

**IVINS CITY
COUNCIL MEETING
Minutes
January 24, 2008**

1. WELCOME AND ROLL CALL

A. Acknowledgement of Quorum.

MAYOR AND COUNCIL: Mayor Barney called the meeting to order at 5:30 P.M. and announced that there was a quorum present. All present included Council Members George E. Elwell Jr., Michael Foot, Steve Jolley, Carol Tenczar, and Barbara Rusick.

STAFF: City Manager Judy Gubler, City Attorney Dale Coulam, City Recorder Karyl Keanaaina, City Engineer Chuck Gillette, Public Works Director Dave Glenn, Building and Zoning Administrator Kevin Rudd, Planning Commission Chairman Chris Hart.

EXCUSED: Ivins City Youth Council Mayor Mark Lounsbury

AUDIENCE: Larry Barnhart, Troy Nelson, Gordon Bone, Linda Elwell, T.J. Maserang, Braden Nelson, Jerry Sherman, Bob Nickerson, M.K. Bearnson, Virginia Hill, Chris Heath, Matt Marten, Jerry Erickson, Sharlet Erickson, Jodi Eardley, Glenn Cottam, Harold A. Turner, Brian Cameron, Tom Pruden, Kathy Ravenberg, Glenn Ravenberg, Slava Lubomudrov, Dan Noorda, Stacy Porter, Liz Porter, Brent Hafen, Hanse Christiansen, Jared Ross, Irvin Ence, Margaret Flynn, James E. Cook, Maxine Cook, Ray Oldham, Vonia Brooks, Tony Bodell, Sherrie Bodell, Jennifer Little, R.J. Best, Jason Gubler, Mary Ann Gubler, Frank Bowler, Ellen Bowler, Warren Hoskings, Bonnie Hoskings, Larry Jansen, Judy Jansen, Kevin Smith, KD Taitano, Marie Hanson, Doug Little, Ross C Fillmore, Cheri Steele, Mike Gibson, Mike McConnell, Toni Ence, Debbie Hafen, Tyson Borrowman, Kent White, Paul Jackman, and others that did not sign in.

B. Flag Salute.

Council Member Jolley led the Flag Salute.

C. Invocation.

Council Member Jolley gave the Invocation.

D. Disclosures.

Council Member Elwell stated he had no conflict of interest with items on this meeting's agenda.

Council Member Foot stated he had no conflict of interest with items on this meeting's agenda.

Council Member Jolley stated he had no conflict of interest with items on this meeting's agenda.

Council Member Tenczar stated she had no conflict of interest with items on this meeting's agenda.

Council Member Rusick stated she had no conflict of interest with items on this meeting's agenda.

Mayor Barney stated he had no conflict of interest with items on this meeting's agenda.

2. REPORTS, PRESENTATIONS, AND APPOINTMENTS

A. Youth Council Report by Youth Council Mayor Mark Lounsbury. –Excused

B. Ivins Tourism Council Report.

Kevin Smith gave a report on the Ivins Tourism Council attached to these minutes. The Tourism Council is registered as a 501(C)3. Their purpose is to encourage business and economic growth by promoting and preserving the red rock splendor of the Ivins area as a scenic destination, offering outdoor recreation, arts and entertainment, cultural and natural history and healthy living. Membership is \$120.00 per year. The efforts of the Tourism Council have created a commitment of \$5000.00 and

they are seeking matching grant funds to help advertise the Ivins area as a wonderful place to visit. He stated that the Tourism Council may ask the City for matching funds in the future.

Mayor Barney thanked them for their presentation and stated that funding consideration would be put on a future agenda. He also asked if the Tourism Council would like to make a quarterly report to the City Council.

Kevin Smith stated that as a member of the Tourism Council the City should have a staff member attending the meetings that could report to the Council monthly if needed.

Council Member Rusick asked when the website would be up and functioning?

Kevin Smith stated that when they have adequate funds that will be the first project worked on. He estimated it would be within a few months.

C. Department Reports: Public Works, Engineering.

MOTION: Council Member Jolley moved to suspend the rules and move the Department Reports before the Consent Agenda.

SECOND: Council Member Foot.

VOTE: The motion carried unanimously.

George E. Elwell, Jr.	AYE	Michael Foot	AYE	Steve Jolley	AYE
Carol Tenczar	AYE	Barbara Rusick	AYE		

D. Planning Commission Report.

Chris Hart reported the Planning Commission dealt with the proposed zone changes in Kayenta. Only three (3) members of the Planning Commission were in attendance at the meeting. Therefore the discussion was continued to the next Planning Commission Meeting. There are a number of residents in Kayenta that are interested in the outcome of that item.

Council Member Foot pointed out that Mr. Hart had received the Mayor’s Award for Community Service for his efforts through his business and as an individual in the community. Chris Hart was also awarded the Utah Homebuilders Association Homebuilder of the Year for Signature Homes. That is an exemplary achievement. Mr. Hart is the first homebuilder in Southern Utah to receive this award. Council Member Foot expressed the thanks of the City Council for his commitment to the community and Southern Utah. To commemorate this achievement the Council Member presented a framed copy of the award article to Mr. Hart.

Chris Hart thanked the Council for their recognition.

3. CITIZEN COMMENT & REQUEST FOR FUTURE AGENDA ITEMS-None

4. PUBLIC HEARING AND ACTION ITEMS

A. Continuation of Public Hearing on Planning Commission’s Recommendation to Consider Amendments to the Ivins City Zoning Ordinance. Applicant: Ivins City.

Dale Coulam reviewed the process of Zoning Ordinance Amendments, the purpose of the Public Hearing, and what stage we are at in the process for these proposed amendments. City Ordinances require at least two (2) Public Hearings on Zoning Amendments before the Planning Commission. The Planning Commission will then discuss, refine, and recommend action to the City Council. The Planning Commission’s discussions have been summarized in minutes for the City Council to review. Then there are at least two (2) Public Hearings before the City Council before they commence their discussions. There seemed to be some misunderstanding at the last City Council meeting that the City Council had somehow done something very bad to the City, but that was the first time the City Council had seen the proposed ordinance. In the process the proposed amendments had just left the discussions of the

Planning Commission and for the first time had come from the Planning Commission to the City Council to look at and consider and to hear public input. When the proposal was at the Planning Commission they did not have the advantage of hearing from so many in the community. There was only one (1) person who spoke on the proposed ordinance changes. It is good that the public has come out to participate in this process. The purpose of the Public Hearing is to receive evidence, additional information that the City Council or staff may not have, or suggestions for the language of the ordinance that might help to improve the ordinance. In order to be productive with your comments, it is helpful to have read the ordinance, to see how it affects you, and to suggest ways it might be altered to apply evenly and fairly throughout the entire City. In this particular case the existing ordinance on the books, would have prevented anything over two (2) RV's in a yard or piece of property. As the issue came to staff for enforcement city-wide and how the existing ordinance could be applied fairly and evenly we found there were problems with the existing ordinance. As Kevin Rudd explained at the last meeting, several months ago the City Council considered whether these provisions should be reviewed to see if they could be made more workable. That is where this process started. There was also some confusion at the last meeting between the City's Nuisance Ordinance and the Zoning Ordinance and how those apply. The Nuisance Ordinance applies to "junk" or "stuff" that is not allowed. These items can be defined as unsheltered personal property that is viewed from a public way that appears to clutter the property, or excessive weeds and/or debris in a yard. The Nuisance Ordinances of the City have been on the books a long time. They were on the books well before the 1970's. There have been two (2) changes to the Nuisance Ordinances made by previous City Councils which relaxed and made the ordinances more workable so they could be fairly applied throughout the City. For example the old ordinance stated if debris in a yard could be seen from an adjoining property it was deemed to be a public nuisance. That was difficult for the staff to enforce because we don't want to go on people's property and look from adjoining views. The Ordinance was softened to say if debris is visible from a public way and is not screened it does affect the public, and therefore that is a public nuisance. Zoning involves issues of density, mass, and views. There are Zoning Ordinances that regulate how big of an outbuilding you have; an outbuilding cannot dwarf the primary residence and the ordinance assures that accessory buildings are related to the size of the residence. It also addressed the parking of RV's in a yard. Some RV's can be as large as or larger than your typical outbuildings that are constructed and some are buildings that just happen to be on wheels that triggers some zoning considerations. That is found in the Zoning Ordinance and that is the ordinance we are talking about tonight in the Public Hearing. To be productive in the process first you should have read the ordinance, see how it applies to your property, and give the City Council an example of how changes to the regulation might address your special considerations. He cited an example of the first speaker at the last Public Hearing, Mr. Ravenberg, when he stated how the proposed changes applied to his property and pointed out that because of the size of his lot a 40 foot RV could be parked in his front yard and would still be behind the front yard setback. He pointed out that larger lots might warrant different regulations than smaller lots. Smaller lots that would have that same size of RV parked in their front yard would cause sight vision problems for children and motorists that could affect the public safety and welfare. That was a good example of additional information brought forward by public comment that staff and City Council can consider when trying to come up with the best ordinance we can. This is the second Public Hearing to receive comments as to how this ordinance could be drafted better, with suggestions for particular changes. It would be helpful to reference the particular topic or section of the ordinance so as we are taking notes as to the objections and your recommendations, we can consider those recommendations as we move forward to draft the ordinance.

Mayor Barney stated when the Public Hearing is opened those who wish to comment on the Zoning Ordinance with concerns or suggestions for revisions please come forward to the microphone, identify yourself by name for the public record, and keep audience noise down to a minimum. This is a continuation of the Public Hearing to hear those who did not have an opportunity to speak at the last

meeting or who were not present at the last meeting. If you commented at the last Public Hearing, unless you have a new analysis that you did not express before, please limit public comment to those who did not have a previous opportunity to speak or to those who have new information. The City Council will not engage in dialog. The purpose is to receive public input. This item is not proposed to take any action tonight before the City Council reviews the Zoning Ordinance.

Mayor Barney opened the Public Hearing on this agenda item and asked for public comment.

Troy Dennet presented additional signed petitions. He stated his group had gathered over 200 signatures on the petition. I spoke last time but I was rushed so comment at the last meeting was limited to issues regarding the backhoe on his lot. He stated he is a Real Estate Agent and expressed his opinion that most clients purchase their property to put RV's on it. The current as well as the proposed ordinance limits Ivins residents to two (2) RV's stored outside. There is no commercial equipment storage within the City limits, to this date. Some citizens have a company vehicle and that benefits them economically. He stated his opinion that the current and the proposed ordinance takes away the ability to use the land for the purpose for which it was purchased. He stated if the use of the land is taken away then the City should compensate for the taking. Some in Ivins seem to think they should create CC&R's for the City. The City does not have the ability to enforce CC&R's in neighborhoods and they should not create them for the overall community. Everyone agrees that the City should not have trash, debris, and non-operative equipment within view. We believe that the City should enforce all ordinances that pertain to the health, safety and welfare of residents. He read questions to each Council Member asking what the specifics of the proposed amendments have to do with the health, safety, and welfare of the community. He encouraged those in attendance to pay attention to how the Council votes. He drafted a motion based on his statement and distributed a copy to each City Council Member. (A copy is attached to these minutes.)

Rhonda Diaz stated she is a small business owner. She stated she has received a Nuisance Ordinance violation. The 16-foot box trailer was moved to comply with the Nuisance Ordinance and is now parked on the side of the property. She expressed her feelings that it is not the City's place to tell me where to park my vehicle. To me it is not a nuisance, it is used for work and it is my responsibility to put it in a safe place.

Harold Turner stated his feelings are the same as expressed by Troy. He stated we don't need a parking ordinance. If you don't have an ordinance you don't need to enforce it and it is fair to everyone.

James Cook stated his home has an area for an RV. Part of the American dream is to own your own property and to use your home as your home. He stated he does agree with the ordinance because there has to be some sort of order in the community. If you allow lawlessness it will increase. There has to be an even-handed, fair manner, to decide what is proper and not proper. The citizens need to be able to retain their freedom and allow us to have our own personal property on our land and to use our property in a way that lets us feel free and American.

Gia Best stated that in opposition to the City Attorney she feels the Nuisance Ordinance and the Zoning Ordinance go hand in hand. She stated she is a business owner and that she pays higher taxes. The Veterans served to protect our rights to life, liberty, and the pursuit of happiness. She stated that governments derive their powers from those governed. I have been found in violation of the City Nuisance Ordinance twice. I resent that. I have had to pay money to come into compliance. She expressed her opinion regarding the right to overthrow the government, take up arms, elect new officials and exercise the right to vote. She doesn't want outsiders telling her what to do. She stated special consideration should be given to those who lived here when no one else would. I have my piece of dirt in Ivins; I was here first. She feels she shouldn't have to be governed by newcomers. She suggested that rather than legislating rules the City should donate money to those who clean up their property the best, and be constructive. Let's do some hard work by having an Ivins cleanup day. As far as the Zoning Ordinance, I feel that if I own two (2) acres I have the right to own more RV's than someone who only has a 10,000 square foot lot.

Lori Morris commented that the Ordinance is poorly written. There were comments made at the last meeting stating that the City would look at other ordinances in other cities. She asked why that was not done in the first place. Everything is based on a precedent, why weren't other ordinances, that are working well, looked at first instead of presenting something so poorly written and that is not enforceable. The citizens are all riled up over a poorly written proposal that needs more research and homework done before it is presented to the public. She stated the people of the City are disappointed about our rights

Pat Pilcher stated she has lived in Ivins for two and a half years and grew up on a wheat farm in Kansas. She stated she is in favor of the existing ordinance and is in favor of the proposed changes. She does not object to a few RV's on properties but does not want properties to look like used RV lots. The community is changing and it will change, you can't stop it, you can only manage the growth.

Virginia Hill stated she has three (3) acres and expressed that it is difficult not to have a backhoe and tractors and stock trailers for the livestock. There is a lot of equipment that is needed to maintain the property. What are we to do with all of that equipment? She stated she feels the Ordinances are stupid.

Max Cook stated she attended the last meeting. My husband is attached to this area and his Grandfather helped to build the St. George temple. His Father helped to build I-15. I have a problem with what I heard last week, when some in the community said "If you don't like it leave." We have connections here and we love it here. I respect my neighbor and because I do I keep my property clean. I appreciate the farmers but I believe there is a way to keep the property looking clean. I don't care how many RV's people have, or how many utility trailers, or work vehicles, but there is a way to keep it looking nice. At the last meeting someone talked about a neighbor that has so many vehicles in the back yard that there were weeds as high as the vehicles. That does cause problems other than rodents. Someone else spoke on issues regarding rising crime and these RV parking lots are the perfect place for criminals to hide. We need to face the fact that we need to keep our property clean and beautiful. I support the idea of tourism, we have a beautiful community. I appreciate the time spent to present what you have to the City Council, it is well meant and I agree with many things, but as a community we need to work together to clean up and make it beautiful. We didn't move here to have a nice community and to try to sell our property at a profit. We retired here and this is our home. We love the people here, we love the community, let's clean it up together.

Tyler Hunt stated he is a young father and he plans on accumulating stuff as his children grow. What about the Scouting Program - who will store the stuff and the Boy Scouts trailers? I don't see how it would happen in my future to have these things. So on behalf of Scouting and those who like to recreate the City should not pass an ordinance that will restrict future access for our children. The only point that was made that supports this ordinance is the concern about RV's parked on the sidewalk so that children could not see around it. There wouldn't be a problem to tell the RV owner to move it off the sidewalk. That would be breaking the law. As far as banning box trailers or Toy Haulers, unless they are parked in a garage that would cost over \$200,000.00 to build if it was big enough to fit that big of a machine doesn't seem right. I'll never be able to afford to do that. I would like my family to have some fun over the years and I also want to support the Boy Scouts in their activities.

Jared Ross stated he grew up with RV's and agrees that we need to keep our yards clean. We get busy with our careers and we neglect our yards and need to take the time to clean them up. He stated his concern is the section on commercial vehicles. The proposal is vague to me. I drive a commercial two (2) ton truck and as far as I know I am the only mobile power generator in Southern Utah. When I get called out to Dixie Regional Medical Center, Dixie Dialysis, Snow Canyon Clinic, and others I need to be able to leave my home and go directly to the location if they have a power outage. If I can't park my truck at my home it adds 30 minutes to my response time. I try to keep the truck beside my house and lock it behind my gate if I am out of town. I ask that you consider these situations. I do save money by driving the company vehicle and I work before the sun comes up and after the sun goes down. As you

consider changes look at how it is enforced. He also suggested changes be made that will improve on how people are approached with problems they may have on their property.

Donnie Pack stated she lives in a 35 year old trailer with a chain link fence and I grew up in a very regulated community. There are parts of Ivins that are different and they have different needs. The majority of the residents of Ivins are families that are just getting by. If you are in a situation where you are not struggling you may not think of the hardship some of these rules might make for those who don't have as much. Sometimes we don't understand those that have a different lifestyle and it is not fair to compare one lifestyle with another. Ivins has some of the best people I have ever known who are hard-working and who love their families. She stated that RV's keep families together and everybody likes different things. Is there some way for this to happen in a positive way? Where there is a need someone steps in to fill that need. That is community spirit, and that would make Ivins feel like a "town". Let's turn around the perspective from taking away rights to everyone working together and to not judge each other.

Kevin Blatter stated that he appreciates the beauty of the City. I am service oriented and I donate a lot of my time around the City to help the people. I have a neighbor that beautifies Ivins with the equipment he has at his house. He has a block wall that screens the equipment and he gardens 40 pieces of property in this community with his equipment. He appreciated his neighbors coming and helping when his residence flooded. I have equipment on my property that was used because of the flood and I won't move that equipment until I have a guarantee that I will not flood again. I own a lot large enough to have the equipment and not create a nuisance for my neighbors. My yard is nice and there are areas to put the equipment. If my family comes to visit with their trailer I hope it won't be restricted. He suggested that the Council consider how much service is provided in the community with large equipment.

Andrew Hunt stated he was Town Board President for three (3) terms from 1958-1966 and from 1970-1974. He said there was no Zoning Ordinance in 1974. There were very few Ordinances at that time. The citizens kept their place clean but if someone's place became a fire hazard and the Town Board felt it was a fire hazard we asked the property owner if we could help him clean it up. That's how it worked in those days. When I was in office some homes had a half inch water line and we had to replace all those pipes with inch and a half lines. We worked together with our shovels to get the pipe in all over town. I was working 90 hours week and it wasn't easy. The only income the town had was the taxes received from the County and the water we sold. The town got by for several years that way. It worked out. We need to resolve this in a spirit of cooperation for the general good of all. We should try to please the majority.

Cheyne McDonald stated he agrees with what has been said. I do want to have the ability to have things on my property and someday I would like to build a structure to house the equipment I accumulate. I agree with the petition and focus more on the health and safety of the citizens and less on the amount of RV's. He expressed his thanks to all for coming out.

Glenn Ravenberg stated that a great deal of the push for this Ordinance comes out of an effort to "preserve property values." Property values are important but he feels that there are two (2) types of property value. One is the value of the property when it is sold. Another property value is the ability to use and enjoy the property. The great value to the majority of the members of the community comes out of the use of the property. He stated that in the City's rush to be beautiful and to preserve views that we do not destroy our property value from use while trying to create monetary property value.

Mayor Barney closed the Public Hearing for this agenda item.

B. Discussion of Planning Commission's Recommendation to Consider Amendments to the Ivins City Zoning Ordinance.

Council Member Rusick asked the City Attorney to point out what properties these amendments apply to. Some of the comments that have been made suggest that the public thinks the amendments are trying to regulate what is happening on agricultural property which is not correct.

Dale Coulam responded that the parking ordinance relates to the parking of RV's and Commercial Vehicles in residential zoning districts. There is a distinction. If the property is zoned as residential that is what is being looked at. What the current ordinance provides is an absolute prohibition on commercial vehicles in a residential zone. If a use is not specified as being permitted it is prohibited. The current ordinance does not allow any parking of commercial vehicles in a residential zone. What is being proposed is to say let's address this issue a little more clearly and discuss what types of commercial vehicles may be allowed to park in a residential zone. For many reasons expressed tonight, some use commercial vehicles to commute to work, or they may be on call, and those issues may warrant some relaxation of the current prohibition. That is what is being considered for discussion. The parking regulations set forth in the proposed ordinance do only apply to residential zoning districts.

Council Member Elwell stated he enjoyed the comments two weeks ago and at this meeting. He feels there are a lot of citizens that have great ideas and he feels it would be appropriate to develop a committee comprised of some members of the public, staff, and a member of the Council to create an ordinance that would be fair and equitable. Eight years ago, before I served on the Council, I thought these things were black and white and experience has taught me that things are much more "gray" than I had thought. It was through serving on committees that I got an education when I had to look at , not just how something affected me, but how it affected other areas in the community, that broadened the scope of my thinking quite a bit. We can really do some good to have a committee that involves our citizens. That would be the direction he would like the Council to go. Rather than trying to assimilate and internalize everything that has been said and try to come up with an ordinance ourselves he would like to empower the citizens to help us.

Council Member Jolley stated it has been fun to have a full room. As I have sat and listened through the last two (2) meetings there have been some very good comments. I sympathize with the Planning Commission as they were given a difficult task and did not have the luxury of listening to so many of the people that we represent. I don't know if the assembled body constitutes a majority as far as the opinions that have been expressed. It certainly constitutes the majority of the people here in attendance and their opinion. In regard to RV's, there have been enlightening comments made as to height, length, and number. I have a neighbor that likes to take his trailer and go fishing every summer. He takes his trailer, a boat, and 4 wheelers. He is in violation. I appreciate Mr. Ravenburg's insight as to the size of lot and that that can have a great impact on these issues. Commercial and large vehicles can be an asset that can offset or maybe out weigh the liability and we need to look into that. Abraham Lincoln once stated that as he plowed his field if he encountered a log that was too hard to split or too big to drag off. He left it in place and plowed around it. Sometimes we just need to look the other way. If a backhoe is behind a wall and we can see the boom, the asset can offset or outweigh the liability. He agreed with Council Member Elwell's proposal to put together an ADHOC Committee. That is something that the Planning Commission did not have luxury of forming. There are some here tonight that have good insight and would be an asset to present ideas for us to consider.

Council Member Rusick agrees that the size restrictions suggested for the RV's don't make sense. She stated that the committee may be a good idea, but it must have representatives from all areas of the City. The bulk of the people that signed the petition were in the Old Township and Padre Canyon. This is a City of nearly 8000 people and that means that there are over 7500 people who have not been heard. The decisions need to be fair. We all have a vested interest in the future of the City. Somebody expressed derogatory feelings about the "new people" that have come here because they think differently. Somebody from the "old residents" sold all the property to the new people. Someone made the decision to invite new people into this community and they should have a voice. It can't only be the voice of just 5-20 founding families. As much as they are to be respected, it can't be only their voice. A lot of people have come here, bought the property that the founding fathers sold to them, and they need to have a voice on the future of the City.

Council Member Tenczar stated she appreciated all the public comments. I came to Ivins 17 years ago because I wanted to come to open-space and not live in a large city. I have been thoroughly thrilled to be here. One of the reasons I joined the City Council was to help and get involved in what was going on in our government. There were aspects of several people's comments that were very applicable. I am sorry that the Planning Commission did not have an opportunity to hear this kind of input when they drafted the ordinance to give to the Council. I personally feel that a committee is a good idea but I would also like to send this proposal back for work and review, to get staff involved, and several people that are affected by this proposal. I too am going to be affected, when I have a vision for what Ivins needs to be, should be, and was. That is why I moved here and that is why we bought property. As retirees I don't have a lot of income so don't assume that I do, but I want Ivins to be the best place and I want to spend a long time here in the future. She expressed thanks again to all those who came and got involved and expressed appreciation for the comments that were offered. There is a difference between residential and commercial concerns as well. I would like to address those a little bit separately in some work sessions with the committee or whatever.

Council Member Foot stated he was impressed and thrilled to see the continued efforts of the public to share opinions and feelings concerning the proposed ordinance. This is the process. The Planning Commission was assigned this project by the City; they did their work and sent it to the City Council. The process we are going through is what the Council works at. There have been a lot of good suggestions; height, length, numbers, consideration of setbacks, and the sizes of property, commercial vehicles and how that affects individuals that rely on those vehicles to make a living. The Council Member stated he is not opposed to having a committee to review the ordinance but feels that we need to have a broad perspective and viewpoints as to how this will affect the entire community. This is the process, we have heard and listened to what you have to say and we will take your comments to heart. I don't believe there is anybody up here that has an agenda that they are driving to do something to make the City look a certain way. We have been up here for years, and I live in the old part of town, I don't live in places I have heard some very negative comments about, I don't look down on anyone who doesn't live in my neighborhood or any place else in this City. I came here 13 years ago and I plan on staying a lot longer. Any decision I make needs to be in the best interest of the community at large. If the Council wants to put together a committee to look at these issues I will agree with the Council.

Mayor Barney stated appreciation for so many people attending the Public Hearing. The City Council holds many Public Hearings and many times no one comes. We do take your comments and concerns very seriously; we have a lot to think about on the many different issues you have raised. The Mayor proposed some ideas for the make-up of the committee. He suggested that we could possibly set a committee that would involve the Building and Zoning Administrator Kevin Rudd representing Administration, one representative from the Planning Commission, one representative from the City Council, and if each member of City Council will come with two (2) names of people in the community that they would like to suggest to be included in the group, we can look at those that are represented here tonight and select two (2) names we can get a committee organized. That committee can go through things and then present their proposal to the Planning Commission for the ordinance to address both the commercial and RV's. He asked the Council for any comments.

Judy Gubler asked for clarification if the Council wanted to send this item back to the Planning Commission or keep it at the City Council level.

Mayor Barney stated initially I was thinking they could send their recommendation to the Planning Commission.

Judy Gubler stated that would delay the process so it would better to come back here especially if you have representatives of the Planning Commission and the City Council on the committee.

Council Member Rusick clarified that each Council Member is to suggest two (2) people to serve on the committee.

Mayor Barney stated that would be a large group. We will see what we come back with and then determine the size of the committee; it should probably be limited to approximately ten (10) individuals including the Planning Commission, City Council, and Administration representatives. The committee can go out and get input from the neighborhoods, if we can pick committee members that will go out, actively participate, and get input from their neighbors, it would not be a bad idea to try to get a broad spectrum of City involved. After the Council submits their names we may have to take a vote to narrow down to seven (7).

Council Member Rusick stated if each of the Council Members and the Mayor recommended two (2) individuals that would be twelve (12) plus a Council Member and Planning Commission Member and Administrative Representative that would be 15, which might work.

Council Member Tenczar commented that it is important to get representation from different areas of the City because there are a lot of subdivision residents who also have the same concerns about controls that private lot owners have expressed. It isn't just the fact that they live in a CC&R'd subdivision and we should try to have a good cross section of representation.

Dale Coulam asked as the Council considers the committee, if we could carve off that portion of the proposed zoning amendment, which covered a lot of different things? For example, we have individuals who have been anxiously waiting to get a Day Care License and didn't have the funds to go through the Conditional Use Permit and its burdensome process. I believe it is only Section 4 that is dealing with RV's and Commercial vehicles. What we could do is split that section off and address that separately. That would then allow you to pass the bulk of the remaining amendments that deal with the other non-related items.

Council Member Tenczar asked for clarification if the Council could take action at this meeting even if it is not so stated on the Agenda.

Mayor Barney stated those items should be put on the next agenda for action.

Dale Coulam stated if the Council can give instruction as to what portions of the proposal you want broken out for the committee I will then redraft a clean ordinance for the next meeting to pass and discuss. If there are other changes to those sections, you can instruct me on those changes so that I can prepare that ordinance in final form for the next meeting.

Mayor Barney asked the Council if they were clear with the instruction to present two (2) names before the next meeting, and also be thinking about the size of the committee, and then I will select a representative from the Planning Commission and City Council. I think that City Attorney, Dale Coulam, should oversee any recommendations for the committee for legal issues. At the next meeting we will come forward with the suggested names. He asked the Council to email their suggested names to Judy. We won't meet in an organized meeting, and Judy can distribute a compiled list so we can be informed. Also email any concerns you may have about the size of the committee being 15 people or if you feel it needs to be smaller. What we are going to do now is carve out sections to be reworked by committee. There are other sections of the ordinance that there are not objections to that concern Day Care Centers and other items that are not controversial. We will put those on the agenda to take action at the next meeting. He asked the City Council to review the proposed amendments section by section to make changes or corrections.

Council Member Rusick stated the first item to address would be Section 1: Accessory Metal Carports. She asked if a carport can be built if there is already a garage on the property. The ordinance seems silent on that issue.

Dale Coulam stated the ordinance is silent on that issue. As drafted it would allow both a garage and a carport. If the Council wants to address that the verbiage would need to be more specific.

Council Member Rusick stated it doesn't seem like it would hurt anything to have both. You still would have to meet the lot limitations and set-backs. Some older homes may only have a one-car garage and adding a carport would be ok, if they have room.

Mayor Barney stated he feels the Council should leave it as it is presented so that a carport could be in addition to a garage.

Council Member Elwell stated he had a concern which is a question relative to the height limitation of 10 feet. If the carport has an arched or gabled roof there could be a problem with what can fit under the carport.

Council Member Rusick stated that when she attended the Planning Commission meetings where this was discussed it was her understanding that the height was related to the main part of the structure and the “peak” could be higher than 10 feet.

Council Member Elwell stated that the ordinance does not state that. It states the maximum height as 10 feet.

Dale Coulam stated that would mean to the top of the structure. The Planning Commission asked Kevin Rudd for research as to what pre-manufactured metal carports are available. This ordinance was drafted to meet what people can buy and meet these requirements. He researched the market and these are the standards they arrived at.

Council Member Elwell asked if the research relied on the manufacturers dimensions, because that can be “iffy”.

Dale Coulam stated if you have some specific concerns on this and you want to discuss them with Kevin Rudd he will be available at the next meeting. I can make notes so he can be prepared to address those specific issues for you.

Council Member Elwell stated he had another concern in that item H states that carports shall be permanently open on three (3) sides from the grade surface to the eave line. Would this prohibit roll-down fabric that would offer protection from UV rays in the afternoon?

Judy Gubler stated that the concern was that the carport not become a garage. A Carport is defined as a structure that is open on three (3) sides. When the sides are added to the structure the criteria for matching materials is then required. These should be strictly maintained as carports and the standards listed are for structures that are available and on the market.

Mayor Barney stated that carports were not previously allowed at all. He feels this is a good place to start because this allows the structures and still keeps them as carports.

Council Member Elwell stated he wanted to be sure that the intent was that the carports would not have rollup blinds. That would not convert it into a garage it just provides UV protection.

Council Member Rusick stated the objective was to keep the structures presentable. Some Planning Commission members thought this was a backward step to allow carports at all. She stated she feels it is a good idea to have carports but with the addition of blinds how would you determine what kind of blinds would be acceptable? Would you regulate if someone wanted blinds that were red, pink, green, or polka dot? Those who requested this proposal were not concerned with having sides. They wanted a structure that would protect their car from rain and sun. We would open a whole can of worms into presentability to add blinds. The idea is not to create another room onto the house.

Mayor Barney stated item G includes materials that can be used for the carport and that list specifically excludes fabric.

Council Member Elwell stated I was looking at the RV port on 200 West. It is a beautiful assembly, if you ignore the height and size. He was looking at something like that to catch the Ultraviolet rays to keep the vehicles from deterioration. He stated he agrees that we have to have a starting point, and as this is written it is an appropriate starting point. We can determine later if the structures are providing the protection needed and address those concerns at that time.

Council Member Jolley stated he had the same concern, not so much with fabric or material, but that maybe one side of carport would partially enclose the area with vegetation, like roses on a trellis, the carport would still be open but the vegetation could offer protection.

Council Member Rusick stated that the City would then have to write a whole set of regulations to enforce screening options. If you leave the guidelines open and someone wants to plant bushes along

the edge they certainly can do that. She feels this is the best way to give the people what they requested without creating an enforcement problem.

Mayor Barney stated the Council could leave the carport section as drafted or if it needs further consideration then it could be included with the committee's work.

Council Member Rusick stated there have been no objections and no concerns have been expressed. This Ordinance was specifically designed for the old part of town. Delaying the passage of the Ordinance would not allow the people to get out there and get their carports built before the next heat season.

Mayor Barney stated it clearly allows more than was ever allowed before.

Council Member Foot stated he agrees with Council Member Rusick. If the Ordinance is passed it provides the people the ability to put their carports into place and in the future if it becomes inadequate we can re-address the issue. This meets the needs and the intent of what was asked for.

Council Member Elwell stated he has no problem with the Ordinance going forward as it is based on the premise that was stated that those who requested it found this to be acceptable. He added the caveat that in the future if it is not serviceable that we would consider looking at the Ordinance again.

Mayor Barney stated that the whole RV parking issue will be addressed by the committee.

Council Member Rusick stated this Ordinance was not intended to cover RV's. That is why the size was limited.

Council Member Elwell stated his concern that the height is appropriate relative to arched or gabled roofs and what can fit under the structure.

Council Member Rusick stated that the entry point of the structure should be 10 feet high and should be specified as "10 feet high at entry."

Mayor Barney asked for comments on section 2 regarding home daycare. There were no comments.

Mayor Barney asked for comments on section 3 regarding casitas.

Council Member Elwell stated if someone has a large lot it does not necessarily mean they have a large home. He expressed concern over the limitation to a 400 sq. foot casita and wondered if that size of casita would have hallways wide enough for wheelchairs, a bath that is handicap accessible, and two (2) bedrooms for caregivers that care for aging parents. He asked Chris Hart, as a builder, if 400 sq. foot would offer sufficient space to allow for those who need ambulatory devices and assistance for daily activities.

Council Member Rusick stated the 400 sq. foot is the minimum size of the Casita. It is not the maximum size.

Mayor Barney stated that the Ordinance states 400 sq. feet or 30% of the footprint of the home whichever is larger.

Council Member Elwell stated if your primary home is small, in the 1200 to 1300 sq. foot range, then you would be restricted to 400 sq. feet. In the past casitas were able to be allowed at 800 square feet.

Mayor Barney invited Chris Hart to express the Planning Commission's thoughts on this subject.

Chris Hart stated that the 400 sq. foot number was not something the Planning Commission felt strongly about. A 400 sq. foot casita would allow a fairly modest casita. As for handicap accessibility with two (2) bedrooms, a sitting area, an accessible bathroom and hallways the minimum square footage would be 600 sq feet. The judgment of the Planning Commission was that the relationship of the main house to the casita is of some consequence. As the house size expands it was determined that the 800 sq. foot limitation was too small and was not reasonable to impose. The problem the original Ordinance addressed was whether the casita could be rented, and that issue has been resolved appropriately through the Deed Restriction process. If the Council would like me to give you a sketch of the facility described I would be pleased to do so, but it will exceed 400 sq. feet.

Mayor Barney asked would 500 or 600 sq. feet be better?

Chris Hart stated you can accommodate the features within 500 sq. feet as a minimum. It depends on the expectation of the casita. With an aged parent or a wheelchair bound individual he stated he was not

sure if two (2) bedrooms are a necessity. The second bedroom would require an additional 100-150 sq. feet. He stated the Council might want to consider what the minimum acceptable casita size would be. He stated he can provide sketches if desired.

Mayor Barney stated if no one objects why not change the minimum to 500-600 sq feet.

Council Member Rusick stated the scale, in proportion to the main house is something to consider.

Council Member Elwell stated with this change you would have a minimum size that fits all.

Chris Hart stated that no matter how small the main house is if you are allowed a casita of “x” number of square feet that is fair because family circumstances aren’t tied to size of your house. A 500 sq. foot casita would accommodate an aged, ailing, or wheelchair bound parent. With a second bedroom that is a fairly luxurious casita.

Mayor Barney stated it would be good to set the minimum standard and keep the 30% limitation for maximum sizes. The question is if the Council is more comfortable with 500 or 600 sq. feet as the minimum size.

Council Member Elwell stated he would like to make his argument for the need for a second bedroom. As previously indicated not all situations are the same. The fact that a husband and wife may be sharing a casita does not mean it is always appropriate in all circumstances for them to sleep in the same room depending on the nature of the health problem. Additionally, maybe another member of the family will need to live there to assist but needs to have privacy. Allowing for a second bedroom is not a bad thing but a minimum size that precludes a second bedroom would be a bad thing.

Chris Hart cautioned that the changes need to consider the Zoning Ordinance restrictions on the proportion of any outbuilding relative to the main structure and garage. He stated that a casita size up to 600 sq. feet would be unlikely to cause concern.

Council Member Tenczar stated that frequently you might have an adult and a caregiver or nurse that would not share the same room.

Chris Hart stated a bedroom adequate for handicap or wheelchair bound individual is 150 sq. feet. For two (2) bedrooms you are at 300 sq. feet. A handicap accessible bathroom is a minimum of 60-80 sq. feet. Then with a modest hallway, a sitting area, and a small kitchen where cooking requirements are nominal, the minimum size would be 500 sq. feet.

Council Member Rusick stated that the language should not preclude someone building a casita smaller than the minimum if that’s what they want. If they want to build a 200 sq. foot casita they should be allowed to.

Chris Hart stated the languages intent was not to restrict someone building a smaller casita. It was supposed to convey that if you have a small house you could build a 400 sq. foot casita regardless of the size of your main home.

Council Member Rusick stated we now want to change the verbiage to read “not exceed 30% of the footprint, excluding the garage, or 600 square feet.”

Mayor Barney stated the original concern with casitas, was that single-family neighborhoods would be turned into multi-family rental neighborhoods. That has been addressed with the deed restrictions and the appearance requirements that the casita blend in with the main house structure. He stated that 600 sq. foot is a good minimal size for a casita.

All agreed.

Mayor Barney stated Section 4 is being removed for the committee’s consideration.

Dale Coulam stated Section 5 deals with non-conforming uses /non-complying structures/ and other non-conformities. This means that when the Zoning Ordinance is changed those properties that existed prior to the change in law are “grandfathered in.” That is not a legal term but people understand that concept that they are allowed to continue that use or continue using a building even though it may not meet the requirements of the new Ordinance. The existing Ordinance, as it was originally drafted, stated the people in that circumstance had to file an application to go before the Board of Adjustment which was listed as a land use authority. That designation was beyond the intent of the Board of Adjustment. It

is not realistic or prudent to require citizens who were living life fine before a change in an Ordinance put them into non-compliance, to pay a filing fee and have a hearing to verify that they can continue to use their land and property. The law has also changed on appeal authority, so the Board of Adjustment would not be the appeal authority. The new law allows for, and it has been recommended to use an Administrative Law Judge as the appeal authority. If there is ever a question and property owner raises that as a defense, saying this condition existed before the law changed. If there is an appeal that goes to the Administrative Law Judge, Section 6 is very closely related. It has to do with variances that in the past were heard by the Board of Adjustment but they would be heard now by the Administrative Law Judge. Having an Administrative Law Judge that is law trained is more apt to follow the correct legal requirements before a case goes to the District Court level. It has been found that this drastically reduced the number of lawsuits against cities. We are recommending, by these amendments, to do away with the Board of Adjustments and replace that appeal authority with an Administrative Law Judge and the Board of Adjustment would not be a land use authority for non-complying uses and structures.

Mayor Barney asked if there were any questions on sections 5 and 6.

Council Member Rusick questioned section 16.25.104.1 and 2a regarding any party claiming abandonment of a property and “prior written agreement with the Council.” What do those items mean?

Dale Coulam stated the City can claim a property is abandoned if it has not been in use for over a year. Sometimes there are agreements entered into with the City that have trigger points that determine that the property can be classified as abandoned when those trigger points are met.

Council Member Rusick stated that the proper phrasing in that sentence should be “prior written agreement with the City with approval by the Council.” The Council Member cited Pg 8 item 3 and asked who reviews these items? There is no longer a Board of Adjustment so does it revert to the Administrative Law Judge?

Dale Coulam stated it reverts to the Zoning Administrator who makes interpretations of the Zoning Ordinance. The previous procedure said it required the property owner to pay a filing fee, for an application to have a hearing before the Board of Adjustments to make a determination. That would then have been appealed. In reality what happens is the Zoning Administrator looks at the property and determines if it is in violation with the Zoning Ordinance. If he determines there is a violation the property owner, rather than going through the application and filing fee process, simply says it is a non conforming use. Then, the Zoning Administrator makes a determination and if it goes against the property owner they can appeal that to the Administrative Law Judge. It just simplifies the process.

Council Member Rusick stated that on page 8 under Item A in Section 105 the last line should have a comma before the word “provided.” On page 11 Section 16.27.109 Item 2 put in the words “appeal authority.” On the last line remove the word “secretary” before City Recorder. On page 20 Section 11 Appendix A of current Zoning Ordinance before the written text for Padre Canyon written text was approved July 13, 1995 and amended July 27, 1995.

Mayor Barney stated that in summary section 4 will be removed. The other sections will stay in with substantive changes to the maximum height for the entry on section one is 10 feet; on section 3 the 400 sq. foot minimum is changed to 600 sq. foot and then minor verbiage changes as mentioned.

Dale Coulam stated he will keep the Ordinance number and section 4 will have its own Ordinance number when it is brought forward for adoption.

5. DISCUSSION AND POTENTIAL ACTION ITEMS

A. Consider Approval of Heritage Days 2008.

Marie Hansen representing the Ivins Historical Society made a presentation. A copy is attached to these minutes. She stated there were many comments that the Harvest Moon Festival was scheduled too close to Heritage Days. She stated that we need to schedule these two functions further apart.

Council Member Rusick stated the Harvest Moon Festival is scheduled for September 26-27. Money has been spent already for advertizing. In the front of the Dixie Phone book it shows both Harvest Moon and Heritage Days being advertised together on September 26-27.

Discussion of dates and coordination for the future ensued.

Council Member Tenczar stated that not much advertizing was done through the Ivins City website for Heritage Days and she would like to offer that option.

Mayor Barney suggested that in future years Harvest Moon Festival should be moved up one week to allow for more time between events.

Marie Hansen reminded the Council that the Fire Department Open House is traditionally held the first week in October that is why Heritage Days was scheduled for that time.

Council Member Jolley stated that the City fireworks should officially be part of Heritage Days. The budget for Heritage Days is money well spent. What a great promotion and celebration for the community. He applauds the committee for a job well done.

Council Member Elwell stated that it is important that the Heritage Days celebration not be in conflict with a City Council meeting.

Mayor Barney stated the City Council will change the date of October 2nd meeting.

Marie Hansen mentioned the St. George celebration and stated this is such a wonderful community founded on good principles and they are worth fighting for.

MOTION: Council Member Rusick moved to approve the budget of \$4000.00 for Heritage Days 2008 to be held the first weekend of October starting on October 2nd and to include the fireworks, weather permitting.

SECOND: Council Member Jolley

VOTE: The motion carried unanimously.

George E. Elwell, Jr.	AYE	Michael Foot	AYE	Steve Jolley	AYE
Carol Tenczar	AYE	Barbara Rusick	AYE		

B. Consider Participating in Requesting that the Nevada Division of Environmental Protection Hold a Hearing in St. George on the Toquop Coal Plant.

Council Member Rusick distributed a sample letter. Since we were concerned about Public Hearings we might want to consider participating in the request that the citizens in the St. George area be allowed to participate in a Public Hearing.

Mayor Barney asked if there was any objection or contrary opinions. If none, he requested that a Council Member pass a motion.

Council Member Tenczar stated it is not a Public Hearing it is a Public Meeting, there is a difference. If we publish it as a Public Hearing the perception of the possible attendees will be very different.

Judy Gubler stated she was confused. Is the request that the City Council support the Citizens for Dixie's Future?

Council Member Rusick stated the request is to participate in the letter to Rod Moore, Nevada Division of Environmental Protection.

Judy Gubler asked if the request is to put this sample letter onto Ivins City letterhead.

Mayor Barney sated that is a good question. Do we want to use this letter or compose our own letter requesting a Public Hearing?

Council Member Elwell stated he would rather send a letter requesting a Public Hearing.

Council Member Tenczar stated they had a Public Meeting that I attended. People went there with the perception it was a Public Hearing so they walked away dissatisfied.

Judy Gubler stated that the sample letter is a little ambiguous. It states “a formal request for a hearing,” but who is holding the hearing? Are we requesting that the Nevada Division of Environmental Protection hold a Public Hearing?

Council Member Rusick stated that it is “fair and reasonable that they have the same opportunity to comment in local public forum as the residents of Nevada.”

Council Member Foot stated the access for Public Comment closes on February 7th and we would like to have the Public Hearing here before that date.

John Reed stated the public comment period has been extended to February 28th. We would prefer a Public Hearing so that they can listen to public comment. The Nevada Division of Environmental Protection is functioning as the EPA (Environmental Protection Agency.)

Mayor Barney stated that the sample letter is outdated. An extension of comment period has already been granted. He asked the City Council if they would like to use the sample letter on City letterhead or a separate letter that we draft.

Council Member Foot stated he would prefer our own letter requesting a Public Hearing in St. George.

Council Member Jolley stated that was his opinion also.

Mayor Barney stated he agreed.

Council Member Rusick stated that Citizens for Dixie’s Future can state that Ivins City is backing the request for a Public Hearing.

Mayor Barney asked if the letter can be ready by mid week and asked the City Attorney to draft the letter.

MOTION: Council Member Elwell moved that Ivins City send a letter to the Nevada Division of Environmental Protection requesting a Public Hearing in Washington County to receive public comment.

SECOND: Council Member Jolley.

VOTE: The motion carried unanimously.

George E. Elwell, Jr.	AYE	Michael Foot	AYE	Steve Jolley	AYE
Carol Tenczar	AYE	Barbara Rusick	AYE		

C. Discussion of Center Street and Tuachan Wash Underpass.

Dave Glenn stated the Capital Facilities Plan requires the storm drain at the crossing on Center Street be upsized. A little over a year ago we discussed making that a drainage channel as well as a pedestrian underpass. The Department got Council approval to apply for funding from the State but the application did not get approved. We were selected as alternate, but the State is not accepting applications this year. There is no guarantee we will ever get the funding. Right now we are designing those improvements. Tonight, we would like your direction. Do you want us to hold up for funds that may or may not become available in the future, or go ahead with what is already in the Capital Facilities Plan for upsizing the storm drain?

Mayor Barney clarified the purpose to upsizing the culvert would be if we wanted an underground walk through.

Dave Glenn stated the upsizing of the culvert included in the Capital Facilities Plan is to provide flow coverage for the 25 year or the 100 year storm volume. At this time there is a 48 inch pipe there and the Capital Facilities Plan calls for two (2) four foot by nine foot square box culverts.

Chuck Gillette stated that the criteria are for the arterials to remain open during a 100 year flood. The Tuacahn Detention Basin will also reduce flows.

Mayor Barney stated that the Tuacahn Detention Basin should be completed within one year.

Dave Glenn stated last year when we saw the scale of the upgrades that we should increase the construction scope to include an underpass that would be about 10 feet tall and 15 feet wide. That

would pass through the storm water and provide a pedestrian crossing. We went on the assumption that the City could get some funds from the State to help pay for that because it involves considerable additional costs.

Mayor Barney stated that the project is in the design phase right now, and asked when it will actually be constructed.

Dave Glenn stated the project goes out to bid next month. I brought this item up at the Technical Review Committee meeting and they suggested an alternative solution instead of an undercrossing is to master plan a trail on the north side of the street. That would allow those coming from St. George on the trail system to continue on the north side without having to cross the street.

Mayor Barney asked about the Ivins residents that want to cross there to go into Snow Canyon State Park. That is where a lot of the usage comes from.

Dave Glenn stated he has not done a pedestrian analysis but maybe it would be better to make the crossing further down at a less busy intersection maybe around 400 East. I ask for the Council's direction on either holding off on upsizing the culvert and hope for future funding or continue design as proposed.

Mayor Barney stated it is important to know if the upsizing is for a 25 or 100 year flood.

Dave Glenn stated he was pleased that Ivins was selected as an alternate for the State funding but we don't know how long it will be before those funds might be available.

Mayor Barney asked how much funding did we apply for?

Dave Glenn stated the application was for \$750,000.00 with a 50/50 contribution form the Capital Facilities Plan.

Mayor Barney stated if we don't build the walkthrough and the culvert is upsized what would be the cost.

Dave Glenn stated the Capital Facilities Plan allows for \$211,000.00 for the upsize.

Mayor Barney asked what the engineers recommended when they did the study.

Judy Gubler stated the upsizing that is currently included in the Capital Facilities Plan.

Council Member Elwell asked if that figure also includes rip rapping south of the highway.

Dave Glenn stated that it does include the rip rapping throughout that entire area, the upsizing of the culverts on Tuacahn Road, Center Street, and Mesa Vista. We can take out the tunnel from the design and hold that idea for future installation if we ever do get funding. It might be 5 years down the road for funding.

Mayor Barney stated that the upsize of culverts as recommended by the study needs to be completed. We can wait on the walkthrough.

Chuck Gillette stated that the upsizing is to accommodate a 100 year flood.

Mayor Barney asked for any recommendations from staff.

Dave Glenn stated the Technical Review Committee felt master planning the trail on the north side of the street would be an ideal solution. We would have paths on both sides of the road but instead of bringing the main path in on Snow Canyon Parkway on one side, then Snow Canyon Drive and having to cross at that point, the path could continue on to the future City Center with crossings at various intersections further down.

Mayor Barney stated that the majority of Ivins is on the south side of the Parkway. As the road gets busier, if the trails get used more, for everybody south of the Parkway an underpass would be a really safe way for them to crossover and to continue up into the Reserve or Snow Canyon State Park.

Council Member Foot stated that as the Village project comes in and is developed up to Padre Canyon there will be sidewalks, pathways, etc. along that area that make that access easier and have the undercrossing be at the Reserve where they already have tunnels in rather than doing this. He feels it is more important to put in the flood control at a reasonable cost now rather than waiting for funding for an underpass when one already exists and can be taken advantage of.

Council Member Rusick stated if you build the roundabout at that intersection and take property from the Crumps will you have to take more property to put trails on that side of the road?

Council Member Elwell stated that earlier on in the planning process the term “linear park” was used to designate an area on both sides of Center Street. The right-of-way for the linear park is already there as far as easements are concerned.

Judy Gubler stated that is correct, though the City has allowed walls to be built right on the easement property lines on the south side of the roadway.

Council Member Elwell stated in earlier discussions we felt it would work well for us with the 40/80 acre City Center to have a trail on the north side of the street also. Right now that would only involve a short distance to retrofit the area with trails. The cost would be minimal compared to the cost of an underpass.

Dave Glenn stated that the City Engineer had an estimate on how much trail could be installed with funds available.

Mayor Barney asked if the Council was comfortable with upsizing the culvert without the walkthrough. The Public Works Department will keep applying for funds and if funds are awarded the Council will look at that option again.

Council Member Elwell stated if the City installs the roundabout at Center Street and Snow Canyon the added safety it provides will lessen the need for the undercrossing. In light of no current funding being available and the possibility of a roundabout with the increased safety, he feels moving forward with flood control is the appropriate thing at this time.

Dave Glenn clarified that his Department will continue with the design included in the Capital Facilities Plan and continue applying for funding a future undercrossing as well as funding for trail improvements.

Mayor Barney stated they should try to get all the funding you can get. He stated with all the work that went into obtaining easements and rights-of-way for the linear park we should extend the path on the south side of the roadway and use those easements for the trails. Do we have the right-of-way at the Crump’s and the new home that is being built?

Chris Hart stated the City has a 15 foot right-of-way between the curb and the property line.

D. Discussion of Utility Improvements in Kayenta Fire Roads.

Chuck Gillette stated that Kayenta Development is making fire road improvements according to the Memo of Understanding of about one year ago. The improvements include storm drain improvements to help reduce erosion. That sounded reasonable. The City wanted to inspect the improvements for compliance with City standards because there is potential for these improvements to eventually be part of the City storm drain system. Then the developers asked to put sewer lines in to help them resolve some access issues with another property owner. This causes some concerns as the request goes way beyond what the original agreement was and the Council needs to determine what course of action to take at this point.

Lance Anderson stated that from a planning standpoint the fire roads allow right-of-way access for eventual driveways to other parcels. Steve Williams has a parcel in Indian Hills, and we have an agreement from ten years ago, before sewer issues were raised, with Nancy Harrison. We are trying to meet our obligation to Nancy Harrison where we agreed to put down road base. Ms. Harrison has stated she wants to build a house on her parcel and the fire road will become the driveway to her home. The fire road is 26 feet wide and will have 29 feet of road base eventually. If we put the road base down now without putting in the improvements we would have to tear it up again later. He stated that Taviawk phase 8 began as a driveway. When that subdivision was developed we submitted construction plans to put in all the improvements so we wouldn’t have to tear up the asphalt at a later date. This request is for the same scenario and we would like to put in laterals along the “driveway” for perceived future lots as well as the water piping.

Council Member Rusick asked if this was the same parcel that is up for a proposed Zone Change. Is it appropriate to put in all the laterals and lay out the lots before the Zone Change is approved?

Lance Anderson stated Ms. Harrison has a right to build a house on her lot.

Council Member Rusick stated that is one house, one road to her house, not laterals and all these other stubs to phantom lots.

Lance Anderson stated there is no way it would get approved before the Zone Change got approved because we have to go through the construction drawings and all of that. A long time ago that area was part of a Planned Urban Development, which is when the agreement was made. We are trying to be proactive and plan ahead so we don't have to dig up the roads again after they are installed. Also, Steve Williams wants to build a house and do subdividing. The sewer is preventing that at this point but we are pursuing ways to install sewer in that area. Mr. Williams is hoping he can subdivide within 2-3 years. It is not worth it for us to put out the money now and then tear it up in 2 or 3 years. Right now we would put in conduits for power, communications, etc. with laterals and dry sewers. The City did have Bush and Gudgeon do study about 10 years ago as to how roads would look in that area. We have been close to that design plan with the roads that are in place.

Terry Marten stated about 11-12 yrs ago there were number of individuals that owned land in Indian Hills. This is a 316 acre footprint that runs north/south about 1.5 miles long. This piece of land was parceled off in the late 1970's into 20 acre parcels. Some of the lots were re-parceled down to 5 acres. There might be 20-23 ownerships in that area. It was contentious between the owners because they couldn't afford to make a road for access. There were a number of owners that approached the City as to how it could be put together. The City paid for Bush and Gudgeon to create a plan for the Indian Hills area. That plan gave us a means of taking the parcels and making a cohesive access plan. We were able then to make arrangements to have access and develop the property. We have made different agreements with lot owners in this area over the last 10 years and I have been focusing on this project. We have agreements with all but a few of the Indian Hills property owners. We have a plan that will work for all the owners. One agreement made in 1998, with Nancy Harrison Williams, states that she would be able to have a legal parcel to build on. I assumed that parcel could be developed into a subdivision. I did not anticipate the sewer requirement which requires over 20,000 feet of sewer line to be installed and a pump station. I naively entered into an agreement that we now cannot complete. We are now building a road that is costing \$200,000 that we know we will have to tear out if we end up putting in a subdivision later on. We are not asking the City to approve the anticipated subdivision, we are asking for permission to install utilities in place such as sewer, service laterals, and conduits for power and communications. The City can have the engineering department review the plans and we will pay for the inspection and plan review costs. That will allow us to put in these facilities and know that they will be usable when we are able to tie the entire property into a sewer and go ahead with the subdivision. The ownership of Steve Williams has existed since 1978 and he is excited about having access to his property and is working toward sewerage his 21 acres. The proposed zoning changes are in anticipation of this and Steve and ourselves moving ahead with development in the near future. We know we can't move forward with a subdivision without an approved and bonded sewer line. We are trying to be effective with our planning and economical with our resources. These plans have effectively been in place since at least 1996 or 1997 we have no different plans than what was put forth initially.

Mayor Barney asked Chuck Gillette and Dave Glenn to outline their concerns with this proposal.

Chuck Gillette stated the real concern is that the City is not approving a subdivision but are being asked to approve subdivision improvements. You would be allowing the developer to build a portion of the subdivision. Normally, subdivisions require bonding and warranties but what they are asking for is outside the ordinance. Other developers aren't requesting this. Would the City do this for any other developer? Is it setting a precedent for this type of activity? If so, is that okay? They point out there is probably not much reason for us not to approve the current layout because it meets current land use so there is not so much risk. There is some risk in having utilities installed before being maintained or

used. Anywhere we have a “dry system” we have had problems. The City doesn’t really know the overall plan. Maybe we need to see the master plan for the Kayenta area, something similar to the formal master plan submitted by the Villages. From an engineering perspective that would be very helpful to the City in planning for roads, traffic volumes, etc. because the developer would have to complete different analysis for the master plan.

Council Member Rusick questioned what is the legality here? If we allow one developer to move ahead in this fashion are we putting ourselves at risk with other developers who might say you let Terry go up there and put in roads and sewer and utilities before he had a Zone Change or a subdivision approved. Typically we don’t even let anyone do any grading until they have full approval.

Council Member Foot stated isn’t this just a fire road at this point? Chuck Gillette’s concern about setting a precedent, do we have any other properties in the City that are land locked like this that we would worry about this coming back saying we would have to do it again? The reason they are asking for this is the land-locked nature of the property and access to some of the parcels.

Council Member Rusick stated that is not the problem. Putting the fire road in will prevent the area from being land locked. But the developer wants to put all the laterals out to where the future lots will be.

Council Member Foot stated I understand that, but if it never gets platted then he spent money for nothing.

Council Member Rusick stated we don’t allow that and it is against all the Ordinances to allow a contractor to go in before he has subdivision approval. If it was just a matter of cutting the road so the one person could have access to their property that would not be an issue. But I am afraid, because of the Villages project. What if they want the same thing? That is my concern. I appreciate what Mr. Marten is proposing but I am concerned about it.

Dave Glenn stated if they put in the dry sewer now and it doesn’t go into use for 3, 4, and 5 years when do we start warranty? There should be an understanding that the warranty won’t start until all the improvements are done and accepted by the City so we don’t end up having to address long-term problems. The Director stated he read the Memo of Understanding on the fire roads and some roads have been cut in that are not on the map and the MOU also states part of the agreement is the City would get the stream alteration permit which has yet to be completed.

Terry Marten stated there were a couple of roads that were cut in, but there were no more roads than what was indicated on the map. What happened is one of the lateral roads connecting the two was put in to get access to cut off fires from the Indian reservation. One of the lateral roads was not placed in the exact location because we don’t own the land parcel.

Mayor Barney stated why did you not come back to us and say we have to move this road so that it would be consistent with the agreement.

Terry Marten stated, I guess that is what we are doing right now. He feels the road is off by about 600-700 feet. It was a way to take access through. We did not increase the length or the collective number of fire roads by even one foot. We just moved a lateral over to put it on our property. Look at what we’ve done. Put it into perspective as to what was accomplished in the area and the intensive work needed to protect the Kayenta area. We were so busy we put every other project on hold to get the fire protection in. It was my mandate to do that.

Mayor Barney stated just to have future credibility with the City on future agreements, it was probably a good decision at the time, but in the future if we are going to have agreement between Kayenta and the City, you need to come back and tell us before you vary what is in the agreement. Otherwise how can we have confidence in entering into agreements with you? You come back and say the substance was met but I felt I could vary it. When an agreement is entered into we have to treat you the same way we would treat anybody else. If you are going to vary the agreement you need to talk to the City before the fact, not after you do it.

Council Member Rusick asked Mr. Marten to address her concerns about other developers wanting these same types of concessions.

Terry Marten stated we are not asking for approval of the facilities we're putting in, we are just asking for the ability to lay pipe in the ground for a potential sewer. We are not asking for exceptions. If at that time it meets the required standards it would be approved, if not, no problem. It is a little bit of pipe in the ground, we feel it is a reasonable gamble. We are looking for an opportunity to not have to pave the roads and then tear them out to put in a subdivision. It goes against my grain to put in the road and then have to do it again. If we never build a subdivision then the facilities will not be used. We are asking for an option for something that may be approved and it is a reasonable risk for us to take. The City is just allowing us to put it in the ground, it is not accepting it.

Council Member Rusick stated she would like to hear from the City Attorney to know if acting outside of our Ordinances makes the City or the City Council vulnerable.

Mayor Barney stated that the two developments that come to mind are the Villages and the Hart land where we don't have plans approved. Could they then use the same argument or is this unique because it is a fire road?

Dale Coulam stated that other than the Dave Hansen agreement on the driveway and being allowed to put laterals in which was before my time, I am not aware of another instance where a developer has been allowed put in subdivision improvements before they had the necessary approvals. The Villages wanted to cut a road into where some time share projects were anticipated and they were not allowed to cut any road and disturb the property in any way until they went through the approval process. They did go through the approval process for a subdivision with a loop road and 3 lots before they made any improvements. The property at the Village location is different than the Kayenta Property. The Village has one owner and Kayenta has various owners. That means that an individual owner has the right to build a single house on their parcel. Terry is arguing that putting in a driveway and utilities to a lot should allow them the ability to put multiple accesses into the driveway for future development. Of course the utilities necessary for a service line to one lot are very different than the utilities you would put in for an anticipated subdivision; it normally would not include laterals. Staff has said this is beyond the scope of anything anticipated by the intent of the agreement for fire roads intended for emergency access for fighting fire. The scope of the agreement had nothing to do with putting in improvements for an anticipated subdivision sometime in the future. Terry and Lance have said it was done once and that this Council approved a similar arrangement with Dave Hansen and wanted the opportunity to pursue it with you to determine if you are willing to allow it a second time in this instance. If you are inclined to do so then that has to be done by a separate agreement. Generally, when the City has entered into agreements that have gone beyond the technical scope of the Ordinance it was usually because there was a legal issue in dispute and we entered into the agreement as a settlement agreement. That may or may not be the case here. We have not pursued this issue to that point. Staff needs to get your input after some discussion because you had been involved in the prior discussion on Dave Hansen's property.

Council Member Rusick asked would we be operating in violation of our own Ordinance by allowing improvement and utilities to go to where lots will be proposed before we have a planned subdivision. If we do that it puts all of us at risk because we are charged with not violating our own Ordinance. That is my concern. It is practical, but I don't want to get sued.

Terry Marten asked if they could put in conduit, not put in the laterals, but just put in conduit.

Dale Coulam stated "technically no." All that is allowed is to put in the service line for the one building permit for the single house that you claim is the reason for the driveway. Providing subdivision improvements without approved applications is not allowed.

Terry Marten stated we are talking about 1500 feet of road and the potential of 13 lots, eight (8) of which are not even on our property. Some day we will have five (5) lots there. The lots are two (2) acres in size. There is a lot of paving involved and a lot of roads. We are requesting thirteen sewer laterals and 1300 feet of sewer lines.

Dale Coulam stated what I am saying and what I have heard the Council saying is that they appreciate and are sympathetic to your situation, but help me out by showing where this is allowed in our Ordinances. I am not aware of anything in our Ordinances that allows you to do that.

Terry Marten stated there is nothing I know of in the Ordinances that don't allow us to put conduit in the ground. Conduit goes in all over the place. We laid conduit for fiber optics. Washington County Conservancy District put in almost 2 miles of water line through our property under a road.

Dale Coulam asked if that was within a public easement.

Lance Anderson stated all that line was put in without a plan that was given to the City. They are allowed to do that, we gave them the easement to do it, but they did not have a plan with the City.

Council Member Rusick asked if all utilities are required to come through the City Council for permission to run lines in the City, or can they go ahead and do whatever they want within their easements.

Dale Coulam stated that within their easements they can make improvements without City approval. Our Ordinances govern what would be allowed within a subdivision.

Mayor Barney stated WCWCD has public utility easements. That is different than a private developer putting in a road without an approved subdivision. What you want to do makes all the sense in the world but our question is, legally, within our ordinance, can we do it? Can we tweak something or can we do something in the ordinance to allow it. It makes reasonable sense but we have to find a legal way to do it.

Lance Anderson stated that the State does that when they build freeways, for planning purposes they will put extra stuff in the ground. We want to figure out how to do it.

Mayor Barney replied those are approved roads though. The State doesn't just put in a road anywhere; they go through the approval process first. The key is in the way to do it and not open the door for every developer to come in and say, we are not going to come in and get a subdivision approved but we are going to put in roads and subdivision improvements with the roads. You are asking for subdivision improvements with the road without an approved subdivision.

Dale Coulam stated the fire roads are not a public road and are not classified as a road; they have only been approved as fire access.

Lance Anderson stated the fire access road is also a driveway as it is used as an access to someone's parcel and they have a right to have that access.

Dale Coulam stated at some point you have to take a stand if the fire access road is a driveway with a service line to a single home or is it a road to an anticipated subdivision with subdivision improvements?

Terry Marten stated the fire access road has been established as access to two (2) parcels that the City has accepted as legal parcels. The owners of those parcels have the right to build an all-weather driveway so if they want to pave the driveway, and they want to connect to sewer when it becomes available, would they be allowed to put in a service lateral?

Council Member Rusick said the single parcel is already an approved property. So if the owner of the lot wants the road to her house with the sewer for her house it is fine, but you want to run laterals to a whole subdivision not just one house.

Dale Coulam stated this raises easement issues. The size of the pipe is determined by whether it is a service line or an anticipated subdivision. We don't have a building permit that has even been applied for. He suggested and recommended that staff sit down and pursue this issue and if it can be done within the established ordinance. Is there a way and would it be advisable to consider any tweaks to the ordinance, that if this was allowed it would not harm other areas of the City. Those are broader discussions than what we can accomplish here tonight. We confirm some sympathy that it makes sense to be allowed to do that if it is legally possible and does not jeopardize the City and does not expose the City to liability and does not create other problems within the City.

Mayor Barney stated the Council is saying it makes sense and we are happy to do it if we can do it legally.

Council Member Elwell asked a question in reference to the Villages. They are moving forward with development that is located further into the project parcel. Originally they were looking at doing the first phase right where the undercrossing is. Now that is not the first phase. So now they have to move through that area to get to the timeshare development. Are we indicating that they are only putting in the size of line necessary for the time share?

Dale Coulam stated we will go back and review that.

Chuck Gillette stated the construction drawings have stub outs for future uses.

Dale Coulam stated the distinction is that it is in an approved subdivision and approved public road. Before moving any further into the lot they have to complete the master plan, the development agreement, the mixed-use overlay etc. Perhaps there is some consideration for Kayenta's request if the Villages were allowed to stub out. The difference is that those are public rods in an approved subdivision that went through a review process by the City. The plans were submitted, inspected, and accepted and there is a clear warranty period. Those issues are all addressed.

Mayor Barney stated the majority of Council is not opposed to the proposal, at least logically. If staff and legal counsel can find a way to do it we will, but let us work through it and find out if there is a legitimate, legal way to accommodate the request.

Council Member Foot stated his biggest concern is if we rewrite ordinances to accommodate Mr. Marten we are setting a precedent that could come back and bite us.

2. C Department Reports: Public Works, Engineering.

Public Works Director Dave Glenn reported the Public Works building is progressing nicely. The heating and A/C is in and the office space has been sheet rocked and painted and doors are being hung. The builder feels we may be able to take occupancy in that part of the building within then next couple of weeks. The Storm Drain installation is progressing nicely. The Highway has been opened back up. They have hit rock on Main Street and 800 South that has slowed them down a bit. The layer of rock is at about 25-26 feet. The contractor mentioned that the citizens have been very pleasant. The Storm Drain designs are being completed and we are hoping to bid in February. The Department is meeting with the property owners south of Center Street on the Tuacahn Wash to explain easements and the procedures. The Department met with contractors about erosion control. There were many solutions proposed but it appears that one control that will be installed will be retainage on each lot with a ditch around each lot. The lights and bollards have been installed on Snow Canyon Parkway and should be energized. The cobra heads have been shut off. He passed out a Department report.

City Engineer Chuck Gillette reported the EPA issued a finding of no significant impact on the Tuacahn Detention Basin. An easement agreement is being worked on with the Division of Parks and Recreation and will be coming to the City Council to get the easement approved soon. The City plans on drilling the site on February 10th. Construction should start December 15, 2008. A written Department report was distributed a copy of the report is attached to these minutes.

6. CONSENT AGENDA

- A. Approval of Meeting Minutes for January 10, 2008.
- B. Approval of Work Meeting Minutes for January 17, 2008.
- C. Approval of Computer Service Agreement with IT Services in the amount of \$6,825.00.
- D. Approval of Request for Proposals for Professional Services for 2008 Ivins City Transportation Master Plan and Capital Facilities Plan Update.
- E. Approval of Access Easement Agreement with Washington County School District.
- F. Approval of Expenditure of \$42,788.00 to Rosenberg and Associates for Upsizing Diameter of Sewer Pipeline Along Highway 91 and 800 South

MOTION: Council Member Foot moved to remove the Consent Agenda item A and B.

MOTION: Council Member Foot moved to approve Consent Agenda items C-F

SECOND: Council Member Tenczar.

VOTE: The motion carried unanimously.

George E. Elwell, Jr.	AYE	Michael Foot	AYE	Steve Jolley	AYE
Carol Tenczar	AYE	Barbara Rusick	AYE		

7. CONSENT AGENDA ITEMS FOR DISCUSSION

Consent Agenda items A and B are tabled until the next meeting.

8. REPORTS

a. Council

Council Member Elwell had no report.

Council Member Foot had no report.

Council Member Jolley reported meeting with Scott Raine about becoming the Advisor for the Youth City Council. He was involved in Youth City Council as a young man in Burbank, California. The Council Member recommended that based on that interview the appointment of Scott Raine as the Youth City Council Advisor be put on a future agenda.

Mayor Barney stated it will be on the next agenda.

Council Member Tenczar had no report.

Council Member Rusick had no report.

b. Mayor

Mayor Barney reported on ribbon cuttings he is unavailable to attend. He passed the information to the City Manager for any Council Member that might be interested in attending.

c. City Manager.

Judy Gubler reported that City Recorder Karyl Keanaaina is leaving the City to move back to Hawaii. The City Manager reminded the City Council of the Work Meeting on January 31, 2008 from 4:00 p.m. to 6:00 p.m.

d. City Attorney

Dale Coulam reported that all e-mails regarding the Committee nominations should be funneled through Judy so that there are no e-mail discussions held prior to the next meeting.

Mayor Barney suggested that the names should be mixed up so that no one would feel uncomfortable suggesting a name. It should not be identified by who presents each name and they should all be submitted together and considered as a group.

Council Member Rusick stated it is important to have wide-spread representation.

Council Member Tenczar stated there ought to be representation from subdivisions who are living under CC&R's, often they don't like that either.

Mayor Barney stated the criteria should be to look for reasonable people that will look for a solution for the City as a whole.

e. Items to be placed on future agendas.

Scott Raine appointment as Advisor for Youth City Council.

Approval of Meeting Minutes for January 10, 2008.

Approval of Work Meeting Minutes for January 17, 2008.

9. EXECUTIVE MEETING-None

10. ADJOURNMENT

MOTION: Council Member Jolley moved to adjourn.

SECOND: Council Member Foot.

VOTE: The motion carried unanimously.

George E. Elwell, Jr.	AYE	Michael Foot	AYE	Steve Jolley	AYE
Carol Tenczar	AYE	Barbara Rusick	AYE		

Respectfully,

Karyl Keanaaina
City Recorder