arrived at 5:45 p.m. He had no disclosures or conflicts of interest.

Mayor Hart indicated that the City re-applied for the Blue Sky Grant for the Solar System on the new building and the City was just made aware that it was awarded $64,000 for that grant.

C. Planning Commission Report - None - No meeting on Tuesday, November 2, 2021

3) CITIZEN COMMENT & REQUEST FOR FUTURE AGENDA ITEMS

Suzy Appel resides at 715 South 200 West and has requested to place solar panels on their property. They own (five) 5 acres on 200 West and would like to have ground mount solar panels but have been told by the City that is not allowed and inquired as to the process. She was told that they would be allowed on the roof of their house but there is not enough roof space to place the panels that they will need. **Mayor Hart** requested that Dale Coulam explain. **Dale Coulam** indicated that Ivins current zoning only allows for roof mounted solar so a text amendment would need to be filed by filling out an application. It would then go through the process where there is a Public Hearing held before the he Planning Commission and the City Council and then the City Council would make a final decision. The fee would be $1,000 because there are Public Hearings before both bodies and the fees are used to pay for publication and posting of the Public Hearings. **Suzy Appel** inquired if the application is through the Building Department. **Dale Coulam** stated yes.

4) PUBLIC HEARING AND ACTION ITEMS - NONE

5) DISCUSSION AND POTENTIAL ACTION ITEMS

A. Continued discussion and consider approval of Ordinance No. 2021-20, an Ordinance of Ivins City, Utah, regarding a Concurrent Land Use Change and Zone Change on approximately 7 acres, located at approximately 200 West and Highway 91. Sunshine Seven, LLC-Owner; Visionary Homes-Applicant

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Mike Haycock reported that this is a continuing discussion on the application that is a concurrent land use amendment from LDR (Low Density Residential) to HDR (High Density Residential) and a zone amendment from RA-1 (Residential Agricultural, minimum lot size 1 acre) to R-TH (Townhomes) on approximately 7 acres. The property is located at approximately 200 West and Highway 91. The Planning Commission held their Public Hearing on October 5th, 2021 and recommended a zone change to R-1-5 rather than R-TH. **Mayor Hart** indicated that the concerns that were voiced to the City Council at the Public Hearing were made by many of the residents who live nearby. There was a revised version of the preliminary layout that was sent to the City Council today where it looks like the sizes of the lots running on 200 West are enlarged. Other than that, the proposed townhomes remained virtually the way they were as presented previously. There was also a note by the developer indicating that they tried some other configurations but there wasn't room to make any of the other ideas work.
Council Member McDonald stated he'd like to clarify the statement he made at the last meeting about placing a referendum on changes because of the holding zone that Ivins has had for many years. He clarified that people are confused because they are under the impression that those holding zones are going to remain larger pieces of property than what ends up being proposed. His push at the last meeting was to say "Hey, let's put a hold on everything and run through the process of modifying our land use map." He was in favor of larger lots and has pushed for that on other properties and would like to see the lots be as large as they can be with the current land use. That was his position and he'll retain that position until the City we can slow down on building permits or get the land uses changed. For this property, he was in favor of whatever it is currently zoned at and at the largest size allowed in that zoning. **Council Member Mehr** referred to the new layout and commented that there was a buffer of medium density but inquired if that matched what was in the Shadow Canyons subdivision. **Council Member Larsen** commented that the lots along 200 West are 7,500 square foot lots and the other side are townhomes. The concern is that there are landowners who want to sell their land and make money off of their land but you also have residents who live by the land that has been zoned one acre. He drove by the property and to him it looked like if they allowed townhomes to come halfway across that lot, it would further obstruct the views of the residents that live across the street. Those residents bought their property the lots across the street being one (1) acre lots. He wanted to strike a balance by suggesting 7,500 square foot lots on that property and felt that was a good compromise. **Mayor Hart** commented that the argument the developer has made is that the shape of the of the property is awkward to do that with and the width of the parcel makes it hard to pencil out that density, which is why they came back with something similar to their first layout. **Council Member Gordhammer** indicated that in preparation for the meeting she re-read the General Plan and commented that when you look at the residential supporting objectives, there are four (4) that are important for the Council to keep in mind, those being: (1) Encourage development that preserves a sense of neighborhood and high moral values; (2) Encourage the preservation of areas for a rural lifestyle consistent with the local heritage; (3) Encourage residential design that compliments the natural beauty and character of the area; and (4) Encourage low profile housing. At the prior City Council meeting, both she and Council Member Larsen felt that the use of the land should mirror the zoning of the Shadow Canyons subdivision. She clarified that that did not guarantee single-level homes but Ivins does have a height limit of 25 feet for single family homes and stood by what she previously indicated with the lots being 7,500 square foot lots. She appreciated that there are complexities associated

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with this piece of property but commented that the Councils responsibility fits with the General Plan and not necessarily with the complexity of a property.
Mayor Hart commented that the City heard public input, as well as heard from the developer. **Council Member Gordhammer** referred to Council Member McDonald's position of wanting a building moratorium on zone changes and inquired if that was correct. **Council Member McDonald** stated yes. **Dale Coulam** clarified that the question first came up b Council Member McDonald when they talked about a moratorium on building permits due to lack of water and Ivins concern about running out of water in the near future. If individuals have been issued building permits, they are pretty much entitled to build on the property as it is zoned. If those individuals go to the Water Conservancy District, pay the impact fee for the water, they are allowed to build and that process is all administrative. At the legislative level, a municipality cannot change zones to higher densities, which slows growth. As this property is currently zoned, there could only be six (6) or seven (7) homes built on that one (1) acre parcel. What he's understanding Council Member McDonald saying, is that the City has reached a point in time where growth needs to be slowed and that 36 townhomes should not be allowed. By zoning properties to a lower density, that is a way to slow and control growth. In this case, the thinking has been to match the zoning with that of the adjacent Shadow Canyons subdivision, which has been done by other Councils in the past and there is a precedent for that. **Council Member Gordhammer** recollected that when the Council talked about building permits, if the Council started denying requests for building permits, that once they started doing that, they would need to continue to do that if the Council was denying them based on water. **Dale Coulam** clarified that if the City denies them as an absolute moratorium, the City would be denying growth and the Council would need to be consistent in that and deny growth. If the Council is denying a project due to the density that brings too much growth with it and the Council is going to try and prolong the water supply and there are lower density projects that come in that makes sense, they can approve those. That would be a case-by-case basis but the guiding principle is what the density is.
Mayor Hart cautioned the Council about a couple of things. Ivins City is solely reliant on the Water Conservancy District for its water supply and was not sure that Ivins City would be the ones who say Ivins is out of water. That information needs to come from the Water Conservancy District and they have not made that statement yet. The Council needs to be careful to not to create a reason to deny that is subject to a legal challenge. Cities are hopeful that the Water Conservancy District will come forward with some measure or that the State Legislature will require something in State Statute that indicates that growth is tied to water, which would likely force the Water Conservancy District to say, "here's how much we have and here's how it goes". The other thing that they need to think about, is it is not just a developer requesting a zone change. There are also property owners with their right to sell or develop their property. The fact of the matter is that the demand for one (1) acre lots is nearly nonexistent, with little to no demand for that sized lots. The City would be telling any property owner who has had a plan to sell their land or to develop it themselves, that they are going to be in a position where there is no market for what would be allowed. That is a serious statement to make so they need to do this with a great deal of caution. **Council Member McDonald** indicated that he was very aware of that and what he is trying to push is that the City get to the process started of reviewing the Land Use map and get everybody involved that wants to be involved, to help figure out how to get away from the larger lot place holder parcels. People would then begin to know what they are potentially moving next to. **Mayor Hart** indicated while that is being done,

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a current applicant has the right to come and make this request with the expectation that the Council is going to act on it and to be cautious about how this handled, especially if they intend to give water as the reason to not approve something. **Council Member Larsen** stated that it goes a lot deeper than just water. There is the landowner who has rights and wants to make money off selling their land. There is also a developer who wants to buy that land and do the most he can with it to maximize the investment. It comes down to more of the how the Council wants to layout the City as far as approving zone changes. He would like the Planning Commission to look at the land use and zoning maps because it does a disservice to the community to have the holding zones at this point in time and gives a false sense of what is there and what will be there. He would like to see the rest of any townhomes that are built, be built on the south side of Highway 91. Looking at the topography there, the land slopes down and could be a place where they could put in three story townhouses and they would not obstruct views. **Council Member Mehr** questioned if the Planning Commission recommended a change to R-1-7.5. **Council Member Larsen** clarified that it was not. The Planning Commission's recommendation was for R-1-5. **Mayor Hart** indicated that the developer's options are going to be completely based on what the Council decides and then they will determine whether it's feasible from the market standpoint to move ahead with the project that is that is based on the zoning that is provided. **Council Member McDonald** reiterated that he was not trying to stop development. He is trying to get the City in the direction of what would be a reset because they keep getting jabbed every time with the holding zones. **Mayor Hart** stated that it has been suggested that at the zoning stage the Council can slow the growth while the City goes through the process of reviewing the General Plan and the Land Use map of the General Plan to remove the holding land use areas. He inquired where the City stands legally in doing that and if the City would have to make some sort of official declaration that the City was not accepting any further applications for zoning changes. **Dale Coulam** clarified that the Council would do another temporary ordinance which would put a six-month moratorium on land use and or zoning changes while they go through the process of changing the Land Use Plan and the Zoning map. **Council Member Johnson** inquired if that would mean no more high density anywhere and commented that as a follow up to her previous comment, she did not believe that water is a reason at all as it relates to a decision tonight and commented that she would be in favor of she in favor of the new proposal of 7500 square foot lots. **Council Member McDonald** reiterated that he was saying that water was the reason either. He was told after he proposed building permit limits that the only legal avenue at this point was at this stage where the Council is at right now with zoning and he stood by that. **Mayor Hart** commented that the way to do that is as Dale suggested and put a temporary moratorium in place while the Land Use Plan and the Zoning map are reviewed by the Planning Commission and then eventually the Council. **Dale Coulam** indicated that was correct **Mayor Hart** indicated that he did not think that the City was able to use water as the argument at this moment in time. It would solely be based on the fact that the City has a confusing Land Use Plan and Zoning map currently because of these holding zones and regrettably, the holding zones were created by a consultant that was brought in many years ago. **Council Member Mehr** stated that the Council had not discussed enough of the Planning Commission's recommendation, which was something different than what the applicant has proposed. The Planning Commission voted and recommended approval for the proposed land use change from LDR (Low Density Residential) to HDR (High Density Residential) and recommended a zone change from RA-1 to R-1-5. He wanted to know what the thought was of the Planning Commission at the time and how they arrived at that recommendation. **Mike**

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Haycock indicated that the Planning Commission felt that it was a steppingstone from the townhouses and was consistent with the ideas that they had previously on the Planning Commission of how they want to transition from high density to medium density. The vote was 4 to 1. **Mayor Hart** indicated that the argument was raised previously by the developer that regardless of the Council thinks is the appropriate zoning, the practical difficulties of developing a parcel that's not large and is restricted in width, still exists. **Dale Coulam** stated that sometimes people get frustrated by not seeing a plan but it can be just as frustrating if you see the plan and then try to zone to it. The process is as a Council, implementing the vision for the City. It starts with the land uses at low, medium, or high density. Then within those density categories, what zone do you see as the appropriate density for this piece of property and not how you can develop it. It shouldn't be zoned to a developer's proposed plan. It should be zoned according to the Councils' vision of what they see for the City. With this particular parcel, is it high, medium, or low density? Once you see a plan, it's hard to avoid trying to design the property for the developer, to meet the zone that you want. The Councils' role is not to develop someone's property and come up with a design. The Councils' role is to specify density.

MOTION: Council Member Larsen moved to approve Ordinance No. 2021-20, an Ordinance of Ivins City, Utah, regarding a Concurrent Land Use Change and Zone Change, as amended for a concurrent land use of MDR (Medium Density Residential) and a Zone Change to R-1-7.5, on approximately 7 acres, located at approximately 200 West and Highway 91. Sunshine Seven, LLC-Owner; Visionary Homes-Applicant
SECOND: Council Member Gordhammer
VOTE: The motion carried.

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

Before **Council Member Mehr** voted, he inquired of Dale Coulam if he were to abstain, would the Mayor vote. **Dale Coulam** stated yes and that he could abstain but inquired as to what Council Member Mehr's grounds would be for abstaining. **Council Member Mehr** indicated that it would be to have the Mayor vote and that would his only ground. He stated that this was a hard decision and felt like there was a better alternative in the flow from townhomes. **Mayor Hart** commented that the Council has split zones and had buffer zones. in other cases, although he was not advocating that, just letting Council Member Mehr know that the implication of a nay vote on his part meant that the motion would fail. A substitute motion could then be advanced to reflect Council Member Mehr's thinking if that is what he would do. **Council Member Gordhammer** commented that if the motion passed, then the Council needs to do exactly what Council Member McDonald suggested and this would be the last zone change that she would want to see until the City cleans up the whole holding zone issue. She understood that this was a request that is in progress but then she would want to see a moratorium. **Council Member Johnson** commented that she agreed with what Council Member Gordhammer said regarding the moratorium. After the discussion, **Council Member Mehr** voted "aye" and the motion carried.

B. Discuss and consider approval of an expenditure for streets pavement maintenance for crack seal materials

Chuck Gillette reported that this is a routine expenditure that is made every year for the material that they melt and put in the cracks between the asphalt. The City treats the cracks in the roads

prior to any sort of treatment on the roads. The product needs to be ordered so that they can start crack sealing in the winter. **Council Member McDonald** noted that the information included a warning that the prices were subject to change at any moment. **Chuck Gillette** stated that is why they need to order it right now.

MOTION: Council Member McDonald moved to approve an expenditure for streets pavement maintenance for crack seal materials
SECOND: Council Member Larsen
VOTE: The motion carried.

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

C. Discuss and consider approval of Public Works vehicle purchase

Chuck Gillette reported that they have added a new employee to Public Works Department and he is a construction inspector and needs to drive around and see construction sites and the City needs something that is four-wheel drive.

MOTION: Council Member McDonald moved to approve the purchase of a Public Works vehicle in the amount of $34,160.00
SECOND: Council Member Mehr
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 an expenditure to Washington County for the Municipal Primary Election

MOTION: Council Member McDonald moved to approve an expenditure to Washington County for the Municipal Primary Election
SECOND: Council Member Gordhammer
VOTE: The motion carried.

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

7) CONSENT AGENDA ITEMS FOR DISCUSSION

8) REPORTS

A. Council

Council Member Johnson - no report
Council Member Larsen - no report
Council Member Gordhammer reported that the Snow Canyon Half Marathon will be held this upcoming weekend

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Council Member McDonald - no report
Council Member Mehr - no report

B. Mayor

Mayor Hart reported that the ribbon cutting for the new City Hall will be tomorrow, Friday November 5th at 12:00 p.m. He spoke with the mason today that is completing the monument at Ivins Heritage Park and that will be wrapping up on Monday, November 8th.

C. City Manager/Attorney Dale Coulam

Dale Coulam reported that the City needs to hold a Special Meeting to canvass the Municipal General Election to officially adopt and approve the results of that election. The Mayor and City Council agreed to a Special Meeting date of Wednesday, November 10th at 5:30 p.m. It will be held in the new City Hall Council room although there is currently no capability to attend through the Zoom application but that is being worked on by the audio and visual individuals.

D. Items to be placed on future agendas

Council Member Mehr referred to the Citizen Comment regarding ground solar and indicated that he would hate for someone to spend a $1,000 filing fee for a zoning text amendment if the Council does not agree something needs to be changed. **Dale Coulam** indicated that he recalled there being a provision in Ivins Code for a free zoning text amendment period that occurs at the end of the calendar year and that would be a way to address that.

Council Member Gordhammer referred to a formal moratorium on a future agenda item and commented that she would like to know how many lots are out there that are still buildable. Chuck Gillette indicated that he could identify those. **Mike Haycock** commented that a six (6) month moratorium will go by quickly and suggested that they start the discussions with the Planning Commission and others immediately and then move forward with the process.

9) CLOSED MEETING

A. Discussion regarding pending or reasonably imminent litigation pursuant to Utah Code section 52-4-205(1)(c)

MOTION: Council Member Larsen moved to adjourn this meeting and enter into a Closed Meeting to discuss pending or reasonably imminent litigation pursuant to Utah Code section 52-4-205(1)(c)
SECOND: Council Member Mehr
VOTE: The motion carried.

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

10) ADJOURNMENT

The meeting adjourned at 7:11 p.m.

Respectfully,

Kari Jimenez
Ivins City Recorder

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