IVINS
CITY COUNCIL
MINUTES
December 2, 2021

1) WELCOME AND CALL TO ORDER

MAYOR AND COUNCIL: There were technical difficulties wherein the meeting was called to order at 5:34 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 Cade Visser, Parks and Recreation Director Benny Sorensen, Public Safety Director Bob Flowers, Public Works Director/City Engineer Chuck Gillette, Building and Zoning Administrator Mike Haycock and City Recorder Kari Jimenez.
EXCUSED: None.
The meeting was called to order at 5:34 p.m.
Audience: Delores Osborn, Regina Roper, Dan & Jan Brown, Karen Kushner and others who did not sign in

A. Acknowledgement of Quorum

Mayor Hart acknowledged that there was a quorum present. All Council Members were present in the Council Chambers.

B. Flag Salute

Council Member McDonald led the Flag Salute

C. Invocation

Council Member McDonald 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

Mayor Hart announced for the record that Jack Reber passed away yesterday at the age of 100 years old. The City recently celebrated Jack Reber days in June when he turned 100.

A. Fiscal Year Ending 2021 Audit Report

Jon Haderlie with Larson and Company reported that they audited the financial statements and related notes of Ivins City, their activities, each major fund, and the aggregate remaining fund information for Ivins City for the year fiscal year ending 2021. Their responsibility is to express opinions on those financial statements based on their audit and conducted that audit in accordance with auditing standards contained in the Government Auditing Standards issued by the Comptroller General of the United States. In their opinion, Ivins City complied, in all material respects, with the compliance requirements and there were no state compliance or internal control findings noted. They enjoyed working with Ivins staff on the audit and were impressed by how quickly information was provided to them.

B. Department Reports: Parks and Recreation; Public Safety

Benny Sorensen provided a report, a copy of which is available as an attachment to this agenda. Bingo in the park ended on November 18th and they had a consistent group of 30-40 people attend. Registration for youth basketball has closed and they held their coaches meeting last night. The annual Run, Run Reindeer 5k fun run will be held on Friday, December 24th at 9:00 a.m. There were two (2) burials in November. There are several individuals inquiring

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about the cemetery and the City currently has approximately 57 traditional burial plots and 46 cremation plots. He reported that staff has finished landscaping the new City Hall. The Mayor and the City Council expressed their appreciation for the work that has been done.

Chief Bob Flowers reported that Ivins City has received accreditation through the Utah Chiefs of Police Association and indicated that the Chief of Police from Utah Tech University, formerly known as Dixie State University, Blair Barfuss and the Police Chief for the City of St. George, Kyle Whitehead, were present tonight. **Chief Whitehead** indicated that Chief of Police Bob Flowers has been a mentor to him and hired him 22 years ago when he was with the St. George Police Department. He explained the accreditation process and commented that very few agencies in Utah are accredited. He presented a plaque to Chief Flowers and congratulated the Santa Clara Ivins Police Department on their achievement. **Chief Barfuss** stated that the Santa Clara Ivins agency is the only agency in the County currently accredited. **Chief Flowers** thanked them for the presentation and acknowledged Sgt. Studley for his work on the accreditation. He reported that Sgt. Studley has been selected by the Utah Chiefs of Police Association to be part of the accreditation assessors team.

Council Member Mehr was present at 6:00 p.m. and had no disclosures or conflicts of interest with items on this meeting's agenda.

C. Planning Commission Report - None - No meeting held on November 30, 2021

3) CITIZEN COMMENT & REQUEST FOR FUTURE AGENDA ITEMS

None

4) PUBLIC HEARING AND ACTION ITEMS - NONE

5) DISCUSSION AND POTENTIAL ACTION ITEMS

A. Continued discussion and consider approval of Resolution No. 2021-17R, a Resolution of Ivins City, Utah, requesting that the Washington County Water Conservancy District acquire by condemnation all land necessary to construct the larger proposed Dry Wash Reservoir that would hold between 2000-2500 acre feet of water

Mayor Hart indicated that discussions and negotiations continued after the last City Council meeting, including a lengthy meeting this morning with Terry Marten, Lance Anderson, Brent Gardner, Chuck Gillette and Zach Renstrom. He credited those individuals for giving thoughtful consideration to a substantial reservoir that could be built and done in a sensitive way. **Chuck Gillette** indicated that the modification would elevate the capacity without compromising the visual impact of the reservoir. **Dale Coulam** stated that discussion moved forward and a resolution was reached for a reservoir that would hold approximately 1900 acre feet of water, that was agreeable to Terry Marten, the Water Conservancy District and the Engineer and they all feel that a proper conclusion was reached. The condemnation language in the Resolution is procedural and is not hostile. **Chuck Gillette** referred to Lance Anderson suggesting that they dig down to obtain more storage, without increasing the amount of evaporation. The material could be excavated out and then use that material to berm and hide the dam. There were discussions regarding trails but that may not occur all the way around the reservoir because the terrain is difficult on the east side but there could be a trail on the west side and have a trail that goes to the end of Center Street that ties into the dam, Highway 91 and Kwavasa Drive. There is a concern regarding recreation and right now they are talking about a trailhead off of Highway 91 that connects into the trail system where one could walk and bike. It would not be easy to get a kayak into there. The intent of the reservoir is strictly a water storage site. **Council Member Gordhammer** inquired if a spillway was required for the dam. **Chuck Gillette** indicated absolutely but the intent is to tie it into the natural wash. **Council Member**

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Gordhammer referred to the conservation pool. **Chuck Gillette** stated still being discussed. **Council Member Mehr** stated that explanation was helpful and encouraging. He referred to the property owners that will be below the dam and inquired what happens if the dam were to break. **Chuck Gillette** clarified that is part of designing the dam. Studies will be conducted, along with a dam break analysis and identifying a flood plain from that scenario and identifying an evacuation plan. **Council Member Gordhammer** would like an open meeting for residents who want to learn more about the proposed reservoir and for there to be an opportunity for input on the recreational aspect of the reservoir. **Mayor Hart** commented that they hold a neighborhood meeting every year at the beginning of the year where that could possibly occur. **Council Member Larsen** commented that he received emails regarding the opportunity for fishing and hiking but there was concern with evaporation. **Council Member McDonald** indicated that by requiring that fishing in allowed, there would be a minimum amount of water that would need to remain in the reservoir. **Council Member Johnson** stated that by including the verbiage for fishing in the Resolution, that did not mean that it would be required, just that it would be allowed. **Mayor Hart** indicated that the intent is to be restrictive because there is no desire for this reservoir to be an additional Fire Lake Park.

MOTION: Council Member Larsen moved to approve Resolution No. 2021-17R, a Resolution of Ivins City, Utah, requesting that the Washington County Water Conservancy District acquire by condemnation all land necessary to construct the negotiated sized Dry Wash reservoir that would hold approximately 1900 acre feet of water.

SECOND: Council Member McDonald

VOTE: The motion carried.

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

Roll call vote. All Council Members were present and voted in favor.

B. Discuss and consider approval of Ordinance No. 2021-23, an Ordinance of Ivins City, Utah, establishing a Temporary Land Use Regulation

Mayor Hart requested that Dale Coulam explain this and the need for it. **Dale Coulam** stated that there are needs of the City to acquire land by condemnation and one is on the agenda tonight, that being Kwavasa Drive. By the City acquiring Kwavasa Drive, that will keep the City out of threatened litigation by Attorney Bruce Baird for having Kwavasa Drive go across a piece of property that is now owned by his clients that has never been part of Kayenta or part of the CC&R's (Covenants, Conditions & Restrictions) of Kayenta. There may be some other land where some condemnation action may need to be taken, as well as the connection on Highway 91 where Highway 91 and the Western Corridor connect. The owners of that property do not seem to believe that the Western Corridor will occur but that is coming quicker than previously thought. The City of Santa Clara is anxious to get that built over to Rachel Drive and they have been actively acquiring right-of-way. There is a smaller piece and a larger piece that need to be acquired between 200 East and Highway 91 and if the City moves forward with condemnation of the smaller section of the western corridor that ties into Highway 91 and roundabout, the owners of the larger piece may be convinced that the Western Corridor is going to occur. Then generally what happens is the property is acquired quickly and the rest of the proceeding is obtaining an appraisal and paying the appraised value. If the related party on the larger parcel sees the smaller

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piece acquired by condemnation, there may be a willing seller on that larger piece and then the City could use COG (Councils of Government) funds to purchase the right-of-way. There are needs in coming months to obtain property or commence some condemnation actions and then negotiate the acquisition of property for various purposes. This temporary land use regulation says that any land where condemnation is imminent or pending, there can be no land use applications filed or accepted. He would define imminent as the City or a Condemnation Attorney sending a letter out saying that the City is about to commence condemnation actions and start negotiations for the purchase of the property. **Council Member Mehr** requested clarification as to what would trigger this. **Dale Coulam** indicated that the trigger for the process would be if it is imminent, in which case a letter would be sent saying that the property is under consideration for condemnation for the specified purpose and that construction would be occurring in the near future. The rest of the litigation is what is to be paid for the property, which is identified through the appraisal process. **Council Member McDonald** inquired why this was being called temporary. **Dale Coulam** clarified that is what it is called in the State statute but he suggested drafting an ordinance that is codified in Ivins Code. This temporary regulation would give the City six (6) months to come up with that permanent ordinance. **Mayor Hart** clarified that this ordinance buys the City time until a permanent ordinance is in place.

MOTION: Council Member Johnson moved to approve Ordinance No. 2021-23, an Ordinance of Ivins City, Utah, establishing a Temporary Land Use Regulation
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

Roll call vote. All Council Members were present and voted in favor.

C. Discuss and consider approval to open escrow in the amount of $80,000 for the purchase of a detention basin at 185 North Kwavasa Drive (600 West) as previously agreed with RT Marten and approved by the City Council on January 17, 2019, and/or commence litigation and/or condemnation to secure acquisition of same

Dale Coulam stated this is a regional detention basin and would serve several parcels of property. It was agreed that Ivins City would construct the facility when the funds were available and the City is ready to purchase the property in this fiscal year and then build it next year. **Mayor Hart** indicated that this is one of a series of detention basins that has been in Ivins plans and this is not intended to be a hostile action. It is an effort to complete the acquisition of the property that was agreed to previously. **Dale Coulam** stated that the City is hopeful that the City can pay the $80,000 and obtain a Warranty Deed to complete the contract but there has been some indication that may not happen. There is a third-party owner represented by attorney Bruce Baird who has threatened to sue the City and Terry Marten. Attorney Baird's clients own one of the parcels that is clearly intended to use the regional detention basin. The detention basin is located just off of 600 West as it turns into Kwavasa. It's right across the street from the Arrowhead subdivision. The upper detention basin has been put in and now the City is ready to construct the lower detention basin and the City would like to move forward on purchasing the

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property so that the City can design and build the detention basin next fiscal year. This action would authorize Ivins City to open escrow, prepare a deed and cut a check or wire the funds for $80,000. The City could also open an escrow, tender the $80,000 and then if the deed is not signed, the City would have no recourse but to obtain the detention basin because the deed was not signed and that would be a default on the contract. The City could sue for breach of contract or condemn; condemning the property is quicker and less expensive. It would be outside Counsel that would be suing Terry Marten or condemning the property. He hoped that it will be a voluntary closing to an agreement that was entered into in 2019. **Council Member Gordhammer** inquired if he was asking for the Councils approval to take any of the steps described. **Dale Coulam** indicated yes and clarified that if it were to be condemnation, the attorney would bring forward a resolution to commence formal condemnation. He is just asking to contact the condemnation attorney if it does not close and would be considered imminent condemnation. **Mayor Hart** stated that this detention basin has been intended to be built within this time frame and there may be a defensive component because of the situation that exists among the two property owners but it is the City's obligation to provide this detention basin for those properties. **Council Member Mehr** commented that the Council would just be following through with something that all of the parties have already agreed to. **Dale Coulam** indicated that was correct.

MOTION: Council Member Mehr moved to approve open escrow in the amount of $80,000 for the purchase of a detention basin at 185 North Kwavasa Drive (600 West) as previously agreed with RT Marten and if that does not go through as planned, then they are authorizing the commencement of litigation and/or condemnation to secure acquisition of same but the Council requires that to be done by a Resolution
SECOND: Council Member McDonald
VOTE: The motion carried.

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

Roll call vote. All Council Members were present and voted in favor.

D. Discuss and consider approval to secure outside legal counsel to pursue condemnation of all private Kwavasa Drive right-of-way owned by RT Marten, RT Marten Utah, LLC and/or Kayenta Homesites, Inc.

Dale Coulam stated that this involves a piece of property that has a section of road across it. Terry Marten had a good friend with whom he did several joint ventures that were very successful and whom he trusted. He had been working on this piece of property when his friend owned it. There is a small sewer line under the road and that road was initially a fire road. The fire road was cut in without approval from the City but then in 2006 the City Council approved those existing fire roads. In 2016 there was an MOU (Memorandum of Understanding) to acquire the right-of-way and at that time, it was $50,000. There was an agreement and initially it was to be chip sealed but Terry Marten decided that it was too cold and/or late in the season to do the chip seal and he thought that it would be better to pave the road instead, and that is what

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occurred. Terry Marten's friend ultimately conveyed the property to a party that has been uncooperative and is now threatening to sue Ivins City and Terry Marten. Terry has been attempting to negotiate a resolution to acquire that piece but has so far been unsuccessful. RT Marten Utah, LLC or Kayenta Homesites owns the right-of-way. The public road ends and then there's a private portion to the east and most of it is to the west of Kayenta Parkway. That is owned by one of Terry Marten's entities or himself. Terry Marten does not want to allow the property to access or use the road to access their property, basically leaving them without access to their property because 600 West is no longer there. The current owners are anxious to build a development. At the time, Terry Marten and his friend were working together as partners and Terry trusted his friend and did not insist upfront on an easement for putting that road across the property and did not insist upfront that the property be subject to Kayenta's CC&R's (Covenants, Conditions and Restrictions). Mr. Marten is worried about a conventional subdivision being built in what he considers the middle of Kayenta. Mr. Baird's clients say they own that property and are entitled to develop it as a conventional subdivision because it has never been subject to the CC&R's of Kayenta. They say they never gave an easement for the road so they are going to sue Terry Martin and the City. The way the City can avoid being sued is to acquire the private portions of the right-of-way. The intention, as depicted by this agreement, was always that this would become a public road. The dedication of the roadway was always intended but it never happened. It was at no fault of the City that Terry Marten is in the situation that he is. It is unfortunate that his trusted partner betrayed him and conveyed the property to someone else who is unwilling to work with Terry or to comply with any of the Kayenta building requirements, limitations or CC&R's. They are going to sue, saying that it makes their property unbuildable and they are going to sue for the developed value of that piece of property. The City would likely turn this over to outside counsel if the City is sued. Ivins insurer, the Utah Local Governments Trust, does not generally defend or insure against land use claims. There is a provision where the Trust could provide an initial defense because this occurred due to no fault of the City other than recognizing the road and inspecting it. The ultimate dispute that Terry Marten has with the current property owner is over their refusal to comply with Kayenta's CC&Rs, even though that property was never subject to those. When an Answer is filed, there would likely be a Cross-Claim against Terry Marten to hold the City harmless or reimburse the City for any damages that the City incurs in that lawsuit. The simplest resolution to get the City out of potential litigation, would be to acquire that right-of-way by condemnation. **Mayor Hart** commented that it was intended all along that the City would acquire this right-of-way. **Dale Coulam** stated yes. This agreement was approved in 2016 with that intent but it was never signed so the City does not have a contract that we can enforce. There is clear intent that this would be public right-of-way and would be a public road from Highway 91 to Kayenta Parkway, into Coyote Gulch. By doing this it becomes a public road. In developing that property, Bruce Baird's clients would have to dedicate that portion to Ivins city as part of any development and he has already offered that upfront. Because the negotiations between those two parties have fallen through and in order for the City to keep from being sucked into litigation, the City would need to acquire the right-of-way and make it public, otherwise the City could expect a lawsuit in the near future. **Mayor Hart** inquired if the City owes Terry Marten for part of the roadway. **Dale Coulam** indicated yes because Terry paved it rather than the chip seal and that value is higher than what was anticipated but that would be by agreement and would covered by the appraisal.

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Council Member Gordhammer referred to the unsigned agreement from 2016. **Dale Coulam** indicated that it was approved by the City Council and is relevant to show intent by the City, even though it was not signed by Kayenta. **Council Member Gordhammer** commented that is now a private road and inquired why the City would be liable. **Dale Coulam** stated that the City allowed the road to go across that property so the City was involved by allowing that road and Attorney Baird has stated that he does not know of another city that allows someone to build a road across private property; that's how the City would be pulled into that litigation. Otherwise, he would just be suing Terry Marten saying Terry prevented his clients from accessing the property and developing their property. **Council Member Gordhammer** assumed that since the City was looking at condemning this, that Mr. Marten was not in favor of that action because it would allow access to utilities and similar and to be built on. **Dale Coulam** stated that was correct. **Council Member Gordhammer** questioned the size of the parcel not owned by Terry Marten. **Dale Coulam** indicated it is broken into two parcels and the whole parcel is zoned RE-12.5 that are minimum lot sizes of 12,500 square feet, which Attorney Baird's client is fine with **Council Member Gordhammer** commented that size of a lot is not the typical Kayenta lot. **Mayor Hart** stated that Terry Marten was present and although this is not a Public Hearing, as a property owner, the Council may want to hear from him. **Terry Marten** indicated that he thought that Dale Coulam clearly represented what occurred. They had a misunderstanding, they thought they had an agreement that was done verbally but apparently they didn't. The land has been referred to as being landlocked but it isn't landlocked because there is access off of 600 west. That would have been the access had they not built the road through it. **Dale Coulam** inquired how long the whole lot was. **Terry Marten** stated 1320 Feet, plus or minus. **Dale Coulam** indicated that the property would be partially landlocked because you can't have a single access road longer than 750 feet and cannot have a single access for more than 30 lots per the Fire Code adopted by the City. **Mayor Hart** inquired if 600 West is intended to continue north. **Chuck Gillette** indicated it was unless the developers want to provide an alternative alignment but there needs to be a road there. **Mayor Hart** commented that Dale Coulam's point is that even if 600 West were built, there couldn't be access to the entire parcel because of the road and access off 600 would not be able to go the full length of that parcel. Dale has had the discussions with Mr. Baird and understood that Mr. Baird has made it clear that this action is the only one that will prevent a suit from being filed. **Dale Coulam** stated that was correct. By having this on the agenda tonight and then moving forward with the condemnation, that would be the only thing that is preventing Mr. Baird from filing a lawsuit and Chuck Gillette was in the meeting and can attest to that, as it was made very clear. **Mayor Hart** inquired as to the potential cost to the City beyond attorney fees, potential damages and the risk to the City. **Dale Coulam** indicated that the City could possibly pay damages for having allowed a road to cross private property without an easement. **Council Member Mehr** inquired what the damages would be to acquire the property that the road sits on. **Dale Coulam** clarified that the City tried that and the owners will not do that. Attorney Baird's clients want the right-of-way access on Kwavasa from Terry Martin, otherwise, they're going to sue because their property cannot be developed without that access.. He would not be the Attorney that defends the lawsuit but the City could potentially pay some damages and would have to pay the City's Attorney to defend the lawsuit. If Bruce Baird was successful with the litigation, it may be possible that there could be an award to pay Attorney Baird's attorney fees that Terry Marten and the City would have to bear. **Council Member Mehr** commented that he is seeing a lawsuit either way. **Dale Coulam** clarified that there would not be one involving the City if the

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City acquires the access because that street would become a non-issue. The lawsuit would be over the type of development and that would be between Mr. Marten and Bruce Baird's clients. **Dale Coulam** stated that his job is to try and protect the City and keep it out of lawsuits and what he has suggested is the simplest and least expensive way to do that. **Council Member Mehr** indicated that the road was built for many years before a concern was raised, there was no objection to a Transportation Master Plan when that was adopted and he thought it was a weak argument by Mr. Baird, but he is not the judge and appreciated Dale Coulam's perspective and position. **Mayor Hart** commented that there was no question this is a defensive move to protect the City. The development that would eventually occur has been represented to be something that is inconsistent with the CC&R's of Kayenta and that's the essence of Terry Marten's concern. The zoning has already been changed so the current owners could come in and apply for a conventional subdivision and build anything that fell within the City's design requirements. **Dale Coulam** stated that was correct. **Mayor Hart** indicated that the City Council would not have anything to say about that subdivision because the 25-foot height provision would be in effect, as well as the other existing requirements that the City has, and neither the City nor Terry Marten has any control over this now that the zoning is done and those lot sizes are permitted. **Dale Coulam** stated that was correct. **Council Member Gordhammer** agreed with Council Member Mehr and inquired why the City does not condemn all of the parcels and the road going across all of them. **Dale Coulam** indicated that the City does not want to pay fair market value when Bruce Baird's clients will dedicate it to the City for free when it develops. **Council Member Mehr** inquired if this would need to happen by ordinance. **Dale Coulam** stated yes. He commented that they could assume that Attorney Baird's argument is weak but he can still sue if he doesn't have a real claim and that would mean the City must defend it, so Ivins City is going to incur defense costs and spend money for nothing. It would be better to spend that money and acquire right-of-way and have Kwavasa as a public road. It is less expensive and quicker to acquire it by condemnation and have something at the end of the day to show for that expenditure of money. **Council Member McDonald** commented that the City has been given assurances that if the City goes through with what's proposed as it relates to condemnation, then the City will not be involved in a lawsuit. **Dale Coulam** clarified that if his clients can use the detention basin and if they have public access, then the City will not be sued. **Council Member Mehr** commented that the City was assuming that Terry Marten would not bring a lawsuit. He suggested that the City let this play out. There is always opportunity to settle in the future once they reveal their hand. **Dale Coulam** stated that was a viable option and if they chose that option, they'd be saying okay, let him sue the City. The City would then turn it over to defense counsel and see if they can resolve it in a different way. **Council Member McDonald** indicated that as a City Council they are obligated to protect the City and as unfortunate as it is, he felt that Dale Coulam's proposal was the best option to make sure the City is protected appropriately and with the least amount of expense. **Council Member Gordhammer** inquired if Dale Coulam had spoken with the defense attorney to see how strong of a case this is. **Dale Coulam** stated he has not talked to a defense attorney. He approached the Utah Local Government's Trust about whether they would defend that and they indicated that they would assign an attorney out of their pool of attorneys but he did not know who that attorney would be and they do not typically cover land use matters. **Council Member Gordhammer** indicated that there was a strongly worded resolution that was proposed to be on the agenda but that was replaced because an agreement that was reached between Mr. Marten and the Water Conservancy District for the reservoir and she felt that could occur in this situation

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and would prefer to wait before condemning the property. **Mayor Hart** stated that it might be of interest to find out from the City's condemnation Attorney what his perception would be of the strength of the case. **Council Member McDonald** questioned if this could be passed so that this can be moving forward in some form or fashion so that the opposing side sees that the City is moving forward with something while Dale speaks to an Attorney. **Dale Coulam** indicated that they could do that and he would be happy to talk to an Attorney and report back. **Mayor Hart** inquired it the council would want some sort of a report back before an actual condemnation were to occur. **Dale Coulam** clarified that a Resolution passed by the Council would be part of a formal condemnation process and that has to come back before the City Council.

MOTION: Council Member Mehr moved to continue this discussion
SECOND: Council Member Gordhammer

Council Member Mehr commented that he was expressing an idea and withdrew the motion.

MOTION: Council Member McDonald moved to approve securing outside legal counsel but first determine the defensibility of potential litigation or to pursue condemnation of all private Kwavasa Drive right-of-way owned by RT Marten, RT Marten Utah, LLC and/or Kayenta Homesites, Inc.
SECOND: Council Member Larsen
VOTE: The motion failed for lack of a majority

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

MOTION: Council Member Mehr moved to have Dale Coulam seek an opinion from legal counsel on the merits of potential litigation and report back
SECOND: Council Member Gordhammer
VOTE: The motion carried.

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

E. Discuss and consider water efficiency standards to be included in an ordinance for new commercial construction

Dale Coulam reported that the City Managers met with Zach Renstrom from the Water Conservancy District and there needs to be more time to talk about new residential construction standards. **Mayor Hart** referred to a meeting he and other Council Members attended where they held their green cards up indicating that they agreed that these general requirements should

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be the standard for commercial development. Thinking about the variety of commercial development including two resort developments in Ivins City that involve human occupation and the needs there are very different than a restaurant or a manufacturing facility. He has had continued discussions with the Water Conservancy District about the need for there to be a prescriptive path for a specialized commercial development to take to demonstrate responsible use of water that would permit them to have something like a swimming pool or a bubbler outside the spa. As an example, a restaurant that has xeriscape and a parking lot and then the entrance to the restaurant, that is different than something like Sentierre that has considerable landscape area. They have discussed there being a mechanism in place for a specialty type of development to approach the City and/or the Water Conservancy District and demonstrate through a prescriptive analysis that they're using water responsibly. **Dale Coulam** suggested this be continued as Zach Renstrom has indicated that the first of the year is the likely timeframe to put something together. If the Water Conservancy District is actively working on this, the City can wait until they see what the Water Conservancy District says. **Council Member Mehr** agreed that this should be continued and commented that he would like to understand the cost to residential households and what that really means as well as new residential construction and how that is defined in Ivins City. He referred to lots leftover in a development and inquired if those homeowners were going to be subject to the new standards or if they would be able to meet the standards of the original subdivision. **Mayor Hart** indicated that the water source is acquired at the time of the permit and would be subject to any current ordinance. **Council Member Mehr** stated that he had a problem with that. He referred to the Heritage Estates subdivision where the majority of household has some grass and those just building on a lot in that subdivision should not be disallowed from matching their neighbors. He suggested that should be put in to Ivins ordinance to guard against that. **Mayor Hart** indicated that the whole intent is to have a consistent ordinance across the County so that they are consistent from city to city but Ivins is restrictive and the Council is entitled to do whatever it wants. **Council Member Mehr** stated that Ivins has been more restrictive than likely any other community in the county and he felt that what he was suggesting was reasonable. **Mayor Hart** indicated that Council Member Mehr was talking about a select type of development that may be a couple of decades old or where larger amounts of grass was allowed and inquired where they would draw the line on where that cutoff was. There could be 100 different possible requirements and that would be impossible to enforce. **Council Member Gordhammer** stated that the drought is real and when a subdivision was put in 20 years ago, the water situation was different than what it is today and the City must make different choices.

MOTION: Council Member Gordhammer moved to continue this discussion
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

F. Discuss and consider Ordinance No. 2021-24, an Ordinance of Ivins City, Utah, setting forth City Council meeting dates for the calendar year 2022

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MOTION: Council Member Mehr moved to approve Ordinance No. 2021-24, an Ordinance of Ivins City, Utah, setting forth City Council meeting dates for the calendar year 2022
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

G. Discuss and consider Resolution No. 2021-16R, a Resolution of Ivins City, Utah, approving a 6% COLA increase for all employees to offset effects of inflation over the past year

Council Member Mehr indicated that inflation was happening and the City wants to take care of its employees but he had some concerns. He inquired if this was budgeted and what it would do to the rest of the community who are working in the private sector. He did not know of anyone who has received a cost-of-living adjustment and inquired how they stay united going forward. **Mayor Hart** stated that the City of St. George just passed a 6% COLA. **Council Member McDonald** indicated that the Washington County Solid Waste District did as well. **Mayor Hart** stated that City governments are doing this across the county. **Dale Coulam** clarified that this is included in the budget amendment that will be addressed at the next meeting and is intended to take place in the first full payroll of January, 2022. **Council Member Larsen** indicated that his business has provided a 5% increase for cost living to their employees and commented that is hard to find good employees right now. He had no problem with providing this increase to the City employees. The City has amazing employees and they would hate to lose any of them because of something like this. **Mayor Hart** stated that there is a shortage of qualified City staff not just in Washington County, but beyond. Ivins City goes to great lengths to train well and to have highly qualified people in place that a lot of other cities would love to have. **Council Member Mehr** indicated that paying people to stay home on a federal level, is hurting everyone.

MOTION: Council Member Mehr moved to approve Resolution No. 2021-16R, a Resolution of Ivins City, Utah, approving a 6% COLA increase for all employees to offset effects of inflation over the past year beginning January 2022 included in the budget amendment.
SECOND: Council Member McDonald
VOTE: The motion carried.

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

H. Discuss and consider holidays for calendar year 2022

Council Member McDonald inquired if in any holidays were added. **Dale Coulam** stated yes, Juneteenth, which celebrates the end of slavery, has been added and it is significant to recognize that. The **Mayor and City Council** agreed with the holiday schedule for calendar year 2022.

DRAFT

MOTION: Council Member McDonald moved to approve Holidays for calendar year 2022
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

6) CONSENT AGENDA

A. Approval of City Council Meeting Minutes for November 4, 2021
B. Approval of City Council Special Meeting Minutes for November 16, 2021

MOTION: Council Member Mehr moved to approve the Consent Agenda
SECOND: Council Member McDonald
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 Mehr appreciated the acknowledgment of Jack Reber's passing.
Council Member McDonald reported that there are significant litter issues occurring on the way out to the landfill and everybody's trash has to travel through Washington City to get to the landfill. Washington City and the land fill will be enforcing a strict, no tolerance, uncovered load policy at the gate of the landfill and in Washington City. Law enforcement will be issuing fines for residential and commercial. He will pass that information long and requested that it be placed on Ivins website, in the newsletter and let Santa Clara Ivins law enforcement know so that they can stop people and warn them that this is coming. The intent is to change the behavior.
Council Member Larsen reported that this will be his last meeting because he will be gone for the next meeting. He has learned several things and commented on the caliber and professionalism of Ivins employees. He enjoyed getting to know staff and the Council Members. **Mayor Hart** thanked him for his public service and commented that he had been an excellent Council Member.
There were no other reports.

B. Mayor

No report

C. City Manager/Attorney Dale Coulam

Dale Coulam thanked the Council for supporting employees and staff. The Mayor and Council have been very good to them in making sure they are compensated fairly and treated well. He thanked them for supporting the new City Hall being built to house staff and commented that staff is very appreciative and recognizes their support.

D. Items to be placed on future agendas

9) CLOSED MEETING

DRAFT

10) ADJOURNMENT

MOTION: Council Member Larsen moved to adjourn

SECOND: Council Member McDonald

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 8:42 p.m.

Respectfully,

Kari Jimenez
Ivins City Recorder

DRAFT