Date: March 15, 2022

To: Ivins City Council
From: Mike Scott

**RE: WATER CONSERVATION ORDINANCE COMPARISONS**

Here are the differences comparing the Santa Clara ordinance that passed and the preliminary changes and side notes from the St George ordinance with the WCWCD proposed ordinance. I ignored minor wording differences, like our use of "shall" typically compared to Santa Clara's use of "will." I think I caught all the substantive differences. I also received 20+ suggested changes by Black Desert Resort and Sentierre and included those here.

- Santa Clara will review their ordinance in six months. Good idea.
- Here is the simplest way to go through this document: If you get stuck on any issue, just move on until you finish the document, then go back and deal with the difficult issues.
- The "Line" numbers below refer to the WCWCD line numbers in their ordinance. The best way to review their ordinance and the St George and Santa Clara changes and notes is to go to the WCWCD ordinance for each "Line" number discussed in this memo.
- Resorts are treated separately. See Line numbers 151, 163, 224 and 381.

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1. Line 12. Typo: "…District, wants to establish…

2. Line 63. Santa Clara changed the wording and added exceptions: The provisions of this title are applicable to all new construction, development (including redevelopment), and landscape improvements in the city, except for (a) permitted uses in the Open Space zone; (b) permitted agricultural, horticultural, and gardening uses (including fruit trees) in any zone; (c) public parks or playgrounds, or public or school-owned active recreation areas, in any zone; however, all new uses which fall under (c) must be required to be served by secondary and not culinary municipal water. Landscape improvements to be irrigated solely with private, non-municipal water may be exempt from certain provisions of this chapter as noted. *(Suggestion: Use Santa Clara as written, except delete the last sentence beginning with "Landscape improvements to be irrigated with…" Also add a statement like, "If any use that consumes water is not specifically permitted in this ordinance, such uses are not permitted.")*

3. Line 64. Suggestion: Clarify what development the ordinance covers by midifying, "…major landscape improvements in the city, excepting current projects with a previously-approved Development Agreement or Conditional Use Permit…)

4. Line 77+. St George added: Artificial Turf Grass. They did not provide a definition. Here is a Google definition: A surface of synthetic fibers made to look like natural grass. *(Suggestion: Add definition: Artificial Turf Grass: A surface of synthetic fibers made to look like natural grass.)*

5. Line 78. Check valve. Santa Clara deleted. *(Suggestion: Keep WCWCD)*

6. Line 80. Controller. St George added a note "add smart/internet connected, etc. Maybe consider separate definition." *(Suggestion: Keep WCWCD as written)*

7. Line 90. Grass. Both St George and Santa Clara took out. But Santa Clara replaced it with a definition for "lawn" which was similar. *(Suggestion: Keep WCWCD as written)*

8. Line 132+. Santa Clara added definition: Lawn: A surface layer of earth containing mowed grass with its roots; includes grass turf. Note: WCWCD definition for "Grass" = A surface layer of earth containing mowed grass with its roots. (Discussion: Santa Clara's lawn definition adds, "includes grass turf" which seem unnecessary with the addition of a definition St George added for "artificial turf grass" and also it seems unclear what "grass turf is" – is it living or artificial? *(Suggestion: Do not add a definition for "Lawn" – not needed since there is a definition for grass)*

9. Line 135+. Santa Clara added definition. Multifamily: Any residential use comprised of a dwelling or dwellings designed for occupation by more than one family in any zone, but for purposes of this Chapter, excludes single-family dwellings, two-family dwellings, dwellings containing an approved internal accessory dwelling unit, dwellings which are an approved accessory dwelling unit to a primary dwelling. *(Suggestion: Add Santa Clara definition and add one additional exclusion – hotel rooms.)*

10. Line 138. Plant list. Santa Clara deleted. *(Suggestion: Keep WCWCD as written)*

11. Line 151+. *(Suggestion: Add a definition for "Resorts" so the ordinance can state requirements for water features for resorts separate from residential and commercial. A suggested definition modified from Google: "Resort: A full-service lodging facility located in a Resort Commercial zone that is the primary provider of a range of amenities and recreation facilities to emphasize a leisure experience beyond those found at motels and hotels.")*

12. Line 153+. Santa Clara added definition. Single Family: Any residential use comprised of a dwelling designed for occupation by only one family in any zone, and for purposes of this Chapter includes primary dwellings, dwellings containing an approved internal accessory dwelling unit, and approved accessory dwelling units. *(Suggestion: Add Santa Clara definition)*

*13.* Line 155+. St George added definition: Turf grass. A surface layer of earth containing mowed grass with its roots. "Grass" does not include non-living artificial turf grass. *(Suggestion: Do not add definition)*

14. Line 155+. Santa Clara added definition. Two-Family: Any residential use comprised of a dwelling designed for occupation by two families in any zone, but for purposes of this Chapter excludes dwellings containing an approved internal accessory dwelling unit, or dwellings which are an approved accessory dwelling unit to a primary dwelling. *(Suggestion: Add Santa Clara definition)*

*15.* Line 160. Santa Clara limited multifamily by changing this title to: Single family and two-family residential water efficiency standards. Note: Later, on line 210, WCWCD limits parts of this section to multifamily up to 10 units. St. George uses the WCWCD version. *(Suggestion: Use Santa Clara's approach)*

*16.* Line 163. St George reworded this to: These provisions are applicable to all new single family and multifamily residential construction and development, irrespective of its underlying zoning classification. (Then they had side notes: Or remodeled? Should we just delete "new" and make all existing development nonconforming?) *(Suggestion: Use St George wording because the chapter heading is specific to housing, not non-residential. However, add at the end: except construction and development within a resort will be subject to the requirements of Chapter ? (new))*

*17.* Line 168. Chris Hart suggested using 0.3 gallons. Santa Clara used WCWCD language but lowered to 0.5 gallons. St George deleted "new" (probably because they added the word "new" on line 163, but why not leave it in here to be clearer) and deleted the 1,000 square foot requirement (they also questioned if the 1,000 square foot number meant each unit or the total building – so eliminating it was clearer.) St George left the 0.6 gallons. *(Suggestion: Change this to, "New single family or multiple family residential dwellings shall install hot water recirculation systems, unless hot water delivery can be demonstrated to occur without first displacing more than 0.3 gallons of system water from the tap furthest from the hot water source.)*

*18.* Line 172. St George took out "New." *(Suggestion: Modify WCWCD to state, "New single family or multiple family residential dwellings shall install WaterSense labeled fixtures,* or fixtures that are at least as water-efficient, including…" Note: Sentierre suggested "…*or fixtures that use at least 20% less water than the federal standard, including…")*

*19.* Line 175. St George took out "New." Santa Clara eliminated this requirement. *(Suggestion: Modify WCWCD to state, "…Energy Star qualified appliances, or appliance*

*that are at least as energy-efficient…" note: Sentierre suggested, "or appliances that are at least 10% more efficient than the federal standard")*

*20.* Line 178. Santa Clara moved this to their section on multifamily and nonresidential standards. St George noted that "All multiple family units with ground floor square footage or individually platted" was unclear. It is unclear. *(Suggestion: Leave WCWCD wording, except delete "with ground floor square footage or individually platted" Note: Sentierre wants to eliminate "D" with, "These provisions do not apply to detached single family homes." That defeats the purpose.)*

*21. Line 185+. (Suggestion: WCWCD does not reference water features in the single-family section – only in the non-residential. It should be included in single-family. Add "E" = Exterior, decorative water features must be limited to an aggregate capacity of fifty (50) gallons or less and recirculating pumps are required in each feature. Exterior decorative water features shall only be located on individual single- and two-family lots and not as entry features to a subdivision or community.")*

*22.* Line 185+. St George added a requirement, "The area of any pool will be counted towards the allowed amount of grass." They also added a note to, "Reconsider new pools in general, but we like this concept if pools will be allowed (paraphrased)." *(Suggestion: add an item "F" as follows: The square footage of any uncovered pool will be counted towards the allowed amount of grass. A pool is considered uncovered if it does not have a UL approved cover that is electrically operated." 50% of the square footage of any pool with a UL approved electrically operated cover will be counted towards the allowed amount of grass. Rationale: Covered pools are still used so there will be evaporation.)*

*23.* Line 188. St George took out "New" (Leave it in to be clearer?). Santa Clara added an exception, "except where landscaping will be irrigated solely with a private, non-municipal water source." *(Suggestion: Leave WCWCD wording as is. Do not provide exception for private water sources because the goal should be to conserve all water.)*

*24.* Line 194. Santa Clara changed this section to: "The total irrigated landscape area must not exceed sixteen percent (16%) of the lot square footage. Lawn area must not exceed eight percent (8%) of the lot square footage, up to a maximum of two thousand five hundred (2,500) square feet of lawn area." *(Suggestion: Change this to say only, "Grass area must not exceed eight percent (8%) of the lot square footage, up to a maximum of one thousand five hundred (1,500) square feet of grass area." Limiting the amount of irrigated landscape area (plantings, not grass) is awkward – how do you measure it? Ignore the St George version below)*

*25.* Line 194. St George used the WCWCD grass limits but eliminated "Up to 24,000" and eliminated "More than 24,000" replacing those with More than 18,000 sf = 1,500 sf" They also added notes expressing concern about these limits: (1) Be aggressive. The consensus of the group is that these numbers are still too high. (2) Be careful with the unintended consequences of making existing grass nonconforming. (3) What does this mean when you're talking about multifamily units? Need clarification. Maybe have a separate section for less than 10 unit multifamily and make this section for single family only. Maybe treat all multifamily the same. (Note: This concern supports Santa Clara's grouping of single family and two family units and then all 3+ unit multifamily goes with nonresidential). (4) Why allow more than 1,500 sf? For reference, the Council chambers at City Hall is approximately 1,600 sf. That's a lot of grass! *(Suggestion: Ignore this version)*

*26.* Line 202. Santa Clara increased the slope to 20%. St George used the WCWCD slope of 15%, and wrote this section better: "Grass shall be prohibited…" *(Suggestion: Use WCWCDs 15% - Note: Ivins code considers an 8% slope "steep" and 15% "very steep" – see 16.08.206)*

*27.* Line 205. Santa Clara eliminated this requirement. St George notes suggest: Each single family…" and added notes: (1) "… plus one additional tree per xx square feet of landscaped area." (2) Have we codified a list of compliant trees? *(Suggestion: Use WCWCD)*

28. Line 208+. Santa Clara added: "Any lot in any zone which is larger than one-half (1/2) acre must use secondary irrigation to irrigate any agricultural, horticultural, or gardening uses which are permitted in the applicable zone." *(Suggestion: Add this requirement)*

*29.* Line 210. Santa Clara eliminated (because the difference between their 2 units versus WCWCD 11 units). St George. *(Suggestion, Use the Santa Clara approach, but for clarity state: "Multiple family projects with more than two total units: comply with the Landscape Standards in __-4-2, below.")*

*30.* Line 213. *Suggestion: Change start of this para. To only invalidate specific provisions, not entire documents, with "Any provisions in homeowners or property owners association governing documents…"*

*31.* Line 224. WCWCD and St George says this section is for all nonresidential, but they earlier state that multifamily greater than 10 units will follow this section. Santa Clara's approach is for all multifamily over 2 units to follow this section. St George has a note wondering if they should consider eliminate the term "new" and creating nonconforming uses as a result for existing properties. *(Suggestion: Use WCWCD wording and add at the end: "…excepting current projects with a previously-approved*

*Development Agreement or CUP and excepting construction and development within a resort which will be subject to the requirements of (new) Chapter ___ )*

*32.* Line 232. *(Suggestion: Modify WCWCD to state, "WaterSense labeled fixtures, or fixtures that are at least as water-efficient, shall be installed…" Note: Sentierre suggested "…or fixtures that use at least 20% less water than the federal standard…")*

*33.* Line 235. Santa Clara eliminated. *(Suggestion: Modify WCWCD to state, "…Energy Star qualified appliances, or appliance that are at least as energy-efficient…" note: Sentierre suggested, "or appliances that are at least 10% more efficient than the federal standard")*

*34.* Line 237. St George included a note saying the wording "with ground floor square footage, or individually platted" needs clarification. *(Suggestion: Keep WCWCD wording, except delete: "with ground floor square footage, or individually platted" Also clarify with, "Hotel rooms are exempted from this provision.")*

*35.* Line 244. St George notes: (1) "I've heard some car washes claim as little as 12-15 gallons. What's a real, achievable standard?" (2) "Is this for automatic car washes only?" – Better term needed than "all carwash projects" *(Suggestion: Keep WCWCD wording at least for now – all I could find on the internet was a usage range between 8 and 70 gallons. The St George Carwash website says they use approx.. 30 gallons of fresh water because they recapture 75%. If Ivins decides to exclude car washes from its table of uses, then new ones would be prohibited. It is not something that needs to be decided here to pass a conservation ordinance.)*

*36.* Line 247. WCWCD is confusing – Santa Clara improved it with: "Exterior, decorative water features in any project must be limited to an aggregate capacity of fifty (50) gallons or less for all features in the project, and recirculating pumps are required in each feature." St George noted "Why no equivalent prohibition on residential?" *(Suggestion: Use Santa Clara wording.* Sentierre suggests this exclusion, "*This provision does not apply to swimming pools or to single family homes." This seems to defeat the purpose. This requirement is in the no-residential Chapter, but I added it to the single-family Chapter. It should be a requirement.)*

*37.* Line 250. St George notes: "If these standards are for new development only, why not just prohibit golf courses altogether? Now's the time!" *(Suggestion: Use WCWCD wording. Separately, if Ivins decides to exclude golf courses from the table of uses, then new ones would be prohibited. It is not something that needs to be decided here to pass a conservation ordinance.)*

*38.* Line 256. St George notes: "Could this be further defined and regulated? Is there an efficiency standard? I bet if we look into other desert communities' ordinances we would find additional language that would be helpful." *(Suggestion: Use WCWCD wording. It sounds like this is a difficult issue to enforce because it can be installed at any time. Sentierre asked to lower the temperature to 85 degrees. More research can be done for a six-month review.)*

*39.* Line 258+*. (Note: Pools were addressed for single-family, but should also be permitted in non-residential, particularly for multifamily. Suggestion: add an item "I": The square footage of any uncovered pool will be counted towards the allowed amount of grass. A pool is considered uncovered if it does not have a UL approved cover that is electrically operated." 50% of the square footage of any pool with a UL approved electrically operated cover will be counted towards the allowed amount of grass. Rationale: Covered pools are still used so there will be evaporation.)*

*40.* Line 259. *Note: The nonresidential landscape standards to not state a maximum amount of grass permitted, but they do state on line 275 that "The configuration of the vegetation in the Planting Plan is in the sole discretion of the city." Question: Does this give the City control of the total amount of grass? Does the City want that responsibility? Should we set a limit for the amount of grass?*

*41.* Line 261. WCWCD and St George limit this section to nonresidential development and 11+ unit multifamily. Santa Clara includes 3+ unit multifamily. But Santa Clara excludes projects "irrigated solely with a private, non-municipal water source" *(Suggestion: Keep WCWCD wording but after "new development in all nonresidential zones" add "all new multifamily development." Do not create an exception for private water.)*

*42.* Line 265. Santa Clara changed slope to 20%. St George leaves at 15%. *(Suggestion: Keep 15%. Sentierre suggested changing the first sentence to allow for some grass outside the active recreation area with, "The use of grass is limited to less than 1% of the overall site area of a project outside of an active recreation area.")*

*43.* Line 269. St George notes: "This introduces a new cost and personnel burden. Should this be handled at the City level or is it time to require landscape permits countywide and have the district oversee the process?" *(Suggestion: Keep WCWCD wording for now. This could be an issue for research over the next six months.)*

*44.* Line 272. St George notes: "I don't really want City staff to be the ultimate design authority of private property. More specific standards are necessary. See previous comment about district involvement." *(Suggestion: Keep WCWCD wording for now. Note: Sentierre took out the City's ability to control by eliminating, "The configuration of*

*the vegetation in the Planting Plan is in the sole discretion of the city." This could be an issue for research over the next six months.)*

45. Line 366. Santa Clara added: The Certificate of Substantial Completion must be accompanied by a certification from the landscape architect that the landscaping, irrigation, and related improvements have been installed consistent with the approved Landscape Documentation Package. *(Suggestion: Add Santa Clara wording.)*

*46.* Line 381+. *Suggestion: Create a new Chapter: Landscape and irrigation design standards for all new resort development. These provisions are applicable to all new construction, and new development within any resort.*

- *a. All new construction and new development within a resort shall meet the following requirements:*
  - *i. Chapter 3-1: Construction Standards (residential) except for exterior water features and pools*
  - *ii. Chapter 3-3: Restrictive Covenants*
  - *iii. Chapter 4-1: Construction standards (non-residential) except for exterior water features and pools*
  - *iv. Chapter 4-2 B: Landscape Standards – Required documentation*
  - *v. Chapter 5: Landscape & Irrigation design*
- *b. All new construction and new development within a resort shall either meet the following requirements or provide an analysis and a narrative demonstrating that the water conservation goals of this ordinance will be met or exceeded. The City may require a third-party report from a hydrologist or similarly qualified expert selected by the City and paid for by applicant certifying either that applicant has a viable plan to reasonably conserve water in a way that meets or exceeds all the water conservation measures in this ordinance or suggesting changes to meet or exceed all the water conservation measures in this ordinance. The findings of such report, when approved by the City, shall constitute the water conservation plan for applicant.*
  - *i. Chapter 3-1: Construction Standards (residential) for exterior water features and pools*
  - *ii. Chapter 3-2: Landscape Standards (residential)*
  - *iii. Chapter 4-1: For exterior water features and pools*
  - *iv. Chapter 4-2 A: Landscape Standards (non-residential)*
- *c. Sentierre suggested different wording for "b" above: For projects in nonresidential zones, the foregoing provisions can be waived if a landscape architect that is licensed in the State of Utah provides a statement indicating that the design meets the intent of this Ordinance, as outlined in the Recitals and Legislative Findings.*

*47.* Line 383. Santa Clara added the following exception and requirement at the beginning of this chapter: "The provisions of this section shall apply to all new landscaping and irrigation in the City which is subject to this chapter, except where landscaping will solely be irrigated with a private, nonmunicipal source of water. Any landscape area to be converted from private, non-municipal to municipal water, whether culinary or secondary, must first be brought into compliance with this section." *(Suggestion: Do not include the Santa Clara wording.)*

*48.* Line 386. St George note: How specific do we want to be with plant selection? *(Suggestion: Keep the WCWCD wording. WCWCD has or will have a recommended plant list.)*

*49.* Line 392. Santa Clara increased the slope to 20%. *(Suggestion: Keep 15%. Note: Sentierre changed requirement from "shall" to "should" on both line 392 and 395. Keep "shall.")*

*50.* Line 411: Santa Clara changed from "shall be selected" to "are recommended" *(Suggestion: Keep WCWCD wording.)*

*51.* Line 418. Santa Clara eliminated this requirement/paragraph. St George note: Need to think about long term tree growth and standards. *(Suggestion: Keep WCWCD wording.)*

*52.* Line 436. Santa Clara eliminated this requirement/paragraph. *(Suggestion: Keep WCWCD requirement.)*

*53.* Line 443. Santa Clara eliminated this portion: "Spray head to drip conversion for rehabilitated landscape sites may be acceptable with city approval of Irrigation Plans." *(Suggestion: Keep only first sentence like Santa Clara.)*

54. Line 451. Santa Clara eliminated. *(Suggestion: Keep WCWCD wording.)*

55. Line 454. Santa Clara eliminated. *(Suggestion: Keep WCWCD wording.)*

*56.* Line 460. Santa Clara increased time from September to October. St George note: Shouldn't we add a formal restriction on grass watering from November through February? Sentierre suggests May to September. *(Suggestion: Use May to September. Consider more research over next six months on watering in the winter.)*

*57.* Line 468. St George note: A "Suggestion" is not enough in an ordinance. This schedule is too generous. Need to discuss. *(Suggestion: Eliminate since they are not requirements.)*

*58.* Line 474: St George: "No" for "up to 4 days a week" *(Suggestion: Eliminated above.)*