IVINS
CITY COUNCIL
MINUTES
February 2, 2023

NOTICE: This meeting was held electronically and in person. City Hall was the anchor location for the electronic meeting. You may watch the audio and video 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 Scott, Council Member Mehr, Council Member Johnson, Council Member Murphy, and Council Member Anderson.

STAFF: City Manager/Attorney Dale Coulam, Director of Finance Cade Visser, Parks and Recreations Director Benny Sorensen, Lieutenant Jaron Studley, Public Works Director/City Engineer Chuck Gillette and City Recorder Kari Jimenez

EXCUSED: None.

Audience: Laela Gaylord, James Barden, Judith Kapascinski, Ed Budinsky, Chris Haddad, Sharon Gillespie, Dave Appel, Sharon Barton, Michael Barton and others who did not sign in.

A. Acknowledgement of Quorum

Mayor Hart acknowledged that there was a quorum present and indicated that Council Member Mehr was expected shortly.

B. Flag Salute

Council Member Anderson led the Flag Salute

C. Invocation

Council Member Anderson gave the Invocation

D. Disclosures

There were no disclosures or conflicts of interest with items on this meeting's agenda. Council Member Mehr was not present at the time.

2) REPORTS, PRESENTATIONS AND APPOINTMENTS

A. *Discuss and consider approval of Resolution No. 2023-02R, a Resolution of Ivins City, Utah, appointing alternate Administrative Law Judge

Dale Coulam indicated that Attorney Daren Barney with the law firm of Barney, McKenna & Olmsted has been serving, and will continue to serve, as the Ivins City Administrative Law Judge but with scheduling conflicts, it can be difficult to schedule timely hearings so Ivins City has asked Attorney Ron Hill, who is also with Barney, McKenna & Olmstead, if he would serve as an alternate Administrative Law Judge. This is an appointment by the Mayor, with the advice and consent of the Council. **Mayor Hart** invited Ron Hill to the podium. **Attorney Hill** stated that has been a practicing attorney for over 30 years in Canada and the U.S. and has acted as an Administrative Law Judge for other municipalities. **Dale Coulam** indicated that the types of things that the Administrative Law Judge will hear and consider, would be code enforcement (allegations of violations of code violations) and could act as the Administrative Appeal Authority from Administrative decisions. Legislative decisions are appealed directly to District Court. **Council Member Anderson** inquired if this appointment would be a volunteer position or paid via stipend or hourly? **Dale Coulam** clarified that it is an hourly discounted rate.

Council Member Mehr arrived at 5:35 p.m. He had no disclosures or conflicts of interest.

MOTION: Council Member Mehr moved to approve Resolution No. 2023-02R, a Resolution of Ivins City, Utah, appointing alternate Administrative Law Judge
SECOND: Council Member Murphy
VOTE: The motion carried.

Council Member Scott	AYE
Council Member Mehr	AYE
Council Member Johnson	AYE
Council Member Murphy	AYE
Council Member Anderson	AYE

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

B. Youth Council Report

Summer Terry reported on the Youth Councils recent trip to Salt Lake for Legislative Day. The Youth Council met with Representative Neil Walter, attended a dinner hosted by Senator Don Ipson, toured the State Capitol building, had breakfast in the rotunda, attended a mock committee meeting where they learned about how bills are passed, listened to Governor Cox's wife speak about mental health, had lunch with all of the Youth Councils' who were in attendance and listened to Governor Cox speak and show them the new State flag ideas and the meaning behind those. It was a neat experience, very interesting to learn about how the government works and the whole experience helped the Ivins Youth Council become a team.

C. Department Reports: Parks and Recreation; Public Safety

Benny Sorensen reported that the youth basketball is halfway through the season; the Community yard sale and the Miss Ivins Pageant are coming up and the new section of the cemetery has been trenched for the main water lines to be put in.

Fire Chief Parker reported the Utah Fire Chiefs quarterly meeting was held at the Dixie Center where they discussed local legislation for EMS and Fire organizations. SCI Fire Rescue will be working with Utah Tech for a student grant, writing with the Youth Council for EMS intubation scopes and tactical active shooter vests. CERT (Community Emergency Response Team) instructor Tiffany Martineau is a great volunteer and instructor for Washington County. Monthly training will be finished February 18th where 25 students have been meeting once a month to go through the course. SCI Fire Rescue has been working with the Deseret Preservation and Chuck Warren for a preservation initiative in Kayenta, cutting out and chipping Tamarisk.

Public Safety Lieutenant Studley reported that a flatbed trailer was stolen south of Highway 91 but Officers were able to locate it in the Dixie Downs area, which led to a joint investigation with the City of St. George City, locating more items stolen from different construction sites. Sergeant Hallman was able to obtain two (2) grants for two (2) new speed detecting radars for patrol cars and two (2) new laptops for patrol cars. In the past 30 days, SCIPD officers have responded to 382 incidents, issuing 253 citations and warnings, with 67 related to speeding. The Ivins City and Santa Clara Councils have expressed concerns with speeding and in response, SCIPD conducted five (5) different speed surveys between Santa Clara and Ivins, three (3) in Ivins and two (2) in Santa Clara. There are two (2) speed trailers and one (1) JMAR radar box recording the speeds. Typically speed trailers are tucked on neighborhood streets but one trailer has been placed on Center Street. It has been eye opening to capture the data and see that there is a problem. SCI Public Safety will share those reports at a later time once the speed surveys are

concluded. SCIPD's K-9 and handler were able to participate in the Metro K9 interdiction team with two other K9s on I-15. K-9 Officer Copper has been deployed nine (9) times in the past 30 days. Sergeant Hallman had three (3) drone flight incidents - two (2) involved law enforcement incidents and one (1) was to check the washes and drains after the massive rainstorms. SCIPD assisted in arresting an individual evading the Hurricane City Police and wanted for homicide out of Lincoln County, Nevada. Code Enforcement is going smoothly and SCIPD employee Tanya Wambolt recently completed the Utah Domestic Violence Coalition Advocacy course and will be assisting as a Victim Advocate. Animal Control recently welcomed a new full-time employee, MacKenzie Peterson who previously worked full-time for dispatch and with the City of St. George Animal Shelter.

D. Planning Commission Report

Mike Haycock reported that the Planning Commission held a Public Hearing on a zone change application from RE- 43 to RE-12.5 along 200 North, between 400 and 600 east, recommending that be approved and move forward to the City Council for a Public Hearing. The Planning Commission also recommended approval to proceed to the City Council, a Preliminary Plan and approved a Conditional Use Permit for Mojave Village located at approximately Fitness Way and Guy Lane. A single lot Subdivision for Indigo trails phase 2-D was also approved and they began their discussions on the General Plan, starting with Chapters One (1) and Three (3). The Staff assignment was to get some financial information for the Planning Commission to start looking at after they read those chapters. There was no argument about the Resort chapter or paragraph being taken since the survey showed that Ivins no longer wants to see resorts, although a statement was made that Ivins would support the businesses that are already in Ivins.

3) CITIZEN REQUEST FOR FUTURE AGENDA ITEMS REGARDING ORDINANCES, POLICIES OR OTHER LEGISLATIVE ITEMS - None

4) PUBLIC HEARING AND ACTION ITEMS - NONE

5) DISCUSSION AND POTENTIAL ACTION ITEMS

A. *Discuss and consider approval of Interlocal Agreement regarding School Resource Officers

Dale Coulam stated that in the past, there has been an Interlocal Agreement similar to this but it has been expired for a few years. He and attorneys from other municipalities objected to the first draft that had St. George basically running everything. This version has the Police Chiefs collaborating together, which was what was happing during the interim when there was no agreement in place. This agreement has gone before the St. George City Council, has been approved and signed by the City of St. George and is now on for Ivins City Council's approval. **Council Member Mehr** questioned if Vista Charter school was part of this agreement because it is part of the Washington County schools. **Captain Rodgers** stated no and clarified that it is charter school and not part of the Washington County School District. No School Resource Officer is provided for Vista. There was at one point when Tuacahn High School was in Ivins and Tuacahn High and Vista got together and paid a portion of a salary to have a School Resource Officer there but when Tuacahn High left Ivins, Vista could not afford the amount of money to do that and chose not to have a School Resource Officer. **Council Member Scott** inquired if this agreement is pretty much the same as the original 2004 agreement, as to the terms, revenue sharing and voting? **Dale Coulam** indicated that he was not involved with the 2004 agreement because it existed before he was hired. The first draft may have been more in line with what the original agreement was, where at that time, St. George was the big player and taking a more active role. **Council Member Scott** referred to everyone paying proportionately based on population and Ivins and Santa Clara's population is a little bit less than 10% of the

total county population. **Dale Coulam** clarified it is prorated based upon the number of students enrolled in the school and not the total population but that he was comfortable with the agreement the way it was drafted.

MOTION: Council Member Murphy moved to approve Interlocal Agreement regarding School Resource Officers

SECOND: Council Member Johnson

VOTE: The motion carried.

Council Member Scott	AYE
Council Member Mehr	AYE
Council Member Johnson	AYE
Council Member Murphy	AYE
Council Member Anderson	AYE

B. Arts Commission's Annual Report

This agenda item was not addressed at this meeting. It will be included on the next City Council agenda.

C. Discuss and consider Arts Commission's recommendations for distribution of 2022 RAP Tax Arts Funds.

Michele Adams with the Arts Commission provided the Arts Commission's recommendations. A copy of the recommendations are available as an attachment to this agenda. **Council Member Johnson** inquired why the St. George Children's Museum did not meet the application guidelines? **Michele Adams** clarified that it is specifically stated in the Ivins Arts Commission Resolution that those applying have to be located within Ivins City and that was the only reason. The Arts Commission really liked their idea. **Council Member Johnson** stated that the St. George Children's Museum does benefit kids in Ivins but understood if the City has a Resolution with that restriction. **Council Member Anderson** inquired how they determined that Center Street was the arts corridor? **Michele Adams** clarified that it is designated in the Arts Master Plan. **Council Member Anderson** commented that there are two (2) roundabouts going in on Highway 91 and commented that they will need to think about those. **Council Member Mehr** referred to the application made on behalf of the City for vinyl art on utility boxes and commented that he was concerned about the heat and sun rot. **Michele Adams** clarified that there is a company in St. George that has been doing them throughout St. George and there are different levels but they last between 3 and 10 years. **Mayor Hart** clarified that it is the same product used to wrap a vehicle. **Council Member Mehr** referred to Tuacahn requesting $18,000 and the Kayenta Arts Foundation requesting $15,000 but the Arts Commission's recommendations are that each receive $15,000. **Michele Adams** indicated that Tuacahn has an excellent application and the Arts Commission's recommendation to award $15,000 instead of the full request is because they have different funding sources and in light of their ability to tap into various funding sources, that was the reasoning for the Arts Commission's recommendation. **Council Member Mehr** indicated that Tuacahn should be awarded the full request, whether they take the $3000 out of Kayenta or Ivins awards, because he was thinking of the impact and benefit per capita and the amount of support in the community and visibility that Tuacahn has. **Council Member Anderson** commented that Kevin Smith with Tuacahn was in attendance and suggested he be invited to the podium to talk about sales tax from Tuacahn. **Kevin Smith**, CEO of Tuacahn, indicated that concessions does approximately $1 million per year and the food service and cafe is approximately $250,000 a year and that's where the bulk of the sales tax comes from. **Council Member Anderson** inquired if there was also

some transient room sales tax? **Kevin Smith** stated that there had been in the past but there will not be going forward because the housing will be full with actors. **Council Member Anderson** reported that Terry Marten brings in approximately $1.3 million in transient room tax a year. **Kevin Smith** commented that they are grateful for any funds that are provided and they know and appreciate the City's support. Ron Goodman, Chair of the Kayenta Arts Foundation reiterated what Kevin Smith said - they are grateful for any support from Ivins. **Mayor Hart** commented that there is not a lot of variations between the requests and the award recommendations. The Arts Commission has done a very thorough job and has acknowledged that the City has needs and will have growing needs. **Council Member Mehr** indicated that he was satisfied. He had questions, those have been answered and he was grateful for those responses.

MOTION: Council Member Mehr moved to approve the Arts Commission's recommendations for distribution of 2022 RAP Tax Arts Funds
SECOND: Council Member Scott
VOTE: The motion carried.

Council Member Scott	AYE
Council Member Mehr	AYE
Council Member Johnson	AYE
Council Member Murphy	AYE
Council Member Anderson	AYE

D. Discuss use of public land at the cemetery regarding a Veterans Memorial.

Benny Sorensen indicated that there is a road along the top of the cemetery where there is a retaining wall and then there is no retaining wall along approximately 270 feet in length that is 28 to 30 feet from the wall to back of curb that could be utilized for this. **Laela Gaylord** stated that she has spoken with the Architect Mark Snow about this and he is willing to donate his time and design and she will take him to the cemetery to look at the space. **Council Member Anderson** inquired if the City would be giving up the property. **Mayor Hart** clarified that it would be utilizing the space for that purpose but not giving up the property. **Council Member Anderson** inquired if the City would be committing any funds at this time. **Mayor Hart** indicated that they will have that discussion once they have more information about the memorial. **Dale Coulam** clarified that this is on for discussion. The location has been identified on cemetery land and once they find out exactly where it is going to go, the City will put that into the design for the cemetery.

E. Discussion regarding 5-Year Budget forecast.

Cade Visser provided the presentation to the Mayor and City Council, a copy of which is available as an attachment to this agenda and on Ivins website www.ivins.com under the Finance tab. The forecast takes a forward look at the City's major operating funds. The General Fund is a governmental fund used for typical tax-supported services like public safety and streets. The Water and Wastewater Funds are proprietary enterprise funds that operate more similarly to private business. The purpose of the plan is to identify financial trends, shortfalls, and issues so the City can proactively address them by projecting into the future, the fiscal results of continuing the City's current service levels and policies, as well as a proposal for future programs and costs to manage growth. The plan sets the stage for each year's budget process but is subject to change based on available resources, changes in the economy, environment and Council's direction. With limited growth and limited revenue streams, a plan to address future programs and services in an affordable manner is critical to effective financial planning.

F. Discuss and consider alternate strategies in response to our water situation.

Mayor Hart stated that this is a carryover discussion from the last meeting He hoped that any discussion would acknowledge that there are plans in motion and funding being made available for additional facilities that will add to the supply Ivins has but that is not a static thing. Ivins does not have a fixed amount of water and that's it. Through conservation and through reuse, the source is added to or even multiplied. Starting that conversation off with the suggestion that one extreme to address this is a moratorium, which has been touched on. The other extreme is just continuing on and hoping that the increase in supply that comes, is sufficient for future growth. **Council Member Anderson** commented that he thought that the conclusion was the Water Conservancy District was going to tell cities what to do. **Mayor Hart** indicated that one of the ideas is that a development must bring its own water, and then it's not an issue for the City or the District. The problem is, there are not a lot of available water rights. Not all land has agricultural water attached to it. In a way the Will Serve letter that's moving its way towards implementation, is just that. The developer receives the Will Serve letter by paying impact fees at an early stage and is given the right to use some of the water that is there. Every City in the County has fully utilized all of their own water rights. Ivins ran out of water in about 1998 and has been reliant on the District for all of the additional water required for the growth that's occurred since then. Every City is in that same position and can't adequately supply water from their own water rights and resources to sustain growth. All cities are in the same basket and just bringing different amounts of water to the conversation, with Ivins being the lowest on that totem pole. **Council Member Anderson** inquired what is the intent of this conversation and what are they trying to accomplish? **Mayor Hart** stated that it is very difficult to move the District along because there is an agreement in place that is in the process of being looked over and recommended changes made. Not all the cities see this problem the same way. There are some real obstacles in trying to educate and get facts for everyone to understand and come to a consensus. Chuck Gillette is Ivins' representative on the committee doing the review of the agreement and that discussion is in committee and not public until there are some conclusions reached. **Chuck Gillette** indicated that there have been discussions about what are the numbers of how many units have been approved by all the cities and those numbers were supposed to be delivered to the Water Conservancy District yesterday. He saw a preliminary table of how many units have been approved. Off the top of his head, the number would be the total of existing lots, and the number of preliminary plan lots, existing lots or platted lots that don't have a building permit yet, plus vacant lots and the lots being called preliminary plan lots which have already received some sort of approval. Adding those up are 5,000 vacant lots are in the County. Then add up the number of preliminary plan lots, that is 10,000 and the number of lots included in either a PID (Public Infrastructure District) was about 45,000 so that is 60,000 lots that are in some sort of development pipeline. There will be some meetings to talk about what to do and whether or not there should be a moratorium set in place. **Mayor Hart** clarified that those are lots that are systematically moving towards not guaranteeing water for because there is not enough water for all of the lots that are at some level of being designed. Ivins City is taking a very serious look at water. There are other communities that are approving enormous 3,000 to 4,000 lot developments, without acknowledging water. The first Ivins City "Talk About" with the community, is going to be a one (1) to two (2) hour discussion, specifically about water with experts. Council Member Scott has done some in-depth research and there's cause for the discussion. Because of a pooling agreement, Ivins does not get to decide how many hookups Ivins will have available. As it stands right now, it is a first come, first serve process. A 4,000-

lot absorption will not justify a 4,000-lot subdivision being planned and developed all at once. The strategy is projects that are coming online that are receiving State funding, is to put into place a substantial reuse system. In other words, every drop that comes down the Virgin River doesn't just get used once and then it goes down the river. It is used two (2) to four (4) times. Las Vegas uses every drop of water approximately seven (7) times and that is through minimizing outdoor water use and taking every drop that comes down through the inside of a building and processing it, putting it back into Lake Mead, bringing it into the water treatment plant and using it for culinary water again and again. Since the Lake Powell pipeline is a long way out there, the District, through conservation and through reuse, are trying to supplement the supply to accommodate at least some level of growth. Unfortunately, the Districts storage projects, which includes the Ivins Reservoir and Warner Valley, that's probably 10 years out. The trick is how does Ivins go from here to having these substantial additional facilities in place that increase the supply sufficiently for growth to continue? **Council Member Anderson** inquired if a new reservoir gets built in Ivins adding 1,600-acre feet of water, who gets those 1,600 feet of water? **Mayor Hart** stated that it is part of the pooling agreement and that's why there must be a clarification as to when entitlement to water occurs and that must happen by phases.

Council Member Scott commented that he has a lot more information that he will provide at the "Talk About" meeting but the question is are they really going to be dealing with waste water as reuse water or culinary water but that seems to still be up in the air. He has had meetings with the Water Conservancy District and went over a model he put together based on the District's data and their primary consultant who did their Master Plan and their Impact Study, reviewed what his model and he has a meeting next week to finalize it. He will talk about that more when it is finalized. His concern was that the Districts new impact study said that they ended the 2022 water year using 99% of the available water. They had about 600 acre feet of water and that doesn't build many new homes. There are things that are coming on, they have the Ash Creek and the Toquerville project but those are not happening until 2025 and 2026 and those will only add approximately 3000 acre feet of what. The reuse will likely come after that and that starts out at approximately 16,000 acre feet at best and grows slowly as the hookups happen and as the reservoir storage happens. The District's own impact study said technically that they are out of water sometime in 2023 to use for new hookups but their model shows that they still limp along okay until approximately 2028 but that's because the Districts model assumes there is going to continue to be the kind of water conservation that has been occurring in the past. That begs the question, have they already picked all of the low hanging fruit and water conservation becomes more difficult? Now they are doing new things like the turf replacement program that is going to help stimulate more conservation. Conservation in Ivins has helped Ivins significantly, particularly in the summer months. Conservation is a real thing and it will continue but his concern as well is that if the District staff was in control and run things, they would run it perfectly but they are beholden to a Board and other special interests who have different or competing interests. The way the District is forced to model supply is based on what he would call a leading supply model instead of a lagging supply model. He will clarify this next week and have further clarification at the water "Talk About" where Zach Renstrom with the Water Conservancy District will also be present. **Mayor Hart** indicated that the District is looking at every possibility for increasing our water supply. There are other sources but they are going to be expensive. He gave an example on water conservation and stated that 10% of the top water users, that means residential hookups, 10% of residents across the county, consume over 25% of the total water supply. Approximately 25 years ago when a hookup for a residence was secured,

by law, the District had to set aside .89 acre feet of water for that use each year and that is basically what the impact fee allocated for that hookup. New construction now is at .59 acre feet and the intent long-term now is to start encouraging, educating and incentivizing older residences to start working their way down to .78 acre feet is the first target and then below that as they are able to. As the Mayor serves on that Board, you will hear him bring up what are we going to do to stop this immoral, in his opinion, extravagant overuse of a substance that is required for life in this County. If he has his say, that is going to translate into something draconian to the extent of if someone is financially capable of paying an extra $200 to $300 on a water bill, he wants to see that water bill go to $10,000 for overly excessive use. In other areas of the desert southwest where Districts have greater control or where the municipality has greater control, they will actually use reducing valves on the supply and there are case studies that show that when there is overuse, their flow is reduced again. They hate the idea of penalizing existing residences but just because they have had an adequate supply, with the Virgin River, there was always something to develop to further utilize that volume of water that was flowing out of the mountains, that water is fully allocated now so it's either multiplying that use or reducing that use via conservation. The question is, how far is Ivins City willing to go, how far is the County willing to go because the Water District does not have governing authority? What Chuck Gillette is doing on behalf of the City is extremely important because in order for Ivins to implement the Will Serve letters and so forth, this agreement has got to be signed by all of the cities involved or the City will have to withdraw themselves from the agreement. We are in that kind of a serious situation. **Council Member Murphy** referred to the moratorium and commented that if all of the other cities in the County don't do the moratorium, then doesn't that just allow them to keep doing what they're doing and Ivins just sits back? It seems like it needs to be an overall consensus of all of the cities in the County to say "okay, we're in trouble, let's sit down and do what we have to do" but if you have a City out there that continues to do 3000 building permits, there has to be a consensus among the cities. **Mayor Hart** commented to think about the consensus on the City Council and then multiply that by six (6) City Councils that have entirely different attitudes towards this. In his opinion, there have been some cities like Ivins that have been extremely responsible about this and some of them are major populations. St. George City, Washington City, Santa Clara and Ivins have been and other municipalities have done something. The questions becomes does Ivins penalize developers in Ivins or exclude anyone moving into Ivins because another City in the County is ignoring the situation. **Council Member Anderson** stated that Ivins has an agreement with the Water Conservancy District to supply Ivins with water and when they can't supply Ivins with water anymore, then the City needs to make new decisions at that point. Right now the District has not told Ivins that they are not going to supply water to Ivins. The Council keeps talking about it and gathering information. **Mayor Hart** indicated that there is the legal side of vesting and liability. **Dale Coulam** stated that he was asked to look at the legal side of moratoriums, which on a municipal level, are known as temporary land use regulations and they can go for a period, not to exceed six months. The municipal legislative body may enact an ordinance establishing a temporary land use regulation, or in other words, a moratorium, if, and here's the finding that has to be made, there is "...a compelling countervailing public interest. The City may prohibit or regulate the erection, construction, reconstruction or alteration of any building or structure or any subdivision approval." Those are all administrative decisions and are not zoning. Under the temporary land use regulation, it does not act as a moratorium on zoning. The Council already controls that by deciding whether to rezone a property or not. A temporary ordinance would say

there will be no further building permits and no further subdivision approvals. When mixing zoning with a development agreement, it is mixing the legislative decision with an administrative decision. There can be a moratorium on the development agreement, but not the zoning. That's why he has never recommended the Council to have conditions like the conditional use permit, which is also administrative, or a development agreement, which is administrative, with the Council's legislative decision. The Council should keep a very clear distinction between what is being decided as legislative or administrative. **Mayor Hart** commented that means the Council is obligated to act on zoning. **Dale Coulam** clarified that the Council must have a reasonably debatable finding to support a zoning decision. With a reasonably debatable finding, the Council could deny a zoning application. A moratorium is an absolute - putting a stop to these administrative approvals for a period of six (6) months to give the City time to pass tighter land use regulations and tighter ordinances, that's its purpose. It's not to just say the City is going to put a stop on building and it can go on forever. No, it's that Ivins City is going to create a new ordinance and it's going to last six (6) months. That is different than a declaration of a public emergency and the District controlling the water can go that direction and say the County is out of water. The District could not allow any further allocation of water for new buildings to be constructed because there's just nothing to allocate to that. But as far as an application coming in for a zoning decision, the Council has legislative authority to approve or deny that with a reasonably debatable finding to support whatever that decision is. The Council already controls zoning. Things can change at the State level and Ivins is a political subdivision of the State, and Ivins would then get direction and authority from the State. Can the fact that Ivins City is in the process of preparing a General Plan amendment or rewrite, be the basis to pass a temporary ordinance or do a moratorium? It can be if the Council finds that as a compelling reason and countervailing public interest, that would be the finding. **Mayor Hart** referred to water and inquired if when it comes to water, isn't Ivins reliant on the District telling the City when there is no water? He recalled in previous conversations that was the condition. **Council Member Scott** commented that the problem was that the Council must make a finding of a compelling countervailing public interest. The Council could say that Ivins is out of water but then the District at this point will say, well no, that's not right. The Ivins Council can't prove Ivins is out of water because the Water Conservancy District is ready to give Ivins more water tomorrow, putting Ivins in an awkward spot. He will have more confidence in his numbers on Monday, but looking at the Water Conservancy Districts data, Ivins is out of water this year but because the staff or the consultants for the Water Conservancy District can't make the statement that we are out of water, that has to be done by the Water Conservancy District Board. The more important issue is, how can everybody get together on this fast because it hasn't been happening. **Council Member Anderson** indicated that the Water Conservancy District Board is primarily made up of Mayors from different municipalities. **Mayor Hart** clarified that it is Mayors and some City Council Members and in one case, a former City Council Member. **Council Member Anderson** referred to the agreement that Ivins has with the District and not being able to get its own water. **Mayor Hart** clarified that it is called a pooling agreement and Ivins has agreed to that. It's a pooling agreement where Ivins water goes into the pool and that's what everybody else has agreed to. **Mayor Hart** stated that he was not sure that a moratorium or temporary land use regulation isn't in order at some point and to him, it was more of a matter of timing. **Council Member Anderson** inquired what would be the purpose? **Mayor Hart** indicated that if Ivins gets to the point where there is no source, then the Council is going to have to enact a moratorium but it depends on what the Water Conservancy District is telling the cities at that

point and this discussion is about alternatives and what other options there are. **Chuck Gillette** stated that there will be a meeting on Monday at the Water Conservancy District where the Mayors and City Managers discuss some of these things and then there is a meeting after the meeting with the Mayors, to discuss whether there should be a county-wide moratorium. **Council Member Anderson** indicated that looking at what Ivins is using now and what Ivins has available, approximately 2,000 acre feet is what Ivins needs for the total growth of the City, based on future numbers. **Mayor Hart** commented that another 10,000 people are assumed to be coming to Ivins in the future and the County is forecasting another 300,000 people to the County. Some of this is going to come out in the Ivins "Talk About" where Zach Renstrom with the Water Conservancy District will be in attendance, along with one or two other specialists in this area. He inquired other strategies there are, if a moratorium is not practical, at least at this moment in time? What are the other things that that Ivins as a City, ought to be looking at as a City Council, that can be addressed going forward? **Council Member Scott** stated that later in the agenda tonight, the Council will re-look at the Water Conservation Ordinance. Conservation is a real thing and it has worked and helped and will certainly help to some level in the future. The more cities can encourage conservation, the better. The other thing is the timing of reusing wastewater and that is going to have to be a region wide project. **Mayor Hart** indicated that is a huge decision and from what he gathers from the engineers and everybody else, Ivins is likely looking at a hybrid system that would provide secondary water to at least some of the major public areas like parks and potentially not going beyond that, but investing up to $15-$30 million dollars for a secondary water system through Ivins City and potentially putting that into, or having the Water Conservancy District build a reuse plant that literally takes the water to culinary grade. **Council Member Anderson** stated that after spending hours with engineers and really looking at the County, Ivins is probably the least feasible to pump water too because Ivins is the highest the Water Conservancy District serves. It makes no sense to send wastewater to be processed and then send it all the way back to Ivins. **Mayor Hart** indicated that one of the troubling things to him with development is that most often, agricultural land has irrigation rights associated with it, either that or separate water rights. Water rights and irrigation rights have become a commodities market, going from $2,000 to $3,000 a share, to $18,000 to $20,000 a share. As someone acquires a piece of land, theoretically the water rights that come with it or not, those are sold off as a commodity separately then the developer or the landowner comes to the City and says, okay, I want to build this hundred lot subdivision and by the way, I want the District to provide all the water to do that. In the meantime, they are selling off all the water that came with the land. This is complicated legally, but it has been done and Santa Clara is looking at an ordinance now to require that if there is water associated with a parcel of land, that comes before the Council for approval for a zone change or a development approval. That water must be provided and comes into the pool in some way. **Council Member Anderson** clarified that Ivins water rights do not relate to a piece of land. Most of Ivins water is being leased by someone to keep the land in the green belt. **Chuck Gillette** stated that was correct and kind of a problem. A water right usually is associated with a piece of property, whereas the shares that are in a boundary that says they can be used anywhere inside of the boundary. **Mayor Hart** commented that he sees this as a real problem, that the expectation for development on the Districts supply, where there may be water rights in some way. In lieu of a moratorium, if the Council enacted a requirement that a developer bring water with them, that would effectively be putting a moratorium in place, without it being a moratorium. **Council Member Murphy** indicated that it still goes back to the law. If the Council is saying they need to do a

moratorium because there's no water but there's water available from the District, then where's the compelling reason? That's the problem. It is going to get challenged.

G. Continued discussion to consider approval of Ordinance No. 2022-16, an Ordinance of Ivins City, Utah, amending Maximum Building Height Regulations for One or Two-Family Dwellings.

Mayor Hart indicated that he has been studying around the City and commented that for this ordinance to have any effect, it has to be punitive and in his opinion, that means a - 10 foot plate line and 13 foot parapet, meaning maximum 13 foot wall on a flat roofed home and max of 18 feet on a pitched roof home. If they do not decrease heights down to that level, the ordinance isn't going to be effective at all. At the last City Council meeting, the discussion ended with a request to define the area of the Historic Township and exclude that from this regulation. **Council Member Anderson** added that the City could be more lenient on the roofline if the roof was darker. The **Mayor and City Council** had an in-depth discussion regarding heights of a flat roof and pitched roof, parapets, wall heights, plate lines, design guidelines, development agreements, imposition of design guidelines and development agreements, and the reason the Council was discussing amending maximum building height regulations. **Council Member Scott** clarified that if a developer comes to the City to build and the City tells the developer that City wants the developer to comply with the City's design guidelines and other items in the development agreement but the developer tells the City "no, I'm not going to do that", the City cannot deny the developer the ability to build based on complying with the design guidelines. Prior to the State changing the law, everybody had to comply with Ivins' design guidelines, whether there was a development agreement or not. When the State law changed, the State law said people do not have to comply with the design guidelines, they are irrelevant; however, the City can negotiate a development agreement that includes the design guidelines. If the applicant refuses to agree to the design guidelines, the City cannot block the developer from building their development. **Mayor Hart** commented that the height of the building was excluded from that so if this is ordinance was approved and an application came in and the applicant refused to abide by the design guidelines, using maximum height regulations is how the City would steer the developer back to the design guidelines. **Council Member Johnson and Council Member Mehr** were not in favor of amending the maximum building height regulations to require compliance with the Ivins design guidelines. **Council Member Anderson and Council Member Scott** were in favor of amending the maximum building height regulations to require compliance with the Ivins design guidelines and Council Member Murphy needed more information. After further discussion regarding heights, **Council Member Murphy** determined that amending the maximum building height regulations as has been discussed, was too confusing. In her employment, she was used to looking at this kind of stuff and what has been proposed was confusing. She understood what the intent of amending the height regulations but going this route was too confusing and convoluted and was not in favor of amending the maximum building height regulations to require compliance with the Ivins design guidelines.

MOTION: Council Member Mehr moved to deny and not approve Ordinance No. 2022-16, an Ordinance of Ivins City, Utah, amending Maximum Building Height Regulations for One or Two-Family Dwellings
SECOND: Council Member Johnson
VOTE: The motion carried.

Council Member Mehr	AYE

Council Member Johnson	AYE
Council Member Murphy	AYE
Council Member Scott	NAY
Council Member Anderson	NAY

Roll call vote. Council Member Anderson and Council Member Scott voted "nay" in opposition to the motion and Council Member Murphy, Council Member Johnson and Council Member Mehr voted "aye", in favor of the motion. The motion carried. The ordinance not adopted.

H. Review and discuss Ordinance No. 2022-06, adopted on June 2, 2022 regarding adoption and implementation of regulations for landscaping and water conservation for developing land in Ivins City, Utah.

Mike Haycock referred to some photos that staff took, a copy of which are available as attachments to this agenda. At present, not much grass is being installed with new homes. The **Mayor and City Council** discussed the maximum amount of allowed grass and if it was too much or if it was sufficient, as well as the other items in the ordinance that was passed in June. It was determined that the ordinance is already performing and there was need for changes at this point in time. **Council Member Scott** suggested that the Council review it in 6 (six) months if a problem occurs. **Council Member Mehr** commented that they only need to review it if they have new information that needs to be discussed.

I. *Discussion on the reliability and usability of the General Plan survey results

Council Member Scott stated he had a three (3) part comment on how to look at the survey results, the reliability of them and the usability of them. Part One (1) is to look at the statistical approach. He and his wife have done a lot of surveys but for the Ivins survey, he reached out to four (4) professionals who have a lot more expertise in analytics. The professionals looked at the survey and made comments. One expert was Hans Walters who is a PhD, a Data Scientist, a Mathematician and led the Biostats and Bioinformatics Department at Microsoft. He was responsible for clinical trials, scientific experiments, and similar. Hans Walters conclusion was, “the large number of responses results in a high confidence level, higher than many reputable surveys, and a very small margin of error.”, meaning the City should treat the survey as a meaningful representation of the views of the citizens. Professional number two was Wayne Pennington, a retired Dean of Engineering and a Geophysicist who dealt with probabilities and agreed with Hans completely, as did Professionals three and four, John and Kristen Hunt. The Hunts' are both PhD's who taught and conducted research at universities for cities, states, and countries. All of the professionals have a history of working in survey research. Part Two (2), looking at the survey responses is understanding or acknowledging at least that data is boring, but people are not. Surveys were limited to one (1) response per household, specifically so nobody could stuff the ballot box with multiple survey answers. That made the survey results more reliable, but it meant some people got left out and it probably reduced the number of responses. A lot of households might have given two (2) responses. At the last meeting it was mentioned as an example that one (1) person filled out the survey, but six (6) other adults in the household had different opinions. If all adults in the household would have answered, it might have been different. The only caution there is being careful about making conclusions from personal stories. That is hard though because we will more likely value what a neighbor says, than a number in a report. Statistical data lacks any emotional kick, so people are discounted. Additionally, a pitfall of personal stories is kind of prewired to cherry pick ones that fit ones’ own views. Both of these bias our personal conclusions when one-on-one stories are heard from people. Accepting the truth about decision making is messy. Nobody can say what

the results would be if 100% of the citizens of Ivins answered the survey. It is unknown how that would change the results. The Council would certainly feel better about making decisions if 100% of the people responded to the survey but it can be said what 2,244 people said. He doubts the City has ever had more people weigh in on any topic, let alone 54 different topics. Until someone produces an equally rigorous survey with more responses, this is the best the Council has and decisions are rarely based on complete information but surveys rarely provide as much information as the Ivins survey does. He believed that what Hans Walters said - the survey should be treated as a meaningful representation of the views of the City. **Mayor Hart** commented that reading through the survey results, Ivins has a diverse population. There are opinions that range from one extreme to the other. The survey dealt with percentages and statistical evidence that is highly reliable. His concern was having gone to the trouble and expense of going through this process, talking extensively with residents about these things and the Council has a pretty good understanding of what the majority, are saying about this. That does not mean that the Council is going to do everything based on the survey results. In some cases, there is State law that will prohibit the Council from following exactly what the survey might have pointed out. In other cases, there will be some financial issues to figure out when it comes to all of the wants. He hoped the Planning Commission and City Council could set aside personal points of view before voting. The survey is what it is and it says what it says. Those are the realities of what residents have said and he agreed with Council Member Scott there was a very low margin of error. **Council Member Anderson** indicated that he did not think that the survey was unreliable and he was not calling the results "stories", they are responses. He did not want to ignore others' feelings. When doing the math for the survey, 24% of people responded for 9,000 people. Still great from a household standpoint but when a constituent comes to him and talks about the survey, he is not going to ignore that persons feelings because they didn't have time to fill out the survey or whatever, that person still lives in Ivins and has an opinion. Council Member Scott and his wife put in a lot of hours and the data was good, but people keep talking about "people" and not "households", which is one data point. **Mayor Hart** stated that the Council was entitled to do that and commented that neither the Planning Commission nor the Council hands were tied by the survey. The Council does not have to necessarily act on it. Nobody said when the survey was sent out that this was the policy and the Council has to adopt it. Reading the written comments, he knew where people stand. The challenge that the Planning Commission and City Council is going to have to face is, how to find a point somewhere that works for everybody. **Council Member Anderson** commented that the survey was important. It has given information to look at but there are still people that communicate with the Council each day because they didn't do the survey but they are still residents paying taxes and he will take those responses into consideration. He did not want Council Member Scott and his wife to think that the efforts they put in the survey, that it wasn't important, because it was and it has brought out a lot of interesting information.

The meeting went into recess at 8:05 p.m.. The meeting was called back into session at 8:10 p.m.

6) <u>CONSENT AGENDA</u>

A. *Approval of expenditure for engineering services to prepare design for 400 East Storm Drain replacement project
B. *Approval of expenditure for rock landscape material for new cemetery section
C. Approval of City Council Meeting Minutes for January 19, 2023.

MOTION: Council Member Scott moved to approve CONSENT AGENDA
SECOND: Council Member Murphy
VOTE: The motion carried.

Council Member Scott	AYE
Council Member Mehr	AYE
Council Member Johnson	AYE
Council Member Murphy	AYE
Council Member Anderson	AYE

7) CONSENT AGENDA ITEMS FOR DISCUSSION

8) REPORTS

A. Council

There were no reports

B. Mayor

Mayor Hart reported that when many of the City Council members attend the Utah League of Cities and Towns, there are presentations by a company called Urban3. Urban3 produces three-dimensional graphs of maps of a City, showing where revenue is being derived and where it's being lost. Dale Coulam took the initiative to make contact and a representative spoke with Dale, Cade Visser and himself. This could be an extremely valuable tool while going through the General Plan update. There is a cost associated and he does not have that proposal yet but would like to send the information to the Council to look over it. If Ivins City is ever faced with needing to go through Truth-in-Taxation this becomes second hand irrefutable evidence as to how the City is going broke and why Truth-in-Taxation would need to be done. **Council Member Anderson** inquired if Finance Director Cade Visser thought this was a good idea? **Mayor Hart** stated yes. Cade, Dale and he ended up being enthusiastic about it, thinking that this is a tool Ivins needs. In the discussion with Urban3's Chief Operating Officer, it begins by doing an analysis of the County because the City needs to be in the context of where commercial exists. Then a detailed analysis of the City is done, mapping it with all of the roads that need to be maintained, all of the plumbing and all of the rest. Then they go through an in depth analysis of where the long-term costs are and where the long-term revenue occurs and then they report on what needs to happen over the next few years as roads need to be replaced, maintaining water and sewer lines and similar. Because this company must start with the County, he asked the question, is there an economy of scale? In other words, would Ivins City be paying less if other cities decided to do this? Urban3 will be addressing the Mayor's Association via a Zoom meeting this upcoming Tuesday. It sounds like this is going to be an important tool for the whole County and hopefully it can be done economically by broadening it out to some of the neighboring cities.

C. City Manager/Attorney Dale Coulam

Dale Coulam reported that as a report and a future agenda item, he completed negotiations with TDS Broadband for the renewal agreement for the cable franchise. TDS was reluctant to cave in on a few points, but ultimately they did. One of the major points that will be seen at a future City Council meeting, is the removal of the build out requirement. As UTOPIA was talked about and the possibility of TDS running fiber to homes and CenturyLink being in the process of doing that, Infowest is running the infrastructure and not carrying cable services yet. Ivins City has agreed that every cable franchise agreement will basically follow the same format. For Internet services, that does not trigger a cable franchise agreement, only TV and the cable channels. It's not the streaming services like Netflix, Hulu and similar. TDS did not want to do away with it

because it would have given them a competitive advantage to have that in the agreement because TDS would be the only ones in the ground throughout the whole city and have already been complying with that build out requirement, whereas no other company has. Early in talking about UTOPIA, St. George City indicated that they had released TDS from that obligation and their agreement is supposed to be very similar to Ivins, almost identical. That is the biggest change that will be seen. There is a tradeoff to that - before, if you lived within 1/4 of a mile of where the infrastructure was, cable TV services had to be provided and ran to the house, except maybe in Kayenta, where they are not allowed to for some reason. **Council Member Anderson** stated no, they're allowed. If there is a franchise agreement, they need to supply to everybody in the Community. **Mayor Hart** clarified that TDS does perceive that there is an obstacle there. **Council Member Anderson** indicated that he has talked with TDS before, asked them to get with him because there is no obstacle. **Dale Coulam** stated that the buildout requirement is removed now because that would have prevented all the other competitors that provide cable TV from competing in Ivins City because they don't have the infrastructure in the ground that the TDS does. Fiber would have had to be run throughout the whole City, before they ever got to the edge of Ivins City, to provide that build out. It is a complicated document and is based upon FCC (Federal Communications Commission) Rules and Regulations and Federal law that govern cable franchises. There is little room to change much and they would basically be comply with what St. George is doing and what their agreement looks like.

D. Items to be placed on future agendas

Public Hearing moved forward from the Planning Commission and TDS Broadband Franchise Agreement

9) CLOSED MEETING

10) ADJOURNMENT

MOTION: Council Member Mehr moved to adjourn

SECOND: Council Member Scott

VOTE: The motion carried.

Council Member Scott	AYE
Council Member Mehr	AYE
Council Member Johnson	AYE
Council Member Murphy	AYE
Council Member Anderson	AYE

The meeting adjourned at 9:25 p.m.

Respectfully,

Kari Jimenez, MMC
Ivins City Recorder