Ivins City Staff Report
City Council Meeting 1/4/2024

Agenda Item: Discuss and consider approval of an agreement to acquire 50 feet of Right-of-Way on Kwavasa Drive for the portion that is currently private.

Submitted by: Charles Gillette, P.E. Public Works Dir/City Engineer

Recommended City Council Action: Approve agreement.

BACKGROUND:

Kwavasa Drive has a segment of private roadway that is currently owned by Kayenta/R. Terry Marten. This segment starts at the bottom of the Kayenta Dry Wash and extends west to Kayenta Parkway. As many are aware, the roadway has become dilapidated and is in dire need of repairs.

The history of this roadway is as follows:

- The Kwavasa Drive extension was planned as a future master planned collector/arterial roadway since 2005.
- In 2006 an agreement was made with Kayenta/R. Terry Marten to allow the grading of roadways for the purpose of improving access on the west side of Ivins in the case of a wildfire. Kwavasa Drive was on the list and Kayenta graded and graveled a 26-foot-wide access road.
- Later in approximately 2010, Kayenta decided to install a double layer of chip seal over the gravel roadway. This roadway connected Paiute Drive from the Taviawk subdivision to Kayenta Parkway.
- In 2016, Kayenta, to reduce construction traffic on Taviawk Drive indicated that it wanted to connect the paved road to 600 West and 200 North. Ivins City agreed to pay for a portion of the pavement due to the improved city connectivity and public safety access. It was originally going to be a double chip seal roadway, but Kayenta agreed to pay the extra costs to upgrade it to a permanent paved section of the roadway. Kayenta dedicated 50 feet of right-of-way for the project and the City used Council of Goverments (COG) funding to pay for the full future right-of-way of 108 feet.
- In 2019, Ivins City completed a storm drain and irrigation system master plan facility project. This project required that the City acquire right-of-way, which was dedicated at no cost by both Kayenta and SITLA. As part of the utility project, a lengthy segment of chip seal was damaged and was replaced entirely with permanent asphalt pavement.
- Kayenta has not improved the roadway for some time now and the road is as it is now in its current state.

Kayenta is arguing that the roadway should be a public roadway and if the City does not agree to the attached acquisition and repair agreement that it will shut down the roadway connection. The proposed agreement (see attached) is as follows:

- Kayenta will dedicate 50 feet of right-of-way and Ivins City will use COG funding to purchase the remaining amount for a full width of 108 feet.
- Kayenta will pay $5,000 towards the roadway repair.

- Kayenta has a section of the roadway that is in conflict with the pickleball courts and requests a revokable license agreement that allows them to not have to relocate the courts until the full right-of-way width is needed.

FINDINGS AND ANALYSIS:

The current roadway needs to be repaired. Staff has identified the following plan to make the repairs. First the potholes need to be patched at an estimated cost of $10,000. If the City uses staff the actual cost to the budget would be approximately $2,000 to $3,000. Second, the chip seal surface needs either a new double chip seal ($50,000) or a cape seal ($40,000).

It is important to note that the chip seal roadway is temporary. It will still require upkeep and maintenance with costs similar to a paved roadway but when the adjacent properties develop, the City will require that the chip seal pavement be removed, and a new roadway be installed at that time.

There is potentially a real risk of the roadway being closed, but it is also true that both Ivins City and Kayenta Development both depend heavily on the roadway connection, so it is difficult to assess how serious the threat of closure really is. Regardless it is not common for a private entity to maintain a private roadway that is serving the needs of both public and private users. It is also not uncommon for the City to expend funds for these types of situations where there is a gap between development that needs to be filled.

A meeting between the Mayor, City Manager, Public Works Director/City Engineer and Kayenta was held last week and is supporting the approval of this agreement.

SUPPORT MATERIALS:

- Proposed Agreement

FINANCIAL IMPACT:

The costs to repair the roadway initially are estimated $10,000 for patching and $40,000 for the cape seal. Kayenta is offering to offset these costs by $5,000. The total estimated initial cost is $45,000. Then from this time forward there will be ongoing maintenance costs.

Respectfully Submitted:

Charles Gillette, Public Works Dir/City Engineer

Content Review:

Dale Coulam, City Manager

Memorandum of Understanding
Regarding Kwavasa Drive Right-of-Way Acquisition

Whereas:

1. Kayenta has constructed a temporary private roadway to connect Kwavasa Drive according to the Fire Protection Access Plan MOU dated May 2006.
2. Kayenta installed roadbase and chipseal on the roadway from Kayenta Parkway to Paiute to facilitate increased community connection.
3. In 2016 Ivins City and Kayenta cooperated to pave the rest of Kwavasa from Paiute to 200 North so that it could be used by more of the community. The original plan was to install a double chipseal, but Kayenta paid to upgrade the roadway to asphalt pavement. Ivins City contribution was $50,000, which represents approximately 50% of the cost of the roadway.
4. In 2019, Ivins City as part of an irrigation and storm drain extension project acquired the ROW from 450 North to the bottom of Dry Wash and replaced a section of chip seal with permanent asphalt pavement.
5. Ivins City now owns all the right-of-way from 200 North to the bottom of Dry Wash. There is a remaining section that is approximately 2300 feet long that is still private and belongs to Kayenta.
6. The roadway has become an important connection to the Kayenta Community and the Coyote Gulch Commercial area.
7. Kayenta has allowed the chipseal roadway to deteriorate. Potholes have developed and the road is becoming an unsafe roadway. Kayenta has posted signs indicating that traffic needs to slow to 15 miles per hour due to safety or the road will be closed.
8. All parties see value in allowing the roadway to remain open.
9. The temporary chipseal roadway needs to be repaired to make current usage safer, but eventually the temporary roadway will be replaced with a permanent asphalt paved road when Kayenta develops the adjacent property.
10. The existing pickleball courts are in conflict with the future roadway alignment as Kayenta has decided to soften the curvature in this area.

Now, therefore, the parties agree to the following:

1. Kayenta agrees to dedicate 50 feet of the ROW per the future alignment and the City agrees to pursue COG funding for the purchase of the remaining ROW for the future full width of 108 feet.
2. Both parties agree that the temporary roadway needs to be repaired by cutting out the potholes and patching these distressed areas followed by a capeseal.
3. Ivins City agrees to make all the repairs.
4. Kayenta agrees to provide $5,000 to aid in the repair of the roadway.
5. Ivins City agrees to grant a revokable license for the pickleball courts to continue as is until the roadway needs to be widened based on future development.
6. Ivins City agrees to pursue the roadway repairs immediately understanding that the ROW acquisition process may take 4 to 10 months to complete.
7. Ivins City agrees to patch the potholes immediately upon the signing of this agreement. Ivins City will install the capeseal once the right-of-way is acquired by Ivins.

SIGNED:

By:_____
Kayenta, R. T. Marten, Owner and Manager

Date: _____

Attest:

By:_____
Ivins City Mayor, Chris Hart

By:_____
Kari Jimenez, Ivins City Recorder

Date: _____