IVINS
CITY COUNCIL
MINUTES
August 3, 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 Council Member Scott, Council Member Mehr, Council Member Murphy, Council Member Anderson, and City Recorder Kari D Jimenez.

STAFF: City Manager/Attorney Dale Coulam, Parks and Recreation Director Benny Sorensen, Public Safety Director Bob Flowers, Fire Chief Andy Parker, Building and Zoning Administrator Mike Haycock, and Public Works Director/City Engineer Chuck Gillette.

EXCUSED: Council Member Johnson

A. Acknowledgement of Quorum

Mayor Hart acknowledged there was a quorum present. Council Member Johnson was excused and Council Member Mehr was expected to be in attendance shortly.

B. Flag Salute

Council Member Murphy led the Flag Salute

C. Invocation

Council Member Murphy gave the Invocation

D. Disclosures

Council Member Anderson referred to agenda items 4)A and 4)B and disclosed a conflict of interest. There were no other disclosures or conflicts of interest with items on this meeting's agenda.

2) REPORTS, PRESENTATIONS AND APPOINTMENTS

A. Arts Commission update on fundraising results - Michele Adams

Michele Adams reported that support for the arts corridor is growing steadily. They have secured pledges from key community partners spanning from Kayenta to Black Desert. They will continue engaging the public throughout the community and look forward to meeting Ivin's residents in person during Heritage Days. Currently their pledges are close to meeting the application's highest level for matching grants, which range from $25,000 to $150,000. They are almost there but this is just the beginning of a three-year journey and their efforts will continue. She also reported that they successfully submitted the Our Town grant application by the required deadline and thanked those involved with that process.

B. Department Reports: Parks and Recreation; Public Safety

Benny Sorensen provided an electronic report, a copy of which is available as an attachment to this agenda. He reported that they have been busy with various events and projects. The summer team foam party was a success, drawing a turnout of around 200 people who enjoyed the event. Movies in the Park, starting with "Lilo and Stitch," begins tomorrow. Upcoming activities include flag football, volleyball, and cross country. The cemetery expansion is almost complete, with benches to be installed in June. The expansion has attracted interest from other municipalities, including Springdale. Overall, things are going well.

Police Chief Flowers submitted an electronic report. A copy of the report is available as an attachment to this agenda. He referred to the construction on Highway 91 and reported that citations are being issued during weekends when crews are absent. Speed trailers are being moved per requests. They are getting a lot of complaints with regard to noise from loud cars but noise enforcement is difficult due to the subjective nature but decibel limits and distances are being reviewed. Weeds have been an issue and they are considering options to address non-compliance. The detective's workload involves fraud cases, often involving out-of-country scams. They encourage residents to report those to them for investigation. Public Safety is also preparing for school to start in a few weeks. **Council Member Anderson** referred to electronic report and the numbers for calls and inquired if those number were for both Ivins and Santa Clara. **Police Chief Flowers** stated yes. **Council Member Anderson** requested that those numbers be separated out so that they can see how many are Ivins and how many are Santa Clara.

Fire Chief Parker reported that the fire department has been involved in various incident responses including wildland deployments, local vegetation fires, and medical aids. They have adopted a new deployment model for wildland fires and generated significant revenue from these deployments compared to last year. The department has responded to multiple fires and medical calls, including incidents in Snow Canyon and local areas. They have utilized a drone for fire operations, benefiting from its thermal imaging capabilities. The department has handled a busy July, responding to numerous calls and has exceeded the 1600 call mark for the year. They also participated in events such as the foam even at Unity Park and they are gearing up for Swiss Days and Heritage Days. Improvements to the Fire Station on Center Street in Ivins have been made, including new appliances. **Mayor Hart** inquired as to procedures when the brush truck is deployed with a crew. **Fire Chief Parker** explained that when the brush truck goes out, they backfill the stations to maintain staffing levels. They send three (3) crew members and also have one (1) person on a state management team, for a total of four (4) people. **Mayor Hart** inquired that regardless of the demand for wildfire response, the stations are always staffed as a top priority? **Fire Chief Parker** confirmed that priority and commented that they ensure there are always six (6) people in the City at all times to maintain coverage.

C. Planning Commission Report

Mike Haycock reported that the Planning Commission held a Public Hearing on a proposed Class V Conditional Use Permit to expand an existing substation located at approximately 86 South and 300 East for Pacificorp dba Rocky Mountain Power. They recommended approval and that go before the City Council for final decision. The Planning Commission continued their discussion and review of the General Plan and will be attending another Work Meeting next week to hopefully finalize the General Plan review.

3) CITIZEN REQUEST FOR FUTURE AGENDA ITEMS REGARDING ORDINANCES, POLICIES OR OTHER LEGISLATIVE ITEMS

Terry Marten submitted a request and thanked the Mayor and Council for the opportunity to speak. He requested a discussion be added to a future agenda regarding the zoning along Highway 91, particularly beyond 800 West. His concern was about maintaining the rural nature of the area. They have an opportunity to preserve the aesthetic and traffic quality of Highway 91, similar to how other areas like Snow Canyon Parkway have been designed. This thought was proposed about 15 years ago and remains important. Citizens' input can help shape this discussion and to revisit the goals that they had back then. The **Mayor and City Council** agreed to place this discussion on a future City Council agenda.

4) PUBLIC HEARING AND ACTION ITEMS

A. Public Hearing on the Planning Commission's recommendation on a Zone Amendment from RA-5 (Residential Agriculture, minimum lot size 5 acres) to RE-37 (Residential Estates, minimum lot size 37,000 sq ft), RE-20 (Residential Estates, minimum lot size 20,000 sq ft) with lot averaging, and RE-15 (Residential Estates, minimum lot size 15,000 sq ft), without lot averaging. Located at approximately Kayenta Parkway and Highway 91. Kayenta Development, Inc-Owner. Lance Anderson-Applicant.

Council Member Anderson recused himself and sat in the audience.

Mike Haycock provided a report on the application, noting that a previous zoning request for the parcels had faced denial, leading to the submission of a new application with three parcels. He indicated the geographical placement of these parcels, highlighting landmarks like the entrance to Kayenta, 800 West, and a potential future reservoir area. He utilized a map to illustrate surrounding zones, primarily consisting of lower, medium, and high-density housing. He explained the concept of "lot averaging" as recommended by the Planning Commission, allowing for flexibility in lot sizes. He clarified that while the Planning Commission proposed exempting the RE-15 parcel from lot averaging, they agreed with it being used on the RE-37 and RE-20 parcels that are lower density lots near the entrance of Kayenta and along Highway 91. **Mayor Hart** opened the Public Hearing.

Lisa Ganz resides at 557 West Bickmore in Ivins and raised a technical concern related to a typo in the description of parcel five (5) in the Planning Commission's recommendation. She questioned whether the applicant was required to resubmit an accurate map. **Dale Coulam** clarified that the map was correct, and the correction was made within the documentation. The applicant was instructed to make the necessary correction for the City Council's consideration. **Lisa Ganz** inquired whether the applicant could proceed with their original map despite the Planning Commission's recommendation? **Dale Coulam** confirmed that they could. **Lisa Ganz** expressed the desire for a filter to ensure that proposed changes aligned with community preferences derived from the survey. She highlighted that the survey indicated a preference for open spaces and the preservation of agricultural areas. She referred to the RE-15 zone, suggesting a reduction in density and emphasizing the importance of maintaining open space. She encouraged the City Council to consider the community's desires from the survey and evaluate whether the proposed changes aligned with that, especially in terms of preserving open space.

Lance Anderson acknowledged the consideration given to Council Member Johnson's input regarding the boundary adjustment. The county website indicated that the lots are .827 acres while the lots in RE-37 are .849 acres. He also drew attention to the corridor plan and emphasized the importance of adhering to the 15-degree angle requirement, which had been missed in previous instances. He emphasized that RA-5 is a holding zone and has been for a long time if you go back in history. When he moved to Ivins, the population was 600. He requested that City Council consider lot averaging on the RE-15 zoned piece of property. The area above RE-15 was designated as Resort Commercial in the Land Use Plan and the proposed zoning is compatible with the adjacent Resort Commercial zone. He understood the importance of maintaining a rural feel along Highway 91 and urged for collective efforts in achieving that goal. **Council Member Mehr** inquired about the impact of not implementing lot averaging on the design and creativity of the development. **Lance Anderson** explained that lot averaging is beneficial in dealing with the area's topography. He emphasized that lot averaging allows for the preservation of open space around each house and prevents the destruction of the entire lot. He

pointed out that open spaces between houses are essential for aesthetics and are enjoyed by the community as a whole. Lot averaging provides flexibility in design and helps avoid creating cookie-cutter subdivisions, promoting a more diverse and appealing development.
Carol Cox, a resident on Willow Springs, expressed her concerns with 15,000 square foot lots. She inquired about the number of lots that would be accommodated on the 15 acre parcel. **Terry Marten** clarified that the exact number of lots couldn't be determined at this stage due to various factors. He emphasized that the zoning allows flexibility in design to work with topography and other considerations, avoiding disruptive elements and optimizing open space. He explained that their zoning requests may seem higher than their ultimate plans, to allow for creative and thoughtful community design. He expressed trust in their designs and intentions to create a harmonious community that respects the environment and responds to concerns raised. **Mayor Hart** explained that in a flat scenario, theoretically, 34 lots could be created, but Terry Marten clarified that the actual design would consider the topography and road layout, which would influence the final number of lots. **Carol Cox** expressed her concerns about access and logistics related to the development. She mentioned her worries about potential access through her street, Willow Springs to the 15 acre parcel as the main access. She also raised concerns about the possible removal of pine trees and mailboxes on for access. Her concerns were more about logistical issues such as increased traffic and potential changes to the neighborhood's aesthetics. She acknowledged her trust in Terry's ideas but wanted to address practical matters such as access and the timeline for the development. **Terry Marten** explained that their development approach always considers connectivity and that it's a requirement in the subdivision ordinance to ensure proper access. He mentioned that the development will have multiple access points and stated that there's ongoing efforts to secure additional access routes. He emphasized that subdivision plans will ensure appropriate access without relying solely on one street.
Mayor Hart inquired if there were any others on the Zoom application who wished to make a public comment? **Cade Visser** stated no. **Dana Cook**, an Ivins resident, expressed gratitude towards Terry Marten for his approach to development that respects the natural typography of the land. She commended him for valuing the uniqueness of the area and contrasted this with concerns about other development plans that may negatively impact ridgelines. Dana thanked Terry for caring about the community and creating a beautiful area for everyone to enjoy. There being no other comments, **Mayor Hart** closed the Public Hearing.

B. Discuss and consider approval of Ordinance No. 2023-15, an Ordinance of Ivins City, Utah, approving a Zone Amendment from Low Density Residential RA-5 to Low Density Residential RE-37, RE-20, with Lot Averaging, and Low Density Residential RE-15, without Lot Averaging, for approximately 55.126 acres located at approximately Highway 91 and Kayenta Parkway

Council Member Murphy expressed support for the proposed zone amendment and commended the developers for addressing various concerns such as the parcel configuration and lot sizes. She referred to the survey that Lisa Ganz referenced and highlighted that the survey also pointed out that the residents wanted low density residential, which is what this request is. She also discussed the historical context of RA-5 being a holding zone and commented that the proposed changes are in line with the intended use of the parcels. She praised the Kayenta development for preserving and enhancing property values. She also voiced her support for lot averaging on the 15 acre parcel due to its topography and the flexibility it offers in design. **Council Member Mehr** agreed with Council Member Murphy and expressed his support for the proposed zone amendment. **Council Member Scott** expressed various points

regarding the zone amendment proposal, particularly focusing on the RE-15 portion of the project. He discussed the number of units that could potentially be built on the parcel, referencing a previous project's concept plan that demonstrated sensitivity to the property's features and preservation. He mentioned his earlier preference for an RE-25 zoning and a buffer of one-acre lots below the three (3) homes on Willow Springs. He indicated support for the 37,000 square feet lot size for the portion just below Willow Springs but expressed reservations about lot averaging in that area. He agreed with the lot averaging on the RE-37 portions along Kayenta Parkway and Highway 91, emphasizing that the reduction in density was evident when considering the Land Use map and the City's vision for the future. He suggested allowing lot averaging on all of the property except for the portion directly south of the three (3) homes on Willow Springs and requested no lot averaging in that specific area. **Council Member Murphy** agreed with Council Member Scott regarding not using lot averaging on the top portion of the three (3) lots by those homes on Willow Springs. **Council Member Scott** indicated that he had initially been asking for 25,000 square foot lot sizes but considering the specific areas, he found that the proposal came out to around 27,600 square feet, making it less dense than previously considered.

MOTION: Council Member Scott moved to approve Ordinance No. 2023-15, An Ordinance of Ivins's City Utah, approving a Zoning Amendment from Low Density Residential RA-5 to Low Density Residential RE-37 on parcels one (1) and two (2). RE- 20 on parcels three (3) and four (4). RE- 15 on parcel five (5). All parcels are identified on the zone change exhibit map with lot averaging on all parcels except the parcel of land directly south of the three (3) homes on Willow Springs, for approximately 55.126 acres located at approximately highway 91 and Kayenta Parkway. Also, eliminate the final whereas in the draft ordinance

SECOND: Council Member Murphy

VOTE: The motion carried.

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

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

C. Public Hearing on the Planning Commission’s recommendation regarding a Zone Text and Ridgeline Map amendment to provide protection for rock outcroppings that may not meet the definition of a ridgeline, but are still worthy of preservation and protection

Chuck Gillette representing the Sensitive Lands Committee presented information relating to the Retreat at Snow Canyon. The Sensitive Lands Committee reviewed the project's compliance with the Sensitive Land’s ordinance, which includes considerations for flooding, wetlands, hillsides habitat, lava-filled rock outcroppings, and known geologic hazards. He stated that the committee found that most aspects of the project met the ordinance requirements, except for the issue of interior bluff ridgelines. The applicant disagreed with some aspects of the ordinance and presented their arguments, which were addressed by the committee in a memorandum. A copy of the memorandum is available as an attachment to this agenda. A compromise preservation plan was submitted by the applicant, aiming to protect approximately 70% of the ridgeline impacted by the development. The plan involved the removal of the 150-foot setback requirement beyond the ridgeline, and instead, the area beyond the ridgeline would be designated as public space,

respecting the site's natural geography. While the plan did not fully comply with the current ordinance, the Sensitive Lands Committee liked the approach and recommended that the City Council consider adopting new text and a map that would accommodate the proposed preservation plan. **Council Member Scott** sought clarification on the 150-foot setback requirement. **Chuck Gillette** clarified that there were rules and exceptions governing buildings within that area based on slope stability. **Council Member Mehr** inquired about the nature of the public space. **Chuck Gillette** confirmed that the intent was to dedicate it for public use, potentially including trails and benches. **Mayor Hart** inquired as to how the ridgelines were defined on the map. **Chuck Gillette** explained that some areas might be debatable but that the map generally aimed to connect the dots of identifiable ridgeline features. **Council Member Anderson** indicated that applying the map sometimes yielded different results than the original intent, leading to the need for compromise. **Mayor Hart** opened the Public Hearing.

Mike Cook resides on 101 Padre Canyon Drive and expressed his concerns regarding the proposed zone text and ridgeline map amendment. He pointed out that the developer's preservation plan significantly reduced the protection of the ridge, which was originally drawn by Chuck Gillette, an experienced engineer, over a decade ago. He requested to see both maps side by side in the same scale to better understand the reduction in protection. He stated the developer initially presented a design that disregarded and flattened the ridgeline, showing little accommodation for the typography of the area. He believed that the subsequent preservation plan was merely a tactic to make it seem like a compromise, while in reality, it aimed to increase the number of units the developer could build. He also mentioned that the sensitive lands committee had previously acknowledged that the entire ridgeline should be protected, but due to legal threats from the developer, they suggested this compromise. He urged the City Council to stand up and defend the City's sensitive lands and not succumb to pressure from developers. He called for the City Council to deny the recommendation and preserve the natural beauty of the area.

Jerry Miyahara, representing the applicant in partnership with SITLA, addressed the concerns raised by residents and presented the developer's perspective on the proposed preservation plan. He emphasized that the purpose of the Sensitive Lands map was to identify areas that needed further study and analysis, and their engineering investigations showed that the conditions for a very steep slope, which defines the interior bluff ridgeline, did not exist. He explained that their intention was never to dispute the existence of the ridgeline identified on the map, but rather to verify the conditions and work within the regulations. He stated that the plan presented by the developer aimed to accommodate the typography of the land and create a balance between development and preservation. The plan included detailed engineering studies and visual models to showcase how the proposed development would impact the area. He acknowledged the value of the rock outcroppings and stated that they recognized the need to preserve them. He mentioned that they worked with SITLA to develop an alternative plan that would preserve these valuable rock features. This plan would allow existing and future residents to enjoy the preserved rock outcroppings while still accommodating development. He clarified that while the proposed preservation plan did include a setback of 20 feet instead of the previous 150-foot setback, this was due to the gentle and rolling nature of the landforms, which did not have the necessary steepness for the ordinance's criteria to apply. The preservation plan required significant sacrifices, both for the developer and SITLA, in terms of potential revenue. He emphasized that their goal was to find a solution that respected the land's natural features while allowing for responsible development.

Lisa Ganz resides at 557 West Bickmore and commented that she was confused regarding the discussion to change ordinances in response to a proposal that the Sensitive Lands Committee had deemed non-compliant. She pointed out that Ivins City Code clearly stated that applications not complying with all land use ordinances, including the specific title under discussion, should be denied by the Council. She highlighted the role of the zoning administrator in interpreting the code and addressing ambiguities or conflicts in the provisions. She questioned the necessity of pursuing a zone change when the existing code and Sensitive Lands Committee's decision should guide the process. She also questioned the timing of the zoning text and map amendment application, as it appeared to be submitted after the Sensitive Lands Committee meeting. She emphasized the importance of being good partners with entities like SITLA but suggested that being a good partner should not involve forcing changes in the code. She encouraged the Council to adhere to the existing codes and decisions made by the Sensitive Lands Committee.

Chris Haddad resides at 188 West 520 South and expressed her concern about the proposed development and preservation of the sensitive land area. She has personally walked that land with others, including Council Member Anderson, and had seen the value of the area for the community. She highlighted the importance of preserving the natural beauty and tranquility of the land, which serves as a haven for people to connect with nature, hike, walk their dogs, ride horses, and meditate. She emphasized that the area is home to wildlife and provides a special place for residents to enjoy. She questioned the reasons behind developing this specific piece of property, particularly when SITLA has other properties where development could take place. The focus should be on considering the desires of the residents and preserving the valuable natural areas that contribute to the quality of life in the community.

Sharon Gillespie resides at 575 East Ridgecrest Circle and thanked Chuck Gillette for his clear and concise information in the memorandum. She referred to a document called "Land Offering Ivins 120 plus acres in Washington County, Utah," created by Kyle Paisley, which highlighted expectations for the developer to work closely with the community and develop a high-quality project in line with the surrounding standards. She expressed her concern that the city might be changing ordinances to cater to one developer's interests, which she found troubling. She was uneasy about the threat of a lawsuit made by the attorney representing both the developer and the City of Santa Clara, seeing it as a form of extortion. She questioned the idea of compromising and changing ordinances under pressure from the threat of legal action and highlighted the importance of preserving the existing ordinances and maps that have been in place for years.

Sharon Barton resides at 571 Mesa Vista Drive and was surprised at this ongoing discussion and referred to an article in the City's newsletter authored by the Mayor. The article emphasized the importance of preserving natural assets as development occurs and the City evolves. She highlighted the City's practice of hiring educated professionals and valuing their opinions. The viewpoints presented by Chuck Gillette and Mike Haycock during the Sensitive Lands meeting and in Chuck's memo, both of which stressed the need to preserve and protect the original ridgeline, defined by the city's plans. Regarding the developer's argument about giving up lots in the preservation plan, she commented that the original development plan presented by the developer was not accepted by the Sensitive Lands Committee. She expressed concern that the developer's approach lacked the vision for preserving the land, in contrast to the positive vision presented by Terry Marten in the previous agenda item. She urged the Council to hold the developer to the same high standards that they expect from other individuals. She suggested that the Council either make a decision or consider tabling the discussion to allow everyone the opportunity to review the presented information. She emphasized the importance of making a

choice that aligns with preserving the uniqueness of the land. **Mayor Hart** inquired if there were any hands up through the Zoo application? **Cade Visser** stated no. There being no further comments, **Mayor Hart** closed the Public Hearing.

D. Discussion on the Planning Commission's recommendation regarding a Zone Text and Ridgeline Map amendment to provide protection for rock outcroppings that may not meet the definition of a ridgeline, but are still worthy of preservation and protection

Mayor Hart acknowledged the public sentiments and highlighted that the application for the specific parcel is governed by the current ordinance and maps. He emphasized that even if the proposed revised text were approved, it would not affect the ongoing application. **Dale Coulam** clarified that the submitted application for the parcel in question is subject to the existing ordinances and maps. He emphasized that even if the revised text were approved, it would not impact the current application. In Chuck Gillette's memo, the committee had thoroughly evaluated the arguments from both the applicant and counterarguments, ultimately concluding that the area in question was a ridgeline under the current ordinance. The proposed text amendment to the ordinance would apply to future applications rather than retroactively affecting the current application. **Mayor Hart** inquired about the inconsistency between the map and the definition of ridgeline**. Dale Coulam** explained the process required the applicants to conduct detailed studies to support their arguments, which they provided. The Sensitive Lands Committee had some concern whether the existing ordinance would withstand legal scrutiny, which led to the consideration of a compromise. He emphasized that while there may always be differing arguments, no lawsuit was currently pending. He recommended that the City Council decide the application based on the existing ordinance, considering the compromise as an offer. Any new text amendments would only apply to future applications. **Mayor Hart** acknowledged that the new ordinance text clarified some of the observed issues but questioned its applicability to the current application. **Dale Coulam** stated that in his opinion, the new text would not apply to the current application. **Council Member Murphy** sought clarification from Dale regarding any ambiguities in the statute. She referred to the principle that ambiguities in a statute are typically resolved in favor of the applicant. **Dale Coulam** indicated that the Sensitive Lands Committee had doubts about the current ordinance's ability to withstand legal scrutiny. While they found the applicant's arguments somewhat persuasive, the report highlighted that counterarguments were also presented, and the finding was it is a ridgeline under the current ordinance. **Council Member Anderson** clarified that he had no affiliations or financial interests related to the project under discussion and expressed his experience of applying ordinances for two decades. He pointed out that the maps, except for the zone change map, lack consistency due to their generalized nature. The maps provide an awareness but not the precise locations of features such as ridgelines. The ordinance places the burden on developers to demonstrate whether the map accurately aligns with the area in question. He stressed the importance of balanced decision-making to prevent any single entity from defining the City. He shared his prior efforts to convert the property into a park 15 years ago and mentioned the context involving the State Institutional Trust Lands Administration (SITLA) and the potential dissolution discussions at the legislative level, which may influence the broader background of the situation. **Mayor Hart** noted that the burden of establishing precise conditions falls on the developer, requiring them to bring in professionals to assess the situation accurately. **Dale Coulam** affirmed this aspect of the ordinance, highlighting that the Sensitive Lands Committee had evaluated those arguments and the counterarguments. He emphasized the committee's role as a recommending body, composed of experts in various fields to provide well-informed suggestions. **Mayor**

Hart clarified that the agenda item in question, item 4-D, is about potential amendments to the ordinance, which may not directly apply to the current application under consideration. **Dale Coulam** agreed, explaining that the proposed text amendments would be applicable only to future cases, not retroactively. He also addressed concerns raised during the public hearing regarding the loss of lots and revenue, noting that such claims were based on hypothetical scenarios, as the developer has yet to secure approved lots.

Council Member Mehr sought clarification. He emphasized the distinction between the proposed text amendments and the developer's plans for the property, highlighting that the proposed amendments aimed to clarify and strengthen the sensitive lands ordinance for future development rather than impacting the current application. He inquired about the relationship between the State Institutional Trust Lands Administration (SITLA) and the City, seeking insight into their obligations to follow City ordinances and to collaborate with the City. **Dale Coulam** indicated that while there are statutes related to SITLA's compliance with local ordinances, it's important to consider that option hasn't been utilized and should not be a consideration. **Mayor Hart** added that a document authored by Kyle Paisley indicated SITLA's willingness to cooperate with the City's development standards during land sales. He acknowledged that although SITLA theoretically possesses the authority to bypass local ordinances, they have not taken that route, and that potential involvement by SITLA should not solely influence the decision-making process. **Council Member Murphy** sought clarification regarding the map's depiction of the project area. She pointed out that a significant portion of the red ridgeline and the area below the blue line is not part of the project. **Dale Coulam** confirmed her observation. **Council Member Murphy** clarified that the land in question is private property. She highlighted that while people currently enjoy walking on it, it's essential to remember that it's privately owned. She noted that if the property owner chose to do so, they could erect a fence around the land, thereby restricting public access. **Dale Coulam** agreed, affirming that the property owner has the right to enclose the land if they wish. **Mike Haycock** expressed his change of opinion based on a video provided by SITLA. He initially believed that the area in question was a ridgeline, and in some parts, he still believes it is. However, as the discussion emphasized the ambiguity of the situation, he started leaning towards the defense of ambiguity. He stated that he believes the Ivins City's ordinance was intended to protect certain areas, and he sees the compromise as a way to follow the ordinance. He noted that the compromise would allow SITLA to build while still adhering to the ordinance's 150-foot protection requirement. However, he mentioned that this compromise wouldn't offer real protection for the area, and it would place it in someone's backyard where it's not visible from public points. He expressed his preference for a new ordinance, believing that it would offer better protection for the most valuable part of the area. He mentioned his aversion to litigation and saw the compromise as a good solution that considers both sides' interests. **Council Member Scott** expressed his perspective on the matter, beginning with a disclaimer about his level of understanding of the 27-page ordinance. He highlighted the expertise of the Sensitive Lands Committee and City staff in dealing with such technical details. He brought up the movie Oppenheimer as an analogy to acknowledge his limited understanding. He emphasized the intent of the City and its residents to protect the red ridgeline area and pointed out that the vision for the community aligns with that protection. He mentioned the historical context from the City Council Meeting Minutes of September 19, 2019, which highlighted the intention to prohibit construction on the interior bluff ridgeline and wash area. He stressed that aesthetics and community vision were important factors, not just technical considerations. He mentioned the

potential ambiguity in the ordinance and questioned whether a 27-page document could truly eliminate all ambiguity. He questioned the reduction of the setback to 20 feet for Class C ridge lines compared to the 150-foot setback for Class B ridgelines. He also raised concerns about the lack of a signed document from the developer specifying their compliance with the ordinance. He proposed that if the Council chose to pursue the proposal, they should first obtain a written agreement from the developer about their compliance. He also suggested staking out the area to understand the practical implications of the proposal. He then expressed his opposition to the proposal and commented on the affordability of the housing project. **Mayor Hart** expressed his concerns about the process and the current approach to discussing the proposed zone text and ridgeline map amendments. He mentioned that normally, if inconsistencies or issues were discovered, an amendment process would be followed. He indicated that if there were problems with the ordinance, they would usually be addressed by writing amendment language to clarify the issues and then adjusting the maps accordingly. He emphasized that the current situation involves an applicant and an application, and the city's ordinance has faced challenges regarding technical issues. He questioned the appropriateness of adopting the proposed amendments without thoroughly scrutinizing the details. He pointed out that many people, including knowledgeable individuals, had expressed confusion about the proposed changes. He raised concerns about adopting an ordinance without a comprehensive understanding and without addressing the concerns related to the applicant's application.

Council Member Anderson emphasized the significance of applying the ordinance to the map to determine whether a particular area should be classified as a ridgeline. The map serves as an awareness tool, and the responsibility to prove whether an area qualifies as a ridgeline based on the ordinance, lies with the applicant. Mapping could uncover ambiguities, and the Sensitive Lands Committee's uncertainty about the ridgeline's precise location, prompted the proposal for the new text amendment. He stressed the need for practical application of the ordinance to comprehend and address its uncertainties, highlighting how ordinances become clearer and better understood over time through usage. He affirmed that the Sensitive Lands Committee had thoroughly examined the necessary studies and evaluations, and their recommendation should be considered. He agreed with the proposed text amendment based on his comprehension of the process and the committee's advice. He also underscored the importance of adhering to the ordinances rather than making changes solely based on individual citizen requests, as opinions from residents can differ greatly. He supported evaluating the ordinance and considering the City's suggestions to address ambiguities. **Dale Coulam** clarified that the attachments provided did not include a formal ordinance but rather a draft of proposed zoning text language. He explained that the process of adopting an ordinance would involve further consideration and discussion by the Council at a subsequent meeting if they decide to move forward with a zoning text amendment. He suggested that if the Council chose to proceed with the proposed changes, the discussion regarding the ridgeline map, which is application-specific, could be eliminated. He also mentioned that the item would need to be continued to another meeting if the Council wished to explore a zoning text amendment further. **Council Member Anderson** understood that the applicant had already applied the ordinance to the ridgeline map, which is a part of the sensitive lands map. He relies on the expertise of the sensitive lands committee and City staff to determine whether an area qualifies as a ridgeline based on the ordinance's criteria. **Chuck Gillette** indicated that the issue with the applicant's argument was that they had not provided information about where the slope becomes steeper than 18%, which is a requirement for identifying a ridgeline based on the ordinance. This lack of information made it challenging to

determine whether the ridgeline criteria were met in the proposed development area. **Council Member Murphy** stated that the changes proposed by the Sensitive Lands Committee were not made out of fear or pressure from the developer or any group of residents. The committee's focus was on addressing ambiguities in the statute and ordinance. She suggested that the Council approach this matter separately from the applicant's desires and consider the recommendations put forth by the committee. **Mayor Hart** agreed with Council Member Murphy and suggested continuing the discussion to allow for further study and consideration.

MOTION: Council Member Mehr moved to continue this discussion
SECOND: Council Member Scott
VOTE: The motion carried.

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

5) DISCUSSION AND POTENTIAL ACTION ITEMS

A. Continued discussion regarding approval of Lease Agreement with American Tower Corporation

Chuck Gillette indicated that there was issue with this agreement in that the BLM (Bureau of Land Management) does not allow for telecommunication towers to expand on their property. The City has a letter from 1995 allowing the tower but expanding isn't allowed. He contacted the company and indicated that there may be an option to move the tower a few feet onto City property, but he was uncertain as to the City Council's position on that. **Mayor Hart** commented that given the current status, the agreement likely needs to be denied. **Chuck Gillette** agreed.

MOTION: Council Member Scott moved to deny the Lease Agreement with American Tower Corporation
SECOND: Council Member Anderson
VOTE: The motion carried.

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

Council Member Anderson inquired about the impact on internet services and tower utilization. **Chuck Gillette** clarified that American Tower Corporation is a significant company traded on the stock exchange, owning numerous towers across the United States. He explained that American Tower had acquired the property around four (4) or five (5) years ago with the expectation of upgrading it for additional antennas. He expressed his concern about providing a free site that could be sold for millions of dollars to a larger corporation. lease agreement could impact people's internet access. **Chuck Gillette** clarified that the denial of the agreement would not directly affect internet access or require the tower to be taken down. **Council Member Anderson** inquired as to the reason for bringing the issue forward if the tower wasn't being taken down and the lease remained valid? **Chuck Gillette** stated that American Tower's interest was in upgrading the tower, which would involve bringing power to it, however, the request to install additional power sources for the tower has been denied.

B. Discuss and consider approval of an expenditure for construction of pressurized irrigation project 2023

Chuck Gillette commented that they had impact fee funds for irrigation line improvements. They identified areas on Kwavasa Drive and 400 West where gaps in irrigation lines could occur. **Council Member Anderson** agreed but requested that it be noted that the City is not encouraging a secondary water system.

MOTION: Council Member Scott moved to approve an expenditure for construction of pressurized irrigation project 2023
SECOND: Council Member Anderson
VOTE: The motion carried.

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

C. Discuss and consider approval of Ordinance No. 2023-17, an Ordinance of Ivins City, Utah, prohibiting the use of engine brakes in the City

Council Member Scott commented that the wording in the ordinance is identical to what was proposed at the last City Council meeting.

MOTION: Council Member Scott moved to approve Ordinance No. 2023-17, an Ordinance of Ivins City, Utah, prohibiting the use of engine brakes in the City.
SECOND: Council Member Murphy
VOTE: The motion carried.

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

Council Member Mehr inquiring whether the ordinance included an exception for emergencies that necessitated abrupt braking. **Council Member Scott** stated that was included in the ordinance.

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

Council Member Mehr was excused at 8:15 p.m.

D. Continued discussion regarding updating the Ivins Water Conservation Plan

Mayor Hart stated that the Water Conservancy District would present a new water efficiency standards document to the board. These new standards are connected to the 20-year plan proposed for the city and will be minimum requirements to participate in the district's plan. As this document was not yet officially available. He suggested waiting until they have the official document before discussing the matter.

MOTION: Council Member Anderson moved to continue this discussion
SECOND: Council Member Scott
VOTE: The motion carried.

Council Member Scott	AYE
Council Member Anderson	AYE
Council Member Murphy	AYE

Council Member Johnson	ABSENT
Council Member Mehr	ABSENT

Chuck Gillette added that the Water District was uncomfortable with using "gallons per capita per day" (GPCD) as a measurement of water efficiency and suggested considering an alternative measure. There was also mention of the state's possible move towards water depletion measurement standards.

E. *Discuss and consider approval of an expenditure for streetlights for Old Highway 91

Chuck Gillette indicated that the streetlights were part of a plan for Highway 91, and they needed to be ordered in advance to ensure their installation aligns with the project's completion timeline. He also specified that the streetlights are sole-sourced and meet the standards set by Ivins City.

MOTION: Council Member Murphy moved to approve an expenditure for streetlights for Old Highway 91

SECOND: Council Member Anderson

VOTE: The motion carried.

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

6) CONSENT AGENDA

A. Approval of City Council Meeting Minutes for July 20, 2023

MOTION: Council Member Scott moved to approve the Consent Agenda

SECOND: Council Member Murphy

VOTE: The motion carried.

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

7) CONSENT AGENDA ITEMS FOR DISCUSSION

8) REPORTS

A. Council

There were no reports

B. Mayor

No report

C. City Manager/Attorney Dale Coulam

No report

D. Items to be placed on future agendas

Council Member Scott requested that the Council discuss and better define dwelling units, quonset huts and revisit the building height issue. **Dale Coulam** referred to the building height issue and inquired if the Council wanted to discuss that before it goes to the Planning Commission. The **Mayor and Council** requested that they discuss it first.

9) CLOSED MEETING

10) ADJOURNMENT

MOTION: Council Member Anderson moved to adjourn
SECOND: Council Member Murphy
VOTE: The motion carried.

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

The meeting adjourned at 8:19 p.m.

Respectfully,

Kari D. Jimenez, MMC
Ivins City Recorder