IVINS
CITY COUNCIL
MINUTES
December 7, 2023

NOTICE: This meeting was held electronically and in person. City Hall was the anchor location for the electronic meeting. You may watch the audio and video feed by going to www.ivins.com under "City Council" on the right of the home page and selecting "Audio".

1)WELCOME AND CALL TO ORDER

MAYOR AND COUNCIL: The meeting was called to order at 5:30 p.m. and announced there was a quorum present.

All present included Mayor Hart, Council Member Scott, Council Member Mehr, Council Member Johnson, and Council Member Murphy.

STAFF: City Manager/Attorney Dale Coulam, Public Works Director/City Engineer Chuck Gillette, Building and Zoning Administrator Mike Haycock, and City Recorder Kari D. Jimenez.

EXCUSED: None.

Audience: Laela Gaylord, Wayne & Cheryl Sietz, Bonnie Kline, Nicole McIlrath, Randon Lessing, James Barden, Sharon Gillespie, Becky and Chuck Warren, Sharon Barton, Chris Haddad, Steve Corry, Michele Adams, Kevin Smith, Neal Smith and others who did not sign in.

A. Acknowledgement of Quorum

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

B. Flag Salute

Council Member Johnson led the Flag Salute

C. Invocation

Council Member Johnson led the Flag Salute

D. Disclosures

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

2) REPORTS, PRESENTATIONS AND APPOINTMENTS

A. Presentation of a Proclamation regarding Wreaths Across America

Sharon Gillespie reported that on Saturday, December 16, 2023, that day will be recognized across the United States and other countries as Wreaths Across America where wreaths are placed on Veterans graves and this will occur at the Ivins City Cemetery as well. **Mayor Hart** read the Proclamation, a copy of which is available as an attachment to this agenda.

MOTION: Council Member Scott moved to approve the Proclamation regarding Wreaths Across America

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	ABSENT

B. Update on the Veterans Memorial, final year's budget and results of the golf tournament

Laela Gaylord provided updates on the Ivins City Veterans Memorial Project, emphasizing fundraising efforts, including events like Heritage Days and a successful golf tournament. St.

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George Exchange Foundation stepped in to assist the committee with fundraising under their nonprofit umbrella. After raising less than $5,000, the committee has decided to abandon the project at the end of 2023 and the funds that have been raised will be handed over to the St. George Exchange Foundation to support Veterans. **Mayor Hart** clarified that the City never committed to financial support, expressing disappointment in what had transpired. Co-Chair **Steve Corry** thanked the community for their support and acknowledged the competing interests of the City and suggested reevaluating the project's direction in the future. **Mayor Hart** referred to the City's support for Veterans and emphasized the City's contributions, including providing 10 acres of valuable land for the Southern Utah Veterans Home and Veterans Memorial Park that is located just north of the Veterans Home.

C. Presentation regarding the VOCA (Victims of Crime Act) Grant process

Tanya Wambold is the Victim Services Coordinator with the Santa Clara-Ivins Public Safety. She provided a PowerPoint presentation, a copy of which is available as an attachment to this agenda. She reported that the Victims of Crime Act was passed by Congress in 1984 and provided statistics for Washington County. The **Mayor and City Council** thanked her for work.

Council Member Mehr arrived at 5:45 p.m. and had no disclosures or conflicts of interest with items on this meeting's agenda.

D. Department Reports: Parks and Recreation; Public Safety

Mayor Hart indicated that Chief of Police Bob Flowers and Parks and Recreation Director Benny Sorensen were excused but electronic reports were provided and are available as attachments to this agenda.

Jason Monahan with the Santa Clara Ivins Fire Department provided an electronic report, a copy of which is available as an attachment to this agenda. He reported that there have been a few vehicle accidents where the vehicles left the roadway, one of which was fatal. There was a small structure fire at Black Desert Resort in the golfcart storage building that SCI Fire responded to. They assisted an individual in Snow Canyon State Park and had several employees attend various trainings. The Ivins City Youth Council as well as Council Member Scott learned about Fire and EMS at the Ivins Center Street station. SCI Fire Department is the only agency in Southern Utah that has a Fire Explorer program and they had three (3) Fire Explorers complete their ride along certification exams. **Council Member Mehr** referred to the recent vehicle accidents on Highway 91 and inquired if the recent construction or design of that project contributed to those accident. **Jason Monahan** stated no and indicated that both accidents were outside of the construction area.

E. Planning Commission Report

Chairperson Robinson reported that the Planning Commission held a Public Hearing on a Concurrent Land Use amendment from Medium-Density Residential to High-Density Residential and a Zone Amendment from Residential Estates, minimum lot size of 12,500 sq ft, to Residential Multi-Family on 1.97 acres on the corner of Main Street and 200 South. The Planning Commission recommended denial of that request but recommended approval of a Zone Amendment to Residential Single Family, minimum lot size of 7,500 sq ft. They also held a Public Hearing regarding Table 33-1 Residential Table of Uses prohibiting Resorts in all residential zones. The Planning Commission recommended approval of that and both of those Public Hearings move forward to the City Council. The Planning Commission also approved a Final Plat for Indigo Trails Phase 1-I.

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

KayeLynn Van Wagenen submitted a written Citizen Request, a copy of which is available as an attachment to this agenda. She proposed that the City adopt an ordinance to protect adjacent homes/property from damage caused by nearby construction and outlined some suggestions, as well as provided example ordinance text from New Orleans, LA and Philadelphia, PA.

4) PUBLIC HEARING AND ACTION ITEMS

A. Public Hearing on the Planning Commission's recommendation to deny a Concurrent Land Use Amendment from MDR (Medium-Density Residential) to HDR (High-Density Residential) and a Zone Amendment from R-1-10 (Residential, minimum lot size 10,000 sq ft) to R-2-10 (Residential, Two-Family District, minimum lot size 10,000 sq ft) on approximately .70 acres located at approximately 320 North Main. William Mcilrath-Owner/Applicant

Mike Haycock reported that the Planning Commission held a Public Hearing on this in November and recommended denying the Land Use and Zone Amendment based on the surrounding area and no adjacent zones to warrant the change. **Mayor Hart** opened the Public Hearing. **There were several individuals who spoke in opposition to this request,** commenting that the area is filled with single family homes, duplexes and high density would not be compatible in that area, spot zoning, and concerns regarding crime that may be associated with higher densities. One individual residing in that area was adamantly opposed, commenting that the applicant did not even show up and purchased the property for $365,000 cash and he and others were prepared to hire an Attorney to stop this if it were approved. They requested that the City Council follow the recommendation of the Planning Commission and deny this request. **Nicole Mcilrath** is the applicants mother and owns property across from her sons. Her son was unable to attend but she read a letter of explanation from her son, indicating that the mobile home that is currently on that lot is over 50 years old and he would like to remove the existing mobile home and build low profile duplexes that look like a single family home. **Mayor Hart** inquired if there was anyone on the Zoom application that wished to make a comment. **Cade Visser** indicated that there was not. **Mayor Hart** closed the Public Hearing.

B. Discuss and consider the Planning Commission's recommendation to deny a Concurrent Land Use Amendment from MDR (Medium-Density Residential) to HDR (High-Density Residential) and a Zone Amendment from R-1-10 (Residential, minimum lot size 10,000 sq ft) to R-2-10 (Residential, Two-Family District, minimum lot size 10,000 sq ft) on approximately .70 acres located at approximately 320 North Main. William Mcilrath-Owner/Applicant

Mayor Hart commented that with the size of the lot, there could be up to three (3) duplexes built. **Mike Haycock** indicated that it would depend on the dimensions but that was possible. Two or three single family homes could potentially be built as well as ADUs (Accessory Dwelling Units). **Council Member Murphy** referred to zone map and commented that the request is not compatible for the area. **Council Member Mehr** agreed and suggested that the City Council do what was recommended by the Planning Commission and deny this. **Council Member Scott and Council Member Johnson** agreed with Council Member Murphy and Council Member Mehr.

MOTION: Council Member Mehr moved to deny a Concurrent Land Use Amendment from MDR (Medium-Density Residential) to HDR (High-Density Residential) and a Zone

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Amendment from R-1-10 (Residential, minimum lot size 10,000 sq ft) to R-2-10 (Residential, Two-Family District, minimum lot size 10,000 sq ft) on approximately .70 acres located at approximately 320 North Main. William Mcilrath-Owner/Applicant
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	ABSENT

C. Public Hearing on the Planning Commission's recommendation on a proposed Amendment to Table 33-1 of the Table of Uses, Prohibiting Resorts in all Residential Zones. Ivins City-Applicant

Dale Coulam commented that Council Member Scott had suggested placing "X's" in the Table of Uses but an alternative would be to strike the paragraph for resort thereby removing it from the Table of Uses so it is a prohibited use. **Council Member Scott** agreed with the Planning Commission's recommendation to eliminate Resorts in all residential zones. **Mayor Hart** opened the Public Hearing and inquired if there was anyone on the Zoom application who wished to make a comment. **Cade Visser** clarified that there was not. There being no comments, **Mayor Hart** closed the Public Hearing.

D. Discuss and consider approval of Ordinance No. 2023-29, an Ordinance of Ivins City, Utah, amending Table 33-1 of the Ivins City Zoning Ordinance removing the Use "Resort" from all Residential Zones

Council Member Murphy indicated that this is fixing what was found.

MOTION: Council Member Murphy moved to approve Ordinance No. 2023-29, an Ordinance of Ivins City, Utah, amending Table 33-1 of the Ivins City Zoning Ordinance removing the Use "Resort" from all Residential Zones
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	ABSENT

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

E. Public Hearing on the Planning Commission's recommendation on Zoning Text Amendments regarding Subdivision Application and Review Process

Dale Coulam stated that he has been mentioning this for several months. In the last Legislative session, the State passed a new law on how subdivision applications are to be processed and specified procedures for review and approval of those applications. There are a few options as to who the person or body is that is involved in this process but it does not include a Municipal Legislative body because Land Use is an Administrative. This process is mandatory for all municipalities and the changes to this section need to be made in order to comply with State statute. The new process begins with a Preliminary Plan application and the City can no longer

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require a Concept Plan. That could be voluntary but the City cannot require it. A decision on a Final Plat could be made at staff level or it could consist of three (3) or more individuals, which would require a public meeting and the requirements of the Open and Public Meetings Act. **Mayor Hart** opened the Public Hearing and inquired if there was anyone in attendance through the Zoom application. **Cade Visser** indicated that there was a hand up on Zoom. **Lisa Ganz** commented that she understood what the State was doing and commented that it should be conveyed to the public that they are now giving land use authority to unelected officials. She inquired what the City was doing to regain authority on making decisions on a city-wide basis so that it is not a State mandate. She inquired if the City has reviewed or looked at alternate ways to get around the State so that the City and the public can have more decision making abilities. There being no other comments, **Mayor Hart** closed the Public Hearing.

F. Discuss and consider approval of Ordinance No. 2023-22, an Ordinance of Ivins City, Utah, amending Chapter 4 of the Subdivision Ordinance regarding Subdivision Application and Review Process

Council Member Mehr commented that basically the State is saying if an applicant brings forward a plan, the City Council is removed from that process. **Dale Coulam** indicated that sometimes City Councils have gotten their Legislative and Administrative Authority confused but the City has no discretion to deny a plan application if it meets the ordinance. **Council Member Mehr** suggested that the Planning Commission be the Land Use Authority with the advice and consent of the Mayor and City Council for Preliminary Plans. **Dale Coulam** clarified that the Mayor and City Council are not allowed to have any involvement in the process. **Mayor Hart** commented that what this does is places the burden on the Council to make sure that the zoning and ordinances are representative of what the intent of the City is so there's no question when the application goes to staff, that it is in compliance. There's always the hope that they could reverse this legislatively but the obligation is to put this in place per the State. The **City Council** agreed that the Planning Commission should be the body for the Preliminary Plan and that the Committee for Final Plats consist of three (3) individuals, those being the Planning Commission Chair, the Building and Zoning Administrator and the Assistant City Engineer. **Dale Coulam** inquired as to the name of the body. The Mayor and City Council discussed some suggestions and determined that the name of the body would be the Final Plat Review Authority. **Council Member Mehr** referred to extensions of plans and suggested that if there is an extension of a Preliminary Plan, those go to the Planning Commission and if there is an extension for a Final Plat, that goes to the Final Plat Review Authority.

MOTION: Council Member Mehr moved to approve Ordinance No. 2023-22, an Ordinance of Ivins City, Utah, amending Chapter 4 of the Subdivision Ordinance regarding Subdivision Application and Review Process, as discussed and amended
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	ABSENT

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

5) DISCUSSION AND POTENTIAL ACTION ITEMS

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A. Discuss and consider approval of an amended Preliminary Plan for Serenity Estates, located at approximately 600 South Main Street, Corner the Market, LLC-Owner. Tony Allen-Applicant

Mike Haycock reported that this subdivision consists of a total of 17 lots on 6.12 acres. The property is zoned R-1-10 Single Family Residential, minimum lot sizes of 10,000 sq ft. The proposed improvements are in compliance with City ordinances and the Technical Review Committee reviewed the Preliminary Plan and recommends approval. There was a discussion regarding the owner to the south not willing to participate or dedicate property at this time and there potentially being a road alignment issue because of that. **Chuck Gillette** clarified that the City was not planning on 600 connecting to 120. The property to the south is owned by the Catholic Diocese and will likely become something other than a subdivision. **Council Member Scott** pointed out that Preliminary Plans are supposed to show individual lot sizes but this one does not. It is clear that overall these are larger lots but he wanted to ensure that the lots are all at least 10,000 sq ft.

MOTION: Council Member Scott moved to approve an amended Preliminary Plan for Serenity Estates, located at approximately 600 South Main Street, Corner the Market, LLC-Owner. Tony Allen-Applicant, with the condition that individual lot sizes are placed on the Preliminary Plan and that all lots are at least 10,000 sq ft.

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	ABSENT

B. Discussion regarding feasibility of Ivins City holding a developer responsible for property owner damage

Dale Coulam indicated that overall he was opposed to this. He has seen ordinances passed that require liability coverage and he was fine with that but to say that the City is going to hold up a development or a C.O. (Certificate of Occupancy) because of damage, that would be punishing the owner and not the developer the majority of the time. To hold up future development of the other lots that the developer already has entitlements to, could result in an illegal taking which means the City pays for that property. He has had discussions with the private property rights Ombudsman and confirmed with him again for the same reasons, he would not recommend passing an ordinance that creates liability for a City. Even if the City requires liability coverage on the part of the developer, it is still a civil dispute and if the parties cannot come to terms with the insurance company and settle, one of the parties would still have to bring a legal action in a civil court. Government does certain things, courts to do other things and courts have jurisdictions over civil matters. The City does not have anyone on staff who is a Geotechnical Engineer to be involved in that process. The developer is required to go out and get Geotechnical studies and follow them.

Council Member Scott liked the research that had been done but commented that there may be another way of addressing this, similar to what is done with zoning where a notice is sent to adjoining properties of construction. **Mayor Hart** suggesting adding a description in the notice that gives the type of activity that would be occurring. **Council Member Mehr** was concerned about over-legislating this. **Dale Coulam** indicated that it would start with the Planning

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Commission and that he had no objection to that approach and drafting language in a paragraph for a notice. The **Mayor and City Council** agreed. The discussion would start with the Planning Commission.

C. Discussion regarding a grading ordinance to not allow developers to scrape native vegetation, allowing the land to be infested with non-native vegetation for years prior to development

Dale Coulam stated that he has talked to Chuck Gillette about this and they agreed that it could be more clear in Ivins ordinances regarding grading. It's difficult to just say "no mass grading" because there are reasons to mass grade. The City would need some language regarding a legitimate reason the property could be graded but in general, the whole property is not graded and there could be a requirement to revegetate and present a plan of how it will be revegetated. **Chuck Gillette** referred to the property next to the Rocky Vista University. They were trying to stabilize the soil by compacting it and creating a hard crust. That worked for a year but then the project was outside of the permitting process. The City may want some restriction because it is less expensive to grade the entire property at the same time but doesn't make sense to import and export fill for cut and fill issues. He suggested that a property could only be graded for the current phase, unless there is a legitimate reason for the property to be graded all at once. The **Mayor and City Council** agreed. Dale Coulam and Chuck Gillette will start with drafting some language and then it will be start at the Planning Commission.

D. Discuss and consider whether Arts RAP (Recreation Arts & Parks) Tax Funds could be used to fund the Veterans Memorial

Dale Coulam indicated that Council Member Mehr brought this up at a prior City Council meeting. **Council Member Scott** stated that it was a creative approach but he looked at the Resolution and determined that because of the way it is structured, this could not be addressed due to the formula requiring the organization that is applying, to be an Ivins organization with proof of tax exempt status or proving that it brings significant funds to Ivins City. The way the Resolution is set up, this cannot be done through that means. **Council Member Mehr** indicated that the City has decided and valued this memorial and set aside property and decided this is a City project. **Dale Coulam** clarified that per the City Council, this project was not a City project. Additionally, the RAP tax is up for renewal next year by a vote of the people and it barely passed in 2014. **Mayor Hart** stated that the other option was that the City could make this a City project and budget for it. There were discussions regarding who would own the memorial when it was complete, private funding and fundraising. **Dale Coulam** indicated that Ivins' independent auditor has advised the City against fundraising as a City, for a non-City project. As it relates to funds, legally it would be best for the City to say this is a City project and then the City becomes the guarantor and donors may donate because the City would be guaranteeing that the project is built. **Mayor Hart** stated that the City could not tie a future Council but agreed that with large donations, if there is no set timeframe for the project, donors may be reluctant to donate. The challenge the City is going to have is adding a $400,000 project into an already tight budget. When something becomes a City project, the City is using tax revenue for the project. There are a lot of things that are works of art that are not considered art. The **Mayor and City Council** agreed that this would be a budget related agenda item for discussion when the budget is amended in the future.

E. Discuss and consider approval of Ordinance No. 2023-28, an Ordinance of Ivins City, Utah, adopting the City Council Meeting Schedule for the Calendar Year of 2024

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Council Member Scott referred to Sept 5th City Council meeting and indicated that the Utah League of Cities and Towns Annual Convention is September 4th, 5th and 6th in Salt Lake City. **Council Member Mehr** suggested removing that meeting date. The **Mayor and City Council** agreed.

MOTION: Council Member Mehr moved to approve Ordinance No. 2023-28, an Ordinance of Ivins City, Utah, adopting the City Council Meeting Schedule for the Calendar Year of 2024 as amended, removing the September 5th meeting date
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	ABSENT

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

F. Discuss and consider approval of an expenditure for construction of Contract 23-06 Highway 91 Roberts Wall

Chuck Gillette reported that Ivins City negotiated with Bill and Dawn Roberts to purchase an easement on their property for the trail along Old Highway 91. As part of the agreement, Ivins City agreed to install a wall between the Roberts property and Old Highway 91.

MOTION: Council Member Mehr moved to approve an expenditure for construction of Contract 23-06 Highway 91 Roberts Wall, not to exceed $37,189.40
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	ABSENT

6) CONSENT AGENDA

A. Approval of City Council Meeting Minutes for November 16, 2023
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B. Approval of City Council Special Meeting Minutes for November 30, 2023
Minutes - DRAFT

MOTION: Council Member Scott moved to approve the Consent Agenda
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	ABSENT

7) CONSENT AGENDA ITEMS FOR DISCUSSION

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8) REPORTS

A. Council

No reports

B. Mayor

Mayor Hart reported that there has been a suggestion by a resident to bring State Legislators into the City to have a conversation with residents. That has been arranged to occur on Saturday, January 20th at either 6:00 or 7:00 p.m. The thought was to hold that meeting in the Ivins Council Chambers, unless there are going to be a lot of people in attendance. It was determined that the Hafen Theatre at Tuacahn would be available and it would be held there. **Mayor Hart** thanked Kevin Smith with Tuacahn for offering that space.

C. City Manager/Attorney Dale Coulam

Dale Coulam reported that there is a discrepancy in Ivins' ordinance regarding metal awnings, carports and patio covers. Discussion regarding that will go before the Planning Commission in the near future and then will come before the City Council with the Planning Commission's recommendation.

D. Items to be placed on future agendas

Veterans Memorial as a budget item

9) CLOSED MEETING

10) ADJOURNMENT

MOTION: Council Member Mehr 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	ABSENT

The meeting adjourned at 8:30 p.m.

Respectfully,

Kari D. Jimenez, MMC
Ivins City Recorder

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