IVINS
CITY COUNCIL
MINUTES
August 17, 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 Johnson, Council Member Murphy, Council Member Anderson, and City Recorder Kari D. Jimenez.

STAFF: City Manager/Attorney Dale Coulam, Director of Finance Cade Visser, Building and Zoning Administrator Mike Haycock, and Public Works Director/City Engineer Chuck Gillette.

EXCUSED: None.

Audience: James Barden, Greg Ragland, Hollie Ragland, Judith Hutcheson, Deborah Hutcheson, Jane Blackwell, Bonnie Kline, Sharon Gillespie, Evelyn K., Chris Haddad, Matt Marten, Roger Head, Liz Fortney, Karen Wolfe, Sharon Barton, Judith Kapuscinski, Roger Siddoway, Tom Heaton, Jerry Miyahara and others who did not sign in.

A. Acknowledgement of Quorum

Mayor Hart acknowledged that there was a quorum present.

B. Flag Salute

Council Member Mehr led the Flag Salute

C. Invocation

Council Member Mehr gave the Invocation

D. Disclosures

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

2) REPORTS, PRESENTATIONS AND APPOINTMENTS

A. Department Reports: Building Department; Public Works/Engineering; Finance

Mike Haycock submitted an electronic report, a copy of which is available as an attachment to this agenda. He reported that there were 10 building permits issued in July and 5 in August so far. He is seeing interest rate buybacks or buydowns and noted that while the numbers appear to be leveling out with the possibility of increasing, it's important to wait for a few months of consistent data before drawing any conclusions.

Chuck Gillette submitted an electronic report, a copy of which is available as an attachment to this agenda. He reported that staff repaired five (5) water service leaks in the past month. The City has been flushing hydrants as part of maintenance work and that process assists in stirring up any sediments that may have settled in the pipes. It also assesses the flow capacity of the fire hydrants. Flushing the fire hydrants generally occurs when the demand for water is not at its peak so that it minimizes stress on the system. He reported on the Old Highway 91 project that is scheduled to be completed in a few months. The overlay for the road is planned for early September, and while the project is on track, the trail work might take longer due to earthwork and construction challenges. The City is preparing to bid out the initial phase of the gap fill project with the recent approval of irrigation work. They are in the process of finalizing the contract with the contractor for that project.

Cade Visser referred to an electronic report that he provided to the Mayor and Council, a copy of which is available as an attachment to this agenda. He reported that it is still early in Fiscal Year 2024 and Fiscal Year 2023 has not officially closed yet. He referred to Senate Bill 75 and the impact on sales tax disbursement. This bill pertains to sales tax reductions for cities involved in mining gravel and concrete and Ivins City's sales tax disbursement for July was slightly reduced due to this bill. The City's interest earnings are on track with the budget for the first month of the fiscal year. He indicated that a clearer picture of the cash reserves for the General Fund, capital projects, and enterprise funds (water, sewer, storm drain) will be available in the upcoming months as more revenue is received and invoices are processed. The Auditors will be on-site in October and he will report on that Audit when it's concluded.

B. Planning Commission Report

Mike Haycock reported that the Planning Commission approved a Final Plat for Mojave Flats Phase 1B and continued discussion and review of the General Plan.

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

Mayor Hart reported that a Citizen request was submitted by Sharon Aspenberg regarding overnight parking and storage of vehicles on resort commercial property, specifically mentioning Coyote Art Village. She was not present so the Mayor read the request. The request expressed concern about visible vehicles from the road and nearby residential areas. **Dale Coulam** indicated that after researching this, he did not find any existing code prohibiting that parking on commercial resort property. **Council Member Anderson** clarified that his name was mentioned in the context of this issue and stated that he does not park vehicles there overnight. **Council Member Murphy** mentioned that the vehicles that are parked there are regular vehicles like pickup trucks and cars, not commercial vehicles. **Council Member Mehr** suggested that this was not necessarily an agenda item, but that staff could reach out to the complainant for more information and clarify the situation. The **Mayor and City Council** agreed.

James Barden submitted a Citizen request and expressed concerns about the rapid growth in Ivins. He presented three possible solutions for managing or controlling growth, those being the Public Lands Preservation Act, the Open Land Preservation Act, and Conservation Easements. He reported that those methods have been used in several surrounding states and suggested that the City Council, City Manager, and Planning Commission look into those options. He also mentioned the possibility of financing through a bond and highlighted the strain on limited infrastructure and resources due to rapid growth. He requested that the City government investigate those methods and keep citizens informed about the progress. **Mayor Hart** informed Mr. Barden that the City will be discussing open space at an upcoming Talk-About on October 18th, which will include conservation easements as a topic of discussion. He indicated that the City is taking his concerns seriously and is working towards finding ways to address the issue of rapid growth and the preservation of open spaces.

4) PUBLIC HEARING AND ACTION ITEMS - None

5) DISCUSSION AND POTENTIAL ACTION ITEMS

A. Discuss and consider approval of Resolution No. 2023-12R, a Resolution of Ivins City, Utah, appointing the Heritage Days Parade Grand Marshal

Mayor Hart introduced the topic of appointing a grand marshal for the Heritage Days Parade. He explained that traditionally, the Grand Marshal has been a family or individual with historical ties to the early days of the City. This year, the Heritage Days Committee recommended appointing Judith Kapuscinski as the grand marshal due to her significant contributions to the

arts in Ivins. Resolution No. 2023-12R was read, detailing Judith's involvement in promoting the arts in the City, her leadership roles in various arts organizations, and her impact on the cultural development of Ivins. The Resolution appointed Judith Kapuscinski as the 2023 Heritage Days Parade Grand Marshal.

MOTION: Council Member Johnson moved to approve Resolution No. 2023-12R, a Resolution of Ivins City, Utah, appointing the Heritage Days Parade Grand Marshal
SECOND: Council Member Mehr
VOTE: The motion carried unanimously.

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. Discuss and consider approval of a Final Plat extension for Black Desert Resort Villages Phase 1A, located at approximately Snow Canyon Parkway and the Western Corridor. Enlaw, LLC-Owner/Applicant

Mike Haycock explained that the City previously extended the Preliminary Plan for this development and this request is for a six-month extension of the Final Plat. The area in question is referred to as "Desert Village, Phase One," which is situated in the northern part of the development, adjacent to Snow Canyon Parkway. The purpose of the extension is to allow more time for the final plating process to be completed and is a standard request.

MOTION: Council Member Scott moved to approve a Final Plat extension for Black Desert Resort Villages Phase 1A, located at approximately Snow Canyon Parkway and the Western Corridor. Enlaw, LLC-Owner/Applicant
SECOND: Council Member Anderson
VOTE: The motion carried unanimously.

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

C. Discuss and consider approval of the Planning Commission’s recommendation on a Class V Conditional Use Permit located at approximately 86 South 300 East, Ivins, Utah. Pacificorp dba Rocky Mountain Power-Owner/Applicant

Mike Haycock indicated the permit pertains to commercial light manufacturing (CLM) and involves an area just south of Center Street, north of the Red Mountain Elementary School, along Red Mountain Boulevard. Rocky Mountain Power has gone through various processes, including a property line adjustment in preparation for additional equipment to support the future growth of Ivins, which includes the Black Desert Resort development. The zone change and property line adjustment have been completed, and now the request for a Conditional Use Permit is being discussed. Both the Technical Review Committee (TRC) and the Planning Commission have recommended approval of this permit. **Mayor Hart** highlighted that this permit is significant for Ivins City's growth and is needed to support the City's development and power requirements. **Council Member Mehr** inquired as to the potential downstream impact of the

decision to approve the conditional use permit. Specifically, he wanted to understand if approving the permit would result in additional infrastructure like poles, towers, or lines being added to the area to accommodate the increased power capacity. He also inquired if the City did not approve the permit, if that would potentially lead to the need to build an entirely new power station? **Dale Coulam** clarified that if the permit was not approved, there could be a significant impact on power supply, potentially resulting in areas like Black Desert Resort experiencing power outages or insufficient supply. Building an entirely new power station would involve acquiring additional property, which might not be a preferable alternative. He emphasized the importance of ensuring a consistent power supply for the growing community's needs, particularly during peak demand times like summer. **Tom Heaton** with Rocky Mountain Power clarified that the equipment that would be installed as part of the expansion wouldn't require bigger power poles or taller structures. The additional equipment would include a transformer and capacitor bank similar to the existing ones. He stated that the height and appearance of the facilities would remain the same, and they wouldn't be building new power lines or increasing the height of existing ones. The power distribution to Black Desert would involve existing facilities without any significant visual changes.

MOTION: Council Member Murphy moved to approve the Planning Commission's recommendation on a Class V Conditional Use Permit located at approximately 86 South 300 East, Ivins, Utah. Pacificorp dba Rocky Mountain Power-Owner/Applicant
SECOND: Council Member Johnson
VOTE: The motion carried unanimously.

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

*D. Discuss and consider approval of an expenditure for vehicles

Dale Coulam reported that in this year's Public Safety budget, funds have been allocated for the purchase of two (2) vehicles. The initial plan was to acquire Ford Explorers, which has been the practice in the past but due to the current unavailability of Ford Explorers and the anticipation that they won't be accessible until late spring, an alternative option has been explored. Public Safety was approached with the possibility of obtaining Chevy Trail Boss pickup trucks, which officers prefer due to their functionality and design. These trucks are equipped with four (4) doors, making them suitable for transporting prisoners to the jail. Equipment, including radios and cameras that were necessary to meet state requirements, has already been factored into the current year's budget. As a result of this prudent planning, there have been savings in this year's budget. By utilizing these savings, Public Safety is close to being able to add a third vehicle to their fleet. Public Safety is proposing the purchase of three (3) new Chevy Trail Boss pickup trucks, each equipped with four (4) doors. It's worth recalling that there has been a historical shortfall of one (1) vehicle per year due to budget constraints. This proposal aims to rectify that gap and bring Public Safety back on track with their customary procurement rate of two (2) vehicles per year. The allocated budget is deemed sufficient to cover this purchase, ensuring that Public Safety is well-equipped to fulfill their responsibilities effectively.

MOTION: Council Member Mehr moved to approve an expenditure for vehicles
SECOND: Council Member Scott
VOTE: The motion carried unanimously.

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

E. Continued discussion regarding approval of a Wireless Co-Location Agreement with Kayenta Technologies

Chuck Gillette provided a summary of the Wireless Co-Location Agreement with Kayenta Technologies. This agenda item was carried over from the previous meeting due to questions about a potential Deed Restriction on the property. Dixie Title was consulted to ascertain the situation and clarified that the sole Deed Restriction was associated with Canadian Capital and no other party. That prompted the drafting of a waiver of the Deed Restriction, which would require the signature of Canadian Capital. An addition has also been made to the original agreement, in the form of a new paragraph, labeled as paragraph number 16. This addition aimed to address the coexistence of the agreement and any Deed Restriction. It was clarified that in case of any conflicts, the Deed Restriction would take precedence. The new paragraph was designed to ensure that the waiver of the Deed Restriction was limited in scope and strictly applicable to this agreement. This approach would not extend co-location rights to any other entities. It was suggested that the agreement be approved, contingent upon obtaining a signed version of the Deed Restriction to ensure that all required documentation would be in place before finalizing the agreement. **Dale Coulam** agreed and clarified that meant that approval was conditioned upon getting the waiver signed and returned so it can be recorded. **Council Member Anderson** inquired about the word “building.” **Chuck Gillette** indicated that the original form of the agreement was tailored for the installation of an antenna on a building. However, the situation had evolved to involve different considerations, and the term "building" might not accurately reflect the scope of the agreement anymore. **Council Member Anderson** emphasized the significance of obtaining a signed waiver of the Deed Restriction due to its stipulation that any alterations to the natural state of the property could revert ownership to the beneficiary of the Deed Restriction. **Mayor Hart** sought clarification on Council Member Anderson's proposed modification to the agreement. **Council Member Anderson** stated that the term "building" should be replaced with a more suitable term. **Council Member Scott** suggested using the term "structures." **Chuck Gillette** suggested that the term "plan" could replace "building" to align with the specifics of the agreement. **Council Member Scott** sought clarification regarding the rest of the Wireless Co-Location Agreement with Kayenta Technologies, specifically regarding the effect of the Deed Restriction on the City's rights. **Chuck Gillette** confirmed that the Deed Restriction does indeed restrict the installation of equipment solely to Kayenta Technologies, meaning that Ivins City and third parties would require a separate deed restriction waiver to install additional equipment. **Council Member Scott** emphasized that, according to the agreement's language, Ivins City retains the right to install equipment and to permit third parties to do so, however, that right is restricted by the Deed Restriction. **Chuck Gillette** clarified that only Kayenta Technologies can install equipment based on the current Deed Restriction. **Council Member Scott** suggested that the agreement include a section specifying that any installation by the City or an approved third party must adhere to specific design criteria outlined in the agreement. That criteria would aim to ensure that any installations blend in with the landscape. **Dale Coulam** agreed that adding such a section would provide further clarity and protection in the agreement. **Council Member Mehr** inquired regarding clarification on the

purpose of the agreement to create space for providing internet service to the community and inquired about the potential for competition and whether the agreement allowed for other companies to compete within Ivins City's design guidelines. **Chuck Gillette** explained that other companies could co-locate on the hill if they obtained a waiver of the Deed Restriction. The discussion further delved into the location of the hill and the design guidelines for the installation. **Council Member Scott** emphasized the need to ensure that any installations by the City or approved third parties adhere to the same design guidelines as stated in the agreement. **Council Member Mehr** inquired if Council Member Scott is okay with multiple antennas on the hill? **Council Member Scott** stated yes. **Council Member Mehr** expressed satisfaction with the discussion, acknowledging the need for competition to be maintained appropriately. **Council Member Anderson** indicated that the internet company's goal was to extend fiber services to the Kayenta community. **Chuck Gillette** raised the question of whether it was appropriate to include stringent design guidelines in the agreement with Kayenta Technologies. He acknowledged the agreement's intent was to prevent other antennas that are more obtrusive from being installed but questioned whether such provisions needed to be explicitly stated in the agreement with Kayenta Technologies itself. **Council Member Anderson** agreed. He indicated that a vendor had approached the City with the intention of enabling internet services for the community. That vendor made the necessary preparations to establish an arrangement with the City to gain permission for their project. Other vendors would also need to go through a similar process of seeking permission from the City so he didn't believe that the agreement with Kayenta Technologies needed to explicitly address the possibility of other vendors in that context. **Chuck Gillette** indicated that the City was imposing restrictions on Kayenta Technologies, and if the city were to engage in a similar project, those same restrictions should apply. While it is important for the restrictions to be consistent, it might not be necessary to explicitly mention this aspect in the agreement with Kayenta Technologies. **Council Member Scott** emphasized the importance of tying the City to the stringent design guidelines in case another vendor is allowed in the future.

MOTION: Council Member Scott moved to approve a Wireless Co-Location Agreement with Kayenta Technologies, with the addition of a statement that any installation by the City or approved third parties, shall comply with sections 3E, 3D and 3F and change the word "building" to "plan".

SECOND: Council Member Murphy

VOTE: The motion carried unanimously.

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

Council Member Mehr requested a discussion and referred to the word "antennas" and inquired if that should be singular instead of plural. **Chuck Gillette** clarified that they are actually installing four (4) antennas.

F. Continued discussion on Zone Text amendments and Sensitive Lands map amendments regarding ridgelines

Chuck Gillette provided an update and presented different versions of ridge line classifications - Class A, B, and C - and explained that an alternative plan submitted by an applicant called "The Retreat at Snow Canyon" served as a basis for the proposed changes. The aim was to align the

language of the ordinance with this plan, potentially finding a compromise. **Dale Coulam** clarified that the current discussion was not tied to the applicant's proposal. He emphasized that this was a continuation of the previous agenda item regarding zoning text and map amendments for sensitive lands, independent of the specific application. He suggested that the proposed amendments should be reviewed by the Sensitive Lands Committee before moving forward. He noted that the changes would impact future developments but would not be retroactive. **Mayor Hart** indicated that the existing ordinance did not apply to the applicant's project. The focus was on refining the ordinance citywide based on identified issues. **Chuck Gillette** acknowledged the need for clarity and direction from the City Council, as the Sensitive Lands Committee might take a different direction. **Mayor Hart** stated that the Sensitive Lands Committee should assess whether the language they had requested from Chuck Gillette, aligned with their intentions and whether the proposed ordinance addressed their concerns. **Chuck Gillette** requested that the City Council provide some guidance to the Sensitive Lands Committee. He noted that although the matter would go back to the committee, having the City Council's input could help guide the direction of the discussion. **Council Member Scott** suggested two points for the Sensitive Lands Committee to consider: 1) he recommended finding simpler ways to define ridgelines instead of the complex 27-page document currently in use; 2) he highlighted that the community and the City likely expect protection for significant ridgelines within the City, beyond just the one near Puerto. He urged the committee to assess what areas deserve protection and to what extent. **Council Member Murphy** indicated that the Sensitive Lands Committee was making progress by delving into the specifics of ridgeline classifications and noted that there were varying types of ridgelines, including definite ridgelines and those characterized by rock outcroppings. She supported the committee's approach of expanding the classifications, including Class A, B, and possibly Class C ridgelines, recognizing that not all ridgelines are the same. **Council Member Anderson** addressed the ambiguity in the current ordinance, particularly regarding the definition of ridgelines and expressed concern that the existing definitions were unclear, leading to potential discrepancies and confusion. He brought up issues such as the lack of clear definitions for slope percentages and the boundaries of rock outcroppings. He suggested the need to address those ambiguities for better interpretation. **Mayor Hart** stated that the request for language changes was prompted by weaknesses or discrepancies discovered through an application process. The goal was to clarify the ordinance to prevent such issues in the future. He clarified that the current discussion was not tied to a specific application. He emphasized the importance of rectifying the discrepancies in the ordinance and recommended involving the sensitive lands committee in the process due to their expertise in identifying problem areas. **Council Member Anderson** suggested a solution where ridgelines could be defined on a map with specific criteria outlined in the text. That would require applicants to meet the criteria defined in the text to be considered as meeting the ridgeline standards. He believed that approach would provide clarity and consistency, while ensuring that the goals of the ordinance were met. **Chuck Gillette** indicated the need for the Sensitive Lands Committee to understand the City Council's values when it comes to interior ridgelines. He explained that there are two aspects to consider: the aesthetic aspect where ridgelines provide elevated views over the City, and the preservation of natural beauty. He mentioned that setback requirements had been established for Class B ridgelines to prevent houses from obstructing the views. However, with Class C ridgelines, the focus was more on preserving rock outcroppings and the slopes connected to them, which contribute to the attractiveness of the landscape. He also introduced the idea of some ridgelines falling into both Class B and Class C categories due to having both the characteristic rock outcroppings and the elevation that could impact the overall cityscape. **Mayor Hart** brought up the issue of legal

structures being built in front of ridgelines, which can make the ridgelines appear to disappear. He highlighted the challenge of determining when a ridgeline is considered a ridgeline, especially in cases where developable ground is in front of it. **Chuck Gillette** questioned the Council about their thoughts on ridgelines that could potentially be bulldozed. He wondered whether the Council would prefer to define ridgelines through a map-based approach or a text-based approach that outlines specific conditions for identifying ridgelines. **Council Member Anderson** emphasized that the map is a tool for awareness and that the Sensitive Lands Committee's input could guide the decision-making process by providing ideas. He also touched upon the difficulty of precisely defining the boundaries of ridgelines, especially when it comes to outcroppings and slope variations. **Mayor Hart** indicated that the goal of the ordinance is preservation and suggested seeking guidance from the Sensitive Lands Committee to provide ideas. **Council Member Anderson** proposed reversing the approach, seeking the committee's opinion to guide the process. **Mayor Hart** highlighted that the ordinance's core aim was preservation. He emphasized the need to avoid vague definitions that could lead to bulldozing and noted the importance of preservation even in cases where it falls short of total preservation. **Council Member Anderson** further discussed defining hill and ridge line boundaries and referred to the relevance of sensitive lands in determining their protection. **Council Member Scott** proposed breaking down the process into two steps. He suggested presenting real-life situations to the Sensitive Lands Committee to visualize ridgelines and rock outcroppings, then develop a draft ordinance for further consideration. This would provide clarity and direction to the process. The idea is to present topographical situations and real locations to the sensitive lands committee, allowing the City Council to give guidance on the significance of certain areas and setbacks. **Mayor Hart** acknowledged the complexity of the situation and sought technical direction from Chuck. **Chuck Gillette** expressed that while text can be written, the exact outcome isn't always known until it's applied. He mentioned the possibility of creating a 3D model of the City or hiring a consultant to run simulations. **Council Member Anderson** emphasized the need to define the philosophy behind ridgeline preservation, its level, and the criteria for meeting sensitive lands. **Chuck Gillette** added that one consideration was whether the slope coming off the ridgeline needed to be defined as sensitive lands. **Mayor Hart** asked about the origins of the definitions in the first ordinance. **Chuck Gillette** explained that the Sensitive Lands Committee added interior bluff ridgelines to the ordinance during an update process led by Bruce Parker and interns from the College of Maryland helped revise the ordinance in the early 2000's. **Mayor Hart** noted that the ordinance initially focused on hillside concerns and later expanded to include sensitive lands like lava beds and ridges. **Chuck Gillette** indicated that some slopes met the Sensitive Lands definition but were not preserved due to being small mounds of dirt, illustrating subjectivity. **Chuck Gillette** acknowledged the need for clearer guidance in the ordinance regarding when something qualifies as Sensitive Lands. **Mayor Hart** referenced the challenge of a legal structure blocking a ridge line from a single backyard view and questioned whether this should be considered City-wide. **Council Member Scott** indicated that ridgelines could impact a home's view and privacy, contributing to the community's benefit. **Chuck Gillette** discussed the current ordinance on outcroppings, stating that if an outcropping exceeds 8,000 square feet, it can be disturbed up to 70%. He highlighted that some outcroppings might not truly be preserved under the new provision. **Mayor Hart** inquired about the origins of the ridgeline portion of the ordinance. **Dale Coulam** clarified that the ridgeline aspect of the ordinance did not originate with Bruce Parker but the hillside protection concerns did. **Mayor Hart** suggested breaking the discussion into pieces based on Council Member Scott's recommendation. **Council Member Anderson** emphasized avoiding the need to hire more staff if the approach is right. **Council Member Scott** expressed

confidence in Chuck's abilities to tackle the issue. **Chuck Gillette** stated his intention would be to take a stab at the issue and see where it leads. **Mayor Hart** encouraged starting with Chuck's effort and potentially considering a consultant's expertise if needed for refining language and identifying features. **Council Member Mehr** emphasized the need for a narrow and focused review of the ordinance, specifically addressing ridgelines. He suggested following the standard process of involving the Sensitive Lands Committee to provide recommendations to the Planning Commission, ensuring a timely resolution without excessive resource allocation. **Mayor Hart** inquired about the possibility of including other aspects of sensitive lands, like rock outcroppings, in the review process. **Chuck Gillette** acknowledged the existence of several red lines drawn on the map and proposed that certain rock outcroppings should have 100% preservation rather than the current 70% disturbance allowance. **Mayor Hart** indicated that the ordinance needs to be reviewed and suggested involving the Sensitive Lands Committee to collaborate with City staff in identifying necessary changes to the ordinance. Any significant changes should be brought back to the Council for consideration. **Council Member Mehr** clarified that the intent is not to conduct an extensive overhaul of the ordinance, but rather to address specific issues highlighted by the red lines and provide a practical solution within a reasonable timeframe. **Chuck Gillette** noted that a comprehensive revision of the ordinance might require more than one or two meetings due to the complexity of the topic and the Council's monthly meeting schedule. He suggested the possibility of the Sensitive Lands Committee meeting more frequently if necessary. **Council Member Mehr** reinforced the notion that the goal is not a complete overhaul, but a focused review and improvement of specific aspects of the ordinance. **Mike Haycock** raised a concern about the timeline for an ongoing application, as waiting six to eight months for the Sensitive Lands Committee to resolve the issues, might not be fair to the applicant. There is an applicant with a Preliminary Plan in the sensitive lands area, and he raised the question of whether the ongoing review of the ordinance might impact that application. **Dale Coulam** clarified that the applicant's existing application is subject to the current ordinance. If the new ordinance is adopted, it wouldn't apply retroactively, so the applicant would proceed under the existing regulations unless they chose to refile under the new ordinance. **Council Member Johnson** suggested that there be a special meeting for the Sensitive Lands Committee. **Chuck Gillette** commented that the Sensitive Lands Committee is going to meet on September 5th. **Mayor Hart** proposed the idea of scheduling a work meeting involving the Sensitive Lands Committee, the Planning Commission, and the City Council to collectively address the sensitive lands issue. **Dale Coulam** expressed concern about the workload of the Planning Commission, which is currently finalizing the General Plan. He suggested that a joint meeting involving the Sensitive Lands Committee and the City Council might be a better option. **Mike Haycock** pointed out that the SITLA application for sensitive lands hasn't been approved or denied and expressed the need for the application to be either approved or denied. **Mayor Hart** acknowledged that the outcome for SITLA's application should be determined based on the existing ordinances and not be directly affected by the ongoing discussions about amendments. **Dale Coulam** clarified that the process involves the Sensitive Lands Committee making recommendations based on the existing ordinance, which would then be applied to land use applications like the Preliminary Plan. The applicant has the choice to proceed under the current regulations or wait for potential new amendments. Regarding the SITLA Preliminary Plan, he noted that if the Sensitive Lands Committee found that it was a ridgeline under the existing ordinance, the setbacks would need to be adjusted to meet those requirements. The applicant has to decide how to proceed based on the current regulations. **Mayor Hart** highlighted that until a new ordinance is established, the applicant's course of action is determined by the existing regulations. **Dale**

Coulam referred to scheduling a work meeting and suggested that occur with the Sensitive Lands Committee and City Council at this point so that they can establish a framework for moving forward. **Chuck Gillette** proposed that the current Sensitive Lands Committee meeting scheduled for September 5th be a combined work meeting. The **City Council** agreed. The combined work meeting with the Sensitive Lands Committee will be held on September 5th at 8:30 AM. **Jerry Miyahara** clarified that there are two separate sensitive land applications, one for the west of Hamlin Parkway and one for the east. He noted that Chuck's memo outlined the positions, and the only open item was the treatment of the ridge line. He suggested that the east side sensitive land application had passed and approved everything else on the list and asked if they could get an approval for the east side while holding on the west side application. **Dale Coulam** stated that as he read Chuck Gillette's memo, it indicated that there were no adverse impacts on the east side. He agreed that the only issue was the ridgelines, which affected the west side from the wash. He clarified that they were two different zones. **Council Member Anderson** inquired if the east side application would be approved when the preliminary plan was approved. **Dale Coulam** indicated that it would be approved as part of the site plan, specifically on the commercial side. For the east side, there would be no outstanding issues for sensitive lands when a site plan came in front of them. The memo clarified that the Sensitive Lands Committee didn't adversely impact the east side at all, and that portion of the property could proceed without needing amendments. Applicant **Jerry Miyahara** asked for confirmation that there were no findings on the east side. **Dale Coulam** affirmed that. **Chuck Gillette** explained that they were currently addressing comments on the Preliminary Plans at the TRC level and those are essentially a site plan and were referred to as a site plan due to the technicality of subdividing condominiums.

G. Discussion regarding the development of the Highway 91 Transportation Corridor including adjacent frontage property

Dale Coulam explained that this discussion was prompted by citizen comments from Terry Marten. The matter involves an application for development in the Kayenta area that included frontage along Highway 91. The initial application was denied by the Council, but Kayenta Development submitted a new application, addressing the recommendations made by Council Member Johnson. Terry Marten's concern was whether the imposition on his property should also apply to other properties. **Mayor Hart** indicated that the intent of the discussion was to explore whether the same imposition should be extended beyond Terry Marten's property, to others. **Council member Anderson** requested that Chuck Gillette provide a historical overview of the corridor plan and its integration into the subdivision ordinance. **Chuck Gillette** stated that in 2004, there was a Highway 91 Corridor Plan in place, which included various recommendations. Those recommendations were integrated into the Transportation Master Plan rather than the subdivision ordinance. Over time, some amendments were made to the original recommendations, primarily through amendments to the Transportation Master Plan. The preservation of a 30-foot buffer has been maintained, although there have been changes in vegetation preferences from sagebrush to a mix of desert trees and bushes. The original vision of the Highway 91 Corridor plan has been incorporated into the Transportation Master Plan. **Council Member Anderson** indicated that the goal is to establish certain zoning regulations, possibly an RA-37 designation and a specific width limit like 200 feet, which would become part of the Transportation Master Plan to prevent future rezoning to other designations and maintain the intended corridor. **Council Member Johnson** acknowledged the relevance of maintaining the corridor's integrity and aesthetic consistency, particularly in light of the larger lots that were recommended along Kayenta Parkway and Highway 91. While recognizing the

potential challenges and the eventual transition into a denser area, she expressed support for the continuation of the larger lots for a certain distance to preserve the desired feel of the Kayenta community. **Terry Marten** stated he would like to salvage a part of the Highway 91 Corridor plan, specifically the section of it that his property in Kayenta is associated with, which spans about a mile and a half. He expressed a willingness to limit the densities of development along the 200-foot area, behind the 30-foot path, to 37,000 square foot lots. His objective is to protect the corridor and maintain larger lot sizes from 800 West to Fire Lake Park and commented that the majority of that area is already under his ownership or control. There are other property owners on the north side who would be impacted, and some areas on the south side are yet to be annexed into the City, but he also owns a significant portion of that land. **Council Member Anderson** suggested that when the area is annexed into the City, the criteria for development should include adherence to the corridor plan. **Mayor Hart** mentioned that if the corridor plan is part of the annexation, subsequent developers would be obligated to follow it. **Council Member Scott** pointed out that the corridor plan has transitioned into the transportation plan. **Dale Coulam** clarified that while the City can establish a plan, he advised against pre-zoning or setting specific zoning districts in advance. Creating a plan for the transportation corridor is possible but extending that plan to include zoning for adjacent parcels is not feasible. When properties are annexed into the City, negotiations can be made regarding adherence to the established plan. **Council Member Johnson** inquired about the applicability of the requirements to the north and south sides. **Dale Coulam** clarified that the requirements could be applied to the north side, which is within the City. **Chuck Gillette** inquired if the Annexation Plan could include land use planning and zoning information? **Dale Coulam** indicated that while it was possible to include that in the Annexation Plan, he was hesitant to pre-zone something that the City had no control over but it may be worth looking at the Annexation Plan. **Council Member Scott** highlighted the idea of using land use planning to set a vision for future development. He suggested that while zoning might be challenging, defining different land uses could be a feasible approach for the City. **Dale Coulam** stated that while zoning and land use can be set during the annexation process, there could be legal challenges if property owners believe their rights are being infringed upon. The City can express a vision in the Annexation Plan without imposing binding land use and zoning. **Council Member Anderson** proposed having a text in the Annexation Plan that outlines the City's goals, helping future property owners understand the City's intentions during negotiations. **Mayor Hart** inquired about the steps to be taken moving forward regarding Terry's suggestion. **Dale Coulam** indicated that the City would need to look at both land use and zoning along that section of the corridor from 800 West to 1600 West, as well as looking at the Annexation Plan, which hasn't been updated in a while. **Chuck Gillette** stated that during the City's master planning process, they estimate the number of units that might be developed in specific areas to help with planning. Having a plan outlining the expected densities, even if they are not part of the zoning map, would be beneficial for the City's planning efforts. **Mayor Hart** indicated that the land use maps and zoning discussions would be coming before the City Council as part of the General Plan process. **Mike Haycock** clarified that the Planning Commission has already sent a recommendation on the land use maps, but the City Council might choose to send it back to the Planning Commission for potential adjustments based on the discussions during this meeting. **Council Member Johnson** suggested working on the northern part of the corridor first, getting it aligned with the desired plan, and then addressing the southern part of the corridor in the context of reviewing the Annexation Plan. **Dale Coulam** suggested that the City could work on aligning the northern part of the corridor with the

desired plan, but emphasized the importance of engaging with property owners to see if they are willing to go along with the vision. Proceeding with land use and zoning changes would be more feasible if property owners are willing to cooperate voluntarily, as opposed to imposing zoning on them. **Council Member Murphy** suggested the possibility of using a buffer strip with lower density lots to create a rural setting along the corridor. **Mayor Hart** commented that there is 200 feet off the right-of-way that is for that purpose. **Council Member Anderson** inquired about the county's policy regarding water, sewer, and services for areas outside the City. **Chuck Gillette** indicated that the County does not provide water, sewer, police, or emergency services to areas outside the City without annexation. **Council Member Anderson** stated that it was important to have a clear vision in the City's plans and regulations to guide future development in a way that aligns with the desired character for the area, even before annexation occurs. **Mayor Hart** suggested that the City review both the land use and zoning maps as part of the approval process for the amended General Plan. There will also be discussions and communication with property owners in the county and private owners on the north side, to align with the vision of preserving the corridor and ensuring that future development is in line with the desired character. The goal is to establish a clear plan for both land use and zoning to guide development and annexation. **Council Member Anderson** indicated that there should be a focus on creating a development bubble without specifying zoning and wanted the bubble to encompass zones that met the RE-37 and higher criteria. **Terry Marten** supported that approach. **Council Member Anderson** emphasized the importance of documenting the envisioned land use, setting precedents, and ensuring clarity in future annexation processes. **Mayor Hart** sought clarification on whether Council Member Anderson's proposal referred to a definition for the corridor rather than specific zoning regulations. **Council Member Anderson** clarified establish a new land use bubble, guided by the RE-37 zoning criteria. **Mayor Hart** suggested that this would likely occur through the review of the land use map in conjunction with amending the general plan. **Council Member Scott** agreed with Council Member Anderson's approach but added consideration for written documentation of the vision to prevent future changes. He proposed that this documentation could be incorporated into the annexation and transportation plans. **Mayor Hart** highlighted that the process would involve reviewing both the annexation ordinance and the land use plan. **Council Member Anderson** referred to enforcing view shed rules and inquired of Chuck Gillette about the presence of those rules in the transportation plan. **Chuck Gillette** stated that view shed enforcement was governed by zoning ordinances rather than the Transportation Master Plan.

H. Discussion regarding the meaning of the phrase "one or two family dwelling" as used in Utah Code section 10-9a-534(2)

Dale Coulam indicated that per the statute, it pertains to the regulation of building design elements and that the question was whether those restrictions applied solely to a home or included other structures like garages and auxiliary buildings. The key issue was defining what constitutes a "dwelling." **Council Member Scott** proposed a clear definition for a dwelling based on the Merriam-Webster dictionary, which defined it as the primary building where people live and excluding other structures on the property. **Council Member Anderson** inquired as to the term "two family dwelling," and that being referred to as duplexes. **Dale Coulam** stated that "one or two family dwelling" referred to places where people reside. That interpretation could apply to structures like casitas, as long as they were inhabited by people. He reiterated that the definition of a dwelling did not extend to the entire lot or any other structures present, but solely to places where people live. In a previous meeting, the Council gave strict instructions to

interpret the phrase narrowly and not expand the restrictions beyond one or two family dwellings. The purpose of bringing up the topic on the agenda was to further discuss and reinforce that interpretation. **Council Member Mehr** indicated that in the Utah State Legislature's definition of "primary dwelling," clarifies it as a detached single-family dwelling occupied as the primary residence of the owner of record. He pointed out that definition included a garage if the garage was a habitable space connected to the primary dwelling by a common wall. **Mike Haycock** stated that the discussion about landscaping and fencing requirements in the ordinance led him to interpret that the State Code referred not only to the dwelling itself but also to aspects like landscaping and fencing. **Mayor Hart** clarified that the Council's current position is to treat those elements separately and adhere to the State Code for each of them. **Council Member Anderson** inquired as to the term "two family dwelling" and questioned whether it exclusively referred to duplexes or included other types of housing like townhomes or apartment complexes. **Mayor Hart** indicated yes. **Council Member Anderson** stated the importance of adhering to design guidelines for projects like the SITLA development, especially if it involves townhomes. **Mike Haycock** indicated that when different interpretations of building codes are taken, it can lead to increased requirements in the future. He pointed out inconsistencies in the City's ordinance related to the use of metal or corrugated materials in different parts of structures. For instance, the ordinance allows metal as a trim in one place but is silent on its use in accessory structures and carports. He emphasized the need for consistency throughout the ordinance, especially in terms of the use of metal materials. **Council Member Anderson** brought up the example of a discrepancy between the use of "shall" and "may" in the ordinance. That inconsistency can lead to confusion and different interpretations of the regulations. **Mike Haycock** agreed and suggested identifying those ambiguities in writing to ensure that the ordinance is clear and consistent. **Mayor Hart** requested that Mike Haycock identify those inconsistencies in writing so that the Council could review and address them if necessary. He emphasized the importance of maintaining consistent interpretations in the application of the regulations. **Council Member Anderson** inquired whether there had been instances where permits were granted based on a different interpretation of the regulations. **Mike Haycock** responded that there might have been around two (2) or three (3) cases where permits were granted using a different interpretation of the regulations. **Mayor Hart** indicated that although there might be legislators attempting to reverse certain regulations, the interpretation being followed is aligned with the Utah State Code, and there's no intention of undermining the state code. **Council Member Anderson** indicated that the city's interpretation is based on the clear language of the State Code. **Mike Haycock** provided an example where a tiny house might be permitted under one interpretation while a storage structure might need to meet design guidelines. The City's ordinance states that detached structures should resemble the primary dwelling.

I. Discussion regarding amending maximum building height regulations for one or two family dwellings

Council Member Mehr inquired what new evidence or reasons were there for bringing this item back to the agenda? **Mayor Hart** indicated that the goal was to regain control and negotiation ability over certain design aspects that had previously been restricted. **Council Member Anderson** raised concerns about the existing regulations, citing the potential for structures to be converted into residential units without adhering to standard design guidelines. **Council Member Johnson** questioned the necessity of this agenda item, pointing out that similar concerns were addressed in the earlier agenda item 5-H. She suggested that 5-H might already

cover the issues related to structures being used as dwellings. **Mike Haycock** stated the possibility of structures being transformed into dwellings through specific modifications and criteria. A structure could be classified as a dwelling if it fulfills the definition of a dwelling and is utilized for residential purposes. **Mayor Hart** suggested addressing Council Member Mehr's concern by discussing the potential for a reconsideration of the topic. **Dale Coulam** clarified that sufficient time had passed for the topic to be reconsidered. He explained that the concern was whether new evidence existed to justify revisiting the topic. Regarding the definition of a dwelling, he explained that a habitable garage attached to the primary dwelling could be considered part of the dwelling. However, for a standalone structure to be considered a dwelling, more than just basic amenities like a sink, stove, and bathroom would be needed. He mentioned that while a garage with a separating wall might be included as part of a dwelling, a detached garage wouldn't necessarily qualify as a primary dwelling solely by adding minimal amenities while still using it primarily for parking vehicles. **Mike Haycock** commented that there was a process that property owners would need to go through in order to officially convert a structure into a dwelling. If a standalone property had a structure that resembled a garage, it could also be designed to look like a house but according to the ordinance, even detached structures like garages should have a similar appearance to the primary dwelling on the property. **Council Member Anderson** commented on the potential issue of someone being able to construct a steel building like a quonset hut and turn it into a residential house on any property in Ivins. **Council Member Scott** clarified that Council Member Johnson's previous point was about clarifying what constitutes a dwelling, which has been addressed in the discussion. Current regulations might allow structures like the quonset hut to be used as residences without adhering to the City's design guidelines. That situation serves as an example of why the City's design guidelines are important to prevent such instances in the future. **Council Member Murphy** stated that instead of changing the City's ordinances to conflict with State Legislation, it would be more appropriate to work towards getting the legislation changed through the appropriate channels. She suggested that collaborating with legislators to highlight the issues and reasons behind the ordinance could be a more effective approach. **Mayor Hart** indicated that seeking new legislation takes time and mentioned Council Member Anderson's point about addressing the issues in the interim before potential changes are made. Given the current situation, there is a potential for significant negative visual impacts on the City. While the legislature has granted certain regulatory powers to the City, the main focus is to regulate building height as a means to mitigate potential negative effects. **Council Member Anderson** stated that the legislature's actions could lead to unintended consequences, altering property values and the established lifestyle of the community. The City's design guidelines have contributed to a stable property value foundation over the years, and while some flexibility in the guidelines may be considered, the impact of introducing different building styles should be carefully assessed due to potential changes in the City's dynamics. **Mayor Hart** raised a question to Dale Coulam regarding the approach of using building height regulation as a means to control design aspects in a situation where the city is allowed to regulate building height but not other design elements. **Dale Coulam** expressed concern that using building height regulations to indirectly control design elements might backfire due to the City's status as a subsidiary of the state and the potential consequences of defying state regulations. **Mayor Hart** mentioned that legislation can sometimes be influenced by specific incidents in cities and can have unintended consequences for other cities. He pointed out that the legislation in question might not have considered the diverse needs of different cities across the state. He discussed the background of the legislation, highlighting the influence of certain

interest groups and the challenges posed by a one-size-fits-all approach. Despite his disagreement with the legislation, he acknowledged that the City is obligated to adhere to it. **Council Member Murphy** suggested that instead of focusing on specific house colors, the regulations could address the type of materials used in construction, particularly metal buildings that might have a negative visual impact. She expressed the idea that the concern might not be limited to colors but to the overall aesthetics of the structures. **Mayor Hart** highlighted Ivins' significance of color regulations in maintaining the City's visual harmony and property values over the years. Ivins offers a unique living environment, and anyone who chooses to live in Ivins should respect and adhere to the established conditions that contribute to the City's appeal. **Council Member Mehr** inquired about the use of Development Agreements as a tool to protect the City's interests. He inquired as to why Development Agreements might not be sufficient in addressing the concerns. **Dale Coulam** clarified that the City's use of Development Agreements has been limited in other sections of the code, and they can no longer require a Development Agreement for every subdivision. Development Agreements can still be used when requested by property owners to align with the City's design guidelines but imposing them on every developer is restricted by statute. **Mayor Hart** commented that the use of Development Agreements might not be the most effective way to drive property owners to adopt the City's design guidelines. **Mike Haycock** indicated that this situation arises from attempts to bypass enforcing State Code and cities that tried to work around that through Development Agreements eventually led to the State imposing more restrictions on cities. **Mayor Hart** stated that using height as a tool to restrict certain types of structures was a reasonable approach to maintain some level of control over design guidelines. He acknowledged the potential challenges in getting legislation altered but emphasized that height regulations can offer a temporary solution. Many City officials are engaging with legislators to discuss the inadequacies of the current legislation and its impact on different communities. He stressed the importance of maintaining the City's ability to attract economic development by upholding the design guidelines that have contributed to Ivins' appeal.

Council Member Mehr inquired if the current City ordinance prevents the use of certain building materials for constructing homes. **Mayor Hart** stated no. **Council Member Mehr** expressed his concerns about the current situation where City ordinances and State laws are at odds. Having an ordinance that contradicts State law could lead to litigation and legal challenges, which could help settle the matter. He was not comfortable with the idea of regulating building height as a solution and felt that other measures should be considered to prevent the kind of developments the City was concerned about. **Mayor Hart** indicated that the proposal isn't about forcing people to build 10-foot homes, but rather creating a height limitation that encourages adherence to the City's design guidelines. With a 10-foot height limit, there's still the option to build homes that are in line with the existing design guidelines, allowing for up to 25 feet in height. The intention is to use the height limitation as a tool to incentivize builders to follow the established aesthetic norms of the City. Whether that approach was the right course of action was a matter of discussion and decision for the Council. **Council Member Anderson** commented that homes with a 10-foot or 12-foot height, especially when surrounded by a six-foot wall and landscaping, might not have a significant visual impact due to the lower profiles. The City's original design guidelines were built around height restrictions, and the legislative changes are altering the City's established approach. **Mayor Hart** emphasized the importance of using height as a tool to retain control over a design aspect that is still within their jurisdiction, despite the legislative changes. **Council Member Johnson** expressed a desire to

move towards a decision, acknowledging that there were differing opinions that might not be fully reconciled through further debate. **Council Member Mehr** commented that while Ivins City is part of the State of Utah and should respect its regulations, the City also has its own ordinances that should be enforced. He suggested that the consequences of enforcing local ordinances should be allowed to unfold, and if someone wishes to challenge the ordinances, they have the right to do so through legal means. **Council Member Murphy** posed a question to Dale Coulam regarding the difference between creating an ordinance that circumvents the State regulations and enacting height limitations that are not in violation of state laws and sought clarification on the motivation behind both approaches. **Council Member Mehr** inquired if the State of Utah explicitly mandated the deletion of City ordinances with design guidelines as a result of the legislative changes? **Dale Coulam** clarified that the State didn't require deletion, but rather stated that certain design elements for one or two-family dwellings are prohibited under the new regulations. **Mayor Hart** inquired of the Council as to whether they wanted to proceed with this discussion, to amend maximum building height regulations for one or two family dwellings. **Council Members Anderson and Scott** wanted to proceed with pursuing this. **Council Members Murphy, Johnson and Mehr** did not want to proceed with pursuing this. The discussion concluded.

6) CONSENT AGENDA

A. Approval of City Council Meeting Minutes for August 3, 2023

MOTION: Council Member Mehr moved to approve the Consent Agenda
SECOND: Council Member Johnson
VOTE: The motion carried unanimously.

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

Council Member Johnson reported that there is still a need for volunteers for Heritage Days and emphasized the importance of volunteers to support community activities.
Council Member Mehr reported that there will be a National Day of Service on September 9th, which involves a fun run/walk. Donations will be collected for the Washington County School District Counselor's Closet program and non-perishable food items for the Utah Food Bank.
Council Member Scott reported that West Nile Virus has been detected in Washington County earlier than usual this year and reminded people to take precautions against mosquitoes, such as wearing appropriate clothing and using repellent. He suggested eliminating standing water in yards, turn over containers and clean out wading pools and bird baths regularly.
There were no other reports.

B. Mayor

Mayor Hart reported on the ongoing issue related to the EMS sales tax. There has been confusion about whether communities could adopt this tax separately or if it requires a county-wide vote. The original legislative intent was for communities to establish their rates, but the language in the bill was not accurate, causing complications. St. George City and Washington withdrew from the proposal, leaving the Hurricane Valley Fire District, Santa Clara, and Ivins as

participants. He reminded the Mayor and Council of the upcoming Work Meeting with the Santa Clara City Council to discuss the situation further and decide how to proceed. **Council Member Scott** inquired about the likelihood of the proposal being defeated due to its complexity and inquired about the potential downside if the proposal fails and whether it could be revisited in the future. **Mayor Hart** indicated that if it fails at the county level and is not fixed, it may not be reconsidered, but if the legislative framework allows, it could be addressed individually at the municipality level. He pointed out the importance of getting visitors to contribute through sales taxes to cover EMS/fire costs, considering the large number of tourists the City receives.

C. City Manager/Attorney Dale Coulam

Dale Coulam reported that the City of Santa Clara has the ability to use Zoom for the upcoming joint work meeting. He provided an update on the Granicus glitch affecting motion records on the website. The glitch showed motions as "failed." A temporary fix has been implemented, and a permanent solution is being worked on but the official Minutes books are maintained by the City Recorder and are intact.

D. Items to be placed on future agendas

9) CLOSED MEETING

10) ADJOURNMENT

MOTION: Council Member Anderson moved to adjourn

SECOND: Council Member Johnson

VOTE: The motion carried unanimously.

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

The meeting adjourned at 8:30 p.m.

Respectfully,

Kari D. Jimenez, MMC
Ivins City Recorder