IVINS
CITY COUNCIL
MINUTES
March 7, 2024

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.

Audience: Becky & Chuck Warren, James Barden and others who did not sign in.

A. Acknowledgement of Quorum

Mayor Hart acknowledged there was a quorum present.

B. Flag Salute

Council Member Scott led the Flag Salute

C. Invocation

Council Member Scott gave the Invocation

D. Disclosures

Council Member Anderson referred to agenda items 4)A and 4)B and disclosed that he is the Owner and Applicant for those agenda items. There were no other disclosures or conflicts of interest with items on this meeting's agenda.

2) REPORTS, PRESENTATIONS AND APPOINTMENTS

A. Recognition of a long-term Crossing Guard

The **Mayor, City Council and Santa Clara Ivins Public Safety Department** recognized and congratulated Crossing Guard Sandy Ames for her 15 years of service. **Mayor Hart** read a prepared recognition, a copy of which is available as an attachment to this agenda.

B. Ivins City Youth Council Report

Youth City Council Mayor Summer Terry introduced the Youth City Council, consisting of herself, Madeline Francis, Oliver Robertson and Jaycee Terry. The Youth Council Advisors are Jamy Dahle, Tiffany Wynn, Bob Morris and Mike Scott. She reported that they have been involved in several activities including Ivins Heritage Days Parade, a Halloween activity, Wreaths Across America and Legislative Days at the State capitol in Salt Lake City where they spent time with Representative Neil Walter.

C. Department Reports: Parks and Recreation and Public Safety

Benny Sorensen provided an electronic report, a copy of which is available as an attachment to this agenda. He reported that he needed direction as it related to the roundabouts on Highway 91 and the design for landscape and art in those. **Mayor Hart** suggested that he follow-up with the Arts Commission. **Mayor Hart** reported that this would be the last in-person report from Benny, as he is retiring at the end of March. The **Mayor and City Council** wished him all the best. Benny Sorensen thanked the Council and indicated that it had been a pleasure working for Ivins City for more than 20 years.

Bob Flowers reported that ABC News has been in Ivins preparing a 20/20 episode that will be aired nationally on Friday, March 22nd regarding the Hildebrandt and Franke child abuse case. The ABC News team spent 3 to 4 hours with each Officer and EMS Technician and were touched and impressed by the way the case was handled. He reported that they are on track for

the Black Desert PGA Tour Championship and are confident everything is going to be okay. They will be providing more detail down the road.

Con Fulde reported that they have been assisting with clearing Tamarisk out of the washes in Kayenta. Ironman is coming up and they are preparing for that event and they held a live fire training. **Council Member Smith** indicated that the National Guard will be at Tuacahn doing a Hazmat Training on April 25th.

D. Planning Commission Report

Planning Commissioner Robinson reported that the meeting was short because of it being election caucus night. They were given homework from Mike Haycock regarding ADU's (Accessory Dwelling Units) to discuss at a later date. They held a Public Hearing on amending the Moderate Income Housing Ordinance, which will go before the City Council in the near future. They also recommended approval of an Amended Preliminary Plan for the Black Stone subdivision and a partial Amended and Extended Preliminary Plan for "A" Lot 1 of the Circle Cliff subdivision.

3) CITIZEN COMMENT & REQUEST FOR FUTURE AGENDA ITEMS

None

4) PUBLIC HEARING AND ACTION ITEMS

A. Public Hearing on the Planning Commission's recommendation to approve a Zone Amendment from Resort Mixed-Use to Resort Commercial on approximately 4.813 acres. AnA Enterprises, LLC-Owner. Lance Anderson-Applicant

Council Member Anderson recused himself and sat in the audience. **Mike Haycock** reported that the Planning Commission recommended approval of this zone change based on which zone best fits the area, the dimensions of the lot makes this parcel hard to develop and the RMU zone has been determined to be an unusable zone and may be considered a taking if the City leaves the parcel in its current zone. Changing the zone would allow Ivins City to remove the zoning from the land use and zoning maps and allow the property to be used without a taking. Mayor Hart opened the Public Hearing. **Lance Anderson** Indigo Trails 2010 - purchased the property from Quality - talked to the school district and before did anything with Mohave and...keep the heights lower - heard trying to redo the RMU zone and he's the only one with the RMU and not a workable zone in Ivins;

B. Discuss and consider approval of Ordinance No. 2024-05, an Ordinance of Ivins City, Utah, regarding a Zone Amendment from Resort Mixed-Use to Resort Commercial on approximately 4.813 acres

The **City Council** had concerns regarding the buffer zone for the existing residents and the possibility of more short-term rentals if this property was rezoned and inquired why Mr. Anderson was wanting to change the zone. **Lance Anderson** indicated that the current zone does not work. He tried many different layouts for the current zone and none work that would be the most beneficial to the community. **Council Member Scott** commented that if the City rezones this to Resort Commercial, then that whole site could become a resort, a hotel, a motel and short-term rentals and Lance Anderson is saying that he won't do that but the Council would be giving him the authority to do that if it is changed to Resort Commercial. The City has 2200 units of tourist accommodations coming online in the City in the next couple of years that are moving forward. There is another almost 700 units that are being talked about or would be allowed under the Resort Commercial zone as well as an overlay that is in the City. That is a lot of tourist accommodations in a community that only has 4500 homes and because of that, he cannot vote for any zone change to Resort Commercial. The City is done with that as a zone. If the City

changed that Resort Commercial zone to just take out all of the tourist accommodation type of uses, he would vote for this as long as there was a buffer for the existing homes. **Lance Anderson** agreed with that and suggested there be an overlay. The zone would be Resort Commercial with an overlay for the townhomes. **Dale Coulam** indicated that if the Council makes changes to the zone, as long as Lance's application is pending, the changes would apply to future applications but not to Lance's application. The governing law for Lance's application would be the current ordinance. **Mayor Hart** stated that the Council could if they decided, could zone certain parcels differently as they have done in the past but that is not what the applicant has requested. **Dale Coulam** clarified that they would not be able to zone a portion of the property as R-1-7.5 single family residential. RMU is a commercial district and that is clear in the code. In the legend it says any residential, any commercial, that is talking about mixing or combining uses together. You can combine uses in a mixed use environment but to say that this piece becomes zoned all residential or a portion is residential, is wrong. **Council Member Scott** indicated that the Council did that on the SITLA site with the buffer homes for the existing homes along Mesa and Puerto where the Council created residential on those portions. **Dale Coulam** clarified that in that situation, the developer was agreeable. **Council Member Scott** stated that however they do it, either by a re-zone or by a conditional use saying that portion is to be residential to create a buffer protection for the existing homes. **Dale Coulam** indicated that SITLA up front was agreeable to those buffer zones and the Council would have been applying RMU (Resort Mixed-Use) to the interior of that large parcel. On this parcel, under RMU, it would require a row of single family homes against the west side but they cannot change the zone to a strictly residential zone on that and then zone the rest of the parcel something different. **Mayor Hart** commented that if it boils down to the Council believing that there ought to be a buffer against the existing residential properties, then the RMU zone is the reasonable solution to that. **Dale Coulam** stated that one could argue or ask is that a partial taking? The answer could be maybe. Overall for the property, is RMU an economically viable use? Yes, it can be put to some economic use. The row of single-family residential homes is an economic use that is certainly viable and benefits the property owner. **Council Member Gillespie** agreed. **Dale Coulam** indicated if they apply the 15% degree view-angle, maybe that results in a partial taking because a reasonable buffer, if they go beyond 30 feet, they're pushing it. The open space that is required to say a developer gives up 30% as open space, that could be put to good use when there are residential homes in the project because it allows for some place to recreate and they do not have to cross the Highway to get to a public park. **Council Member Gillespie** stated that her biggest concerns were a buffer zone for the residents and changing zoning to Resort Commercial and the potential pandoras box that could open for additional overnight tourist accommodations. She respected Lance Anderson indicating that tourist accommodations are not of interest to him today but the Council has to think long-term because he may decide to sell that property, use another developer or a myriad of things that could then create potential problems with an RC zone. She was in favor of leaving the zone as RMU and inquired of the City Attorney if a variance could be provided to keep it RMU but make it more viable for the property owner. **Dale Coulam** clarified that a variance cannot be man-made so a variance cannot be used. The City Code does have a Special Exception but it has to be enumerated under that section and if it isn't listed there, that is not a possibility.
Council Member Barton stated that she had high regards for Lance Anderson and what he develops but she was not in favor of Resort Commercial because she firmly believed that Ivins has reached its tipping point of anymore Resort Commercial. **Lance Anderson** agreed. **Council**

Member Barton indicated that there has been instances in the past where they have changed the zoning based upon a developers vision and then that developer sold the property and the whole concept changed. She was not in favor of going forward with Resort Commercial. **Council Member Scott** stated that he still wants the housing buffer but asked the City Attorney if the Council were to zone the remainder of the property Resort Commercial, can they do that with a condition that all of the uses that are tourist accommodations are prohibited? **Dale Coulam** indicated no, it is a resort. That takes away a huge economically viable use that comes with the Resort. If you have a property owner that says I will stipulate that away, and they'll sign an agreement that says they property will never have that and the agreement is recorded against the property that runs with the property, that could occur but Ivins could not impose that. **Council Member Scott** inquired if the applicant would be willing to do that, could the City make that a condition? If Lance Anderson were to say he won't have any resort hotels, resort motels or tourist accommodations and says he understands that the Table of Uses gives him the uses but would accept that they would not be allowed uses under the Resort Commercial zone ever, could that occur? **Dale Coulam** yes, if Lance Anderson agreed to that and it is recorded and runs with the land. **Council Member Scott** stated that if the property was sold in the future, inquired if that still goes with the land? **Dale Coulam** clarified that it would and they would be bound by the agreement. **Council Member Scott** inquired of Lance Anderson if that worked for him. **Lance Anderson** questioned that he would never do any short-term rentals there? **Council Member Scott** clarified that Lance Anderson would not do any resort hotel or motel. **Lance Anderson** agreed and indicated that he was okay with that. **Council Member Scott** commented that Lance was not okay with the row of buffer houses? **Lance Anderson** indicated that he would be okay with saying those would have some residential houses up above but they wouldn't be R-1-7.5. They would be residential above a commercial building which would give the existing home owners 20 feet of distance from the property but if he built a house there, the buffer is only 10 feet then he can built 25 feet tall. He is trying to help with the environment, not take away from it. If the zone for the entire parcel was RC, he would agree not to put those resort accommodations in there because he doesn't want any in there and doesn't want any in there even if he doesn't own it. **Council Member Scott** inquired if Lance would, for the row of buffer homes, if he could agree with whatever he puts there just be one story buildings because the homes in Mohave are only one-story homes? **Lance Anderson** explained that because of the way that the property is set down, a house has sit on something so the parking would be down and the house would be sitting up above. There isn't enough dirt there to do that. **Council Member Gillespie** commented that on the upper level he could do that but on the lower level of the property he couldn't because there's too much space. **Lance Anderson** said yes because he has to do the same massing, meaning if he has two stories below, the third story would be residential and would match what is currently there. That is what he is trying to work out. As far as zoning for RC, he would agree to take out any resort hotels or motels because that is not what he wants. **Mayor Hart** indicated that what he's heard is that he has three (3) City Council Members who are not willing to follow the Planning Commission's recommendation but Council Member Scott was trying to negotiate something that is a compromise. He also heard Lance Anderson say that he's open to the suggestion that Council Member Scott has made about the nightly rental accommodations would go away. **Lance Anderson** stated yes. **Mayor Hart** inquired of Dale Coulam if that was something that the City could do. **Dale Coulam** indicated that he has always been against conditional zoning so the Council needs to zone it RMU or zone it RC. After the fact, they can enter into a Development Agreement that

would be recorded and run with the land. Lance Anderson stated that one of his philosophies was is to keep the buildings low. If he has to put an R-1-7.5 house there, he has to get up to that level to have parking so now he has to fill that hole in and bring all his buildings up, which means they are all high now. If he's down low, he can't put a building up above because you have to have a driveway and everything else to get to it and that isn't possible because there isn't enough space there. If he builds the buildings down below and builds up the two layers and the third one is residential, it works. If the zone remains at RMU and he has to build R-1-7.5 homes as a buffer, he has to raise the dirt up and the buildings are then 35 feet tall. That is what he's trying to avoid. He's trying to keep them low so they are not much higher than what is currently there. **Council Member Gillespie** commented that on the lower level of the property, if he builds two or three stories, then that third story would be level with homes that it backs up to and that would create a buffer. **Lance Anderson** said yes. The homes in Mohave are a 4:12 pitch and they could have been built up to 25 feet but he built them at 17 and 18 feet in height to keep them low. What would be built would be a flat roof building that may be two or three feet higher than the pitch on the homes in Mohave but there would be a distance of 20 feet away from the existing homes instead of a 10 foot backyard and no one is back there. **Mike Haycock** stated that another consideration is massing, which would be in the middle so it would be better to keep the lower stories to the front of the property. This property is narrow, which is another difficulty with this property. **Council Member Scott** indicated that he still wants buffer protection for the homes in Mojave and inquired what other way could they do that? With the three story buildings, how much higher will they be than the existing homes and looking into those backyards? **Lance Anderson** stated that the buildings would be 20 feet away from the existing homes and only three feet taller and the existing homes have a six foot fence. His buildings will not be much taller than those existing homes. **Council Member Scott** inquired that in addition to the condition for a zone change to not allow tourist accommodation uses allowed, can the Council put in some language that limits the height compared to the homes in Mojave? He referred to building R-1-7.5 homes, which would be approximately a 100 foot deep lot so in the first 100 feet from the Mojave homes, a height limit that is not more than three or feet above the existing Mojave homes. **Dale Coulam** suggested this be continued because they would need a Development Agreement entered into that says if the Council approves this to Resort Commercial, then the applicant agrees to conditions as a Development Agreement and then the City can put those conditions in place. **Mayor Hart** commented that they are essentially trying to create a buffer that isn't exactly a buffer like it is defined under RMU and inquired if they were suggesting that be residential or it could be commercial but restricted in height? **Council Member Scott** clarified that was correct, it would be the height restriction, along with the tourist accommodations. **Mayor Hart** indicated that if the property was changed to Resort Commercial under those terms, the other thing that is lost in the zone change is the 35% open space requirement. **Council Member Scott** stated that was correct and indicated that to him, the buffer is more important and the lack of tourist accommodations. Resort Mixed-Use still allows the tourist accommodations so he would love to change that zone. **Mayor Hart** inquired of Lance Anderson if he was willing to do that. **Lance Anderson** indicated that his intent is not to overwhelm those that are there. **Mayor Hart** stated that to grant the zone change, in companionship with the Development Agreement that specifies those terms and the restriction on any resort accommodations? **Council Member Scott** clarified tourist accommodations. **Mayor Hart** stated that restaurants and so forth are fine and if that is the direction that the City Council wants to go, this should be continued so that a Development Agreement could be drafted with

those stipulations. The **City Council** agreed. **Lance Anderson** commented that instead of using the terminology of "tourist accommodations", use "no resort hotels or motels" because that is what they don't want. A restaurant could be a tourist accommodation and he would like restaurants to be allowed. **Council Member Scott** clarified that he used the term "tourist accommodation" generically. The Table of Uses lists Hotel, Motel and Resort Hotel. It also lists Bed and Breakfast but he was not concerned about that.

MOTION: Council Member Smith moved to continue agenda item 4)B
SECOND: Council Member Barton
VOTE: The motion carried unanimously.

Council Member Scott	AYE
Council Member Smith	AYE
Council Member Barton	AYE
Council Member Gillespie	AYE
Council Member Anderson	AYE

5) DISCUSSION AND POTENTIAL ACTION ITEMS

A. Discussion regarding the Proclamation for Dark Sky Week

Mayor Hart indicated that Council Member Scott sent him language used in a Proclamation by the Governor. He will refine that and if the Council agrees, will bring this forward at the next City Council meeting. The City Council agreed.

B. Discussion regarding the Public Safety Budgets for Fiscal Year Ending 2025

Mayor Hart reported that some informal meetings have been held with Santa Clara to find solutions to some issues. Santa Clara has recognized that the agreement says what it says and there is the possibility of a comprise. **Dale Coulam** indicated that the Ivins City Council has authorized a compromise but he was unaware if the Santa Clara City Council has discussed this yet. Ivins City has not received Santa Clara's Fire Budget and per the agreement, they are to do that by March 15th and suggested that they continue this to the next City Council meeting. The City Council agreed.

C. Discussion regarding the Interlocal Agreement with Santa Clara regarding Fire and EMS

The **Mayor and City Council** discussed this at length and determined that the current agreement will remain in place, a consultant will be hired to perform an assessment and then at the end of this year the two cities will sit down and figure out what the right thing for each City is going forward.

D. Continued discussion regarding updating the General Plan

Mayor Hart indicated that he has been working on consolidating some things but did not have a version to provide to the rest of the City Council in advance of tonight's meeting. He will be providing information to the City Council before the next Work Meeting. The Dry Wash Reservoir will be an agenda item on the next Work Meeting agenda, in addition to discussing the General Plan.

6) CONSENT AGENDA

A. Approval of City Council Work Meeting Minutes for February 1, 2024
B. Approval of City Council Meeting Minutes for February 1, 2024

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

Council Member Scott	AYE
Council Member Smith	AYE

Council Member Barton	AYE
Council Member Gillespie	AYE
Council Member Anderson	AYE

7) CONSENT AGENDA ITEMS FOR DISCUSSION

8) REPORTS

A. Council

Council Member Gillespie reported that the first meeting of the Affordable Housing Task Force was held last week and they left the meeting with projects and assignments and they will meet again in 30 days. A significant piece of the meeting will be Doug Clifford breaking down what legislation passed and what it means.

There were no other reports.

B. Mayor

Mayor Hart reported that in response to the TalkAbouts and upcoming meetings about Dry Wash Reservoir, that has become a complicated issue. The City is committed to mitigating certain problems if the reservoir is built and he is hopeful that there can be meaningful discussions at their Work Meetings and not just a we want it or don't want it discussion. They need to focus on specific things. The Water Conservancy District will be taking several individual to Las Vegas to visit some of their storage facilities.

C. City Manager/Attorney Dale Coulam

Dale Coulam reported that just before the next City Council meeting, the annual Municipal Building Authority will be held. That is the body that holds the bond on the new City Hall.

D. Items to be placed on future agendas

Change to the Final Plat Authority regarding the number of people required to review the plats. The Council would like that changed to just one (1) person. **Dale Coulam** clarified that is part of the subdivision ordinance and would need to begin at the Planning Commission and then come forward to the City Council.

9) CLOSED MEETING

10) ADJOURNMENT

MOTION: Council Member Anderson moved to adjourn

SECOND: Council Member Scott

VOTE: The motion carried unanimously.

Council Member Scott	AYE
Council Member Smith	AYE
Council Member Barton	AYE
Council Member Gillespie	AYE
Council Member Anderson	AYE

The meeting adjourned at 8:18 p.m.

Respectfully,

Kari D. Jimenez, MMC
Ivins City Recorder