

IRON COUNTY COMMISSION MEETING
MARCH 11, 2024

Minutes of the Iron County Commission meeting convened at 9:00 a.m. March 11, 2024
in Commission Chambers at the Iron County Courthouse, Parowan, Utah.

Officers in attendance included:

Michael Bleak	Commission Chair
Paul Cozzens	Commissioner
Marilyn Wood	Commissioner
Jonathan T. Whittaker	County Clerk

Also present:

Karsten Reed	County Assessor
Lucas Little	County Auditor
Richard Wilson	County Chief Engineer
Shalon Shaver	County Corrections
Sam Woodall	County Deputy Attorney
Jennifer Bradbury	County HR Director
Reed Erickson	County Planner
Ken Carpenter	County Sheriff

Others Present:

Natalie Anderson	Carol Barker	Jim Barnowski
Laura Barnowski	David Barton	Carole Cragun
Ron Day	Maile W. Edwards	Karen Ence
Brad Esposito	Christie Frisby	Lorine Hansen
Bryan Harris	Debra Hartman	Jeffrey Hartman
Lise Jenson	Robert Kurth, Jr	Jon Lee
Adam Long	Michael McDonald	Charlie McKnight
Linford Nelson	Jeff Richards	Susan Sepe
Devin Snow	Lowry Snow	Diana Stiller
Jaime Tamraker	Patti Truax	Pat Wall
Laura Wise	Rick Wall	

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INVOCATION

An invocation was offered by Jon Whittaker.

PLEDGE OF ALLEGIANCE

Those assembled were led in the pledge of allegiance by Marilyn Wood.

APPROVAL OF MINUTES

Marilyn Wood made a motion to approve the minutes of the Iron County Commission meeting held February 26, 2023. Second by Paul Cozzens. Voting: Michael Bleak, Aye; Paul Cozzens, Aye; Marilyn Wood, Aye.

APPROVAL OF CLAIMS FOR PAYMENT

Paul Cozzens made a motion to approve Claims for Payment from February 26, 2024 to March 10, 2024. Second by Marilyn Wood. Voting: Michael Bleak, Aye; Paul Cozzens, Aye; Marilyn Wood, Aye.

DEPARTMENTAL REPORTS

Lucas Little, Iron County Auditor, reported that the Auditor’s Office lost a full-time employee to other employment. McKayla Bess, previous part-time employee, was promoted to be the new full-time employee. Luke noted that McKayla was previously trained in Accounts Payable and worked well with the different departments and the vendors that the Auditor’s Office used. McKayla would be trained to handle the Property Tax process, Extensions, and Property Tax Abatements. Luke reported that the Legislative Session was over and there were many bills that he followed throughout the session. He noted that he was able to fully understand the process that each bill goes through. It made the process clearer to where each bill was and the steps that still had to be taken before it was passed. Luke expressed his appreciation to the employees at the Utah Association of Counties (UAC) for offering training to understand the bill process, and their work throughout the legislative process. He reported that the Auditor’s Office was working to close out the Iron County Financial Records for the 2023 year. He noted that the Iron County Audit was scheduled to begin on May 13th. The office was also working on processing Property Tax Exemption application for tax exempt organizations such as religious or charitable organizations. They were also accepting property tax abatement applications for personal property taxes. Luke reported that there were a few bills passed through the legislative

session that updated the threshold and requirements for low income abatements. There would be training for the new requirements that would help get everything updated for the new standards.

Kenneth Carpenter, Iron County Sheriff, reported on current issues:

Metro SWAT – Search/Arrest Warrants, other high-risk calls:

- Four call outs to date this year;
- Using four man teams for TF arrests.

Drug Task force – Very Active:

- Deputy seizure three nights ago on DUI stop;
- 50.67 lbs. Fentanyl;
- 231,540 pills;
- 123.5 lbs. Meth; and
- \$4,558,160 street value

Border Issues: The northern U.S. border was becoming as bad as the southern border.

Huge increase in drug activity:

- Cartels have a pill press in the U.S. now and were manufacturing Fentanyl mixed with Xylazine pills;
- Pre-cursors coming from China;
- New types of Fentanyl and Meth;
- Human Trafficking (more guns being used); and
- Juveniles – Tic Tok, running drugs and people for Cartels.

Sheriff Carpenter reported on Current Law Enforcement (LE) issues.

Total incident reports since January 1, 2024:

- 6 Assault Simple, 2 Air Support, 54 Agency Assists, continued growth in IC growth in LE needed to keep up with growth, 1 Burglary, 5 Child Abuse/Neglect, 17 Felony Offences, 2 Fires, 41 K-9 Unit, 1 Mental Health, 157 Misdemeanor Offenses, 267 Other Offences, 3 Public Relations, 5 Search and Rescue, 1 Sex Crime against a child, 4 Other Sex Crimes, 10 Welfare Checks, 48 Drug Cases, 13 DUI and 45 Animal Problems.
- Legislation –Further enhancement of last year’s bill assigning school security to the Sheriff
 - Required a Sheriff’s Office School Security Liaison Officer
 - May require two full-time SRO’s for elementary schools in the Iron County jurisdiction
- Federal OSHA Rule – Will destroy volunteer programs with no state funding to help
 - Required a physical for every volunteer annually;
 - Additional OSHA Training hours;
 - Very cost prohibitive;
 - Working with Congresswoman Maloy to stop it.

Sheriff Carpenter reported on the current strength of Patrol:

- 2 were currently in the Police Officer Standards & Training (POST) program, and
- May be losing one officer to the St. George Police Department.

Sheriff Carpenter reported on Future Ops and Concerns:

Personnel:

- Filled our last detective from outside from the Cedar City PD (minimum 5 years’ experience);
- K9 from Lincoln County Sheriff’s Office (Task Force funded);
- Possibly a second K9 in the Jail;
- Still looking into an Explosive Detection K9;
- Animal Shelter – Constantly full; and
- Secretary – Hired Meghan Stapley

Shalon Shaver, Iron County Corrections, reported that the overall budget for the 1st Quarter was at 17%. There was one unexpected expense for the purchase of a tractor for maintenance, which was purchased locally from Beryl. Culinary cost were down to 0.95 cents per meal. Shalon reported that the average daily population total was 152:

- 133 Male, and 19 Female.

The current Inmate total was 179 inmates:

- 128 County inmates;
- 9 State inmates;
- 41 Federal; and
- 1 other county.

Work Crew Projects had 891 total man-hours:

- 163.5 Sheriff's Office;
- 122.5 Jail;
- 38 Building Department-Newcastle Fire Department fencing; and
- 567 Road Department – Fencing on 7700 West.

Shalon reported on Staffing levels:

- There were 6 Vacancies (resignations, transfers, other)
 - 1 clerical and 5 deputies in pre-employment phase;
- Hired 3; and
- 7 were on Long-term leave.

Shalon reported on planned projects and expenditures;

- Increased cost for TASER cartridges in firearm budget; and
- Possible transport van cage for a new all-wheel transport van for inmates, which would cost approximately \$30K.

Shalon reported that the Jail launched the new Inmate Growth, Naturally, Intentionally Through Education (IGNITE) initiative had begun. She explained that this was an initiative that all the programs would be under. Participation was an incentive for inmates to earn rewards. Since the launch of IGNITE other classes have been added such as Financial Literacy taught by State Bank of Southern Utah, a female parenting class (male parenting was previously offered), a proactive skills program, and Edovo. Edovo was an online tablet-based education platform with over 5K classes offered to inmates free of charge. The total inmate reimbursement was \$32,732.98 and total revenue was \$1,654,019.27.

Paul Cozzens, Iron County Commissioner, reported that he attended the Iron County Council of Government (ICCOG) meeting. Paul noted that he met with Cedar City Mayor Green regarding changing the Wastewater Treatment from a Type 2 effluent to a Type 1 effluent to be utilized more effectively and different ways to store that water through the winter, possibly pumping the water up to areas where it could be of better use. Mayor Green had received two proposals back from 2 different engineering firms. Paul expressed his appreciation to Mayor Green for his attention to water issues in Iron County. He attended a meeting with Tony Broderick, Veteran's National Cemetery Administration, with the Southern Utah Veteran's Association (SUVA). Paul explained that the Veterans Administration (VA) bought 5 acres of land above and to the south of Home Depot for a National Veteran's Cemetery. The meeting was related to the construction progress of the cemetery. Construction had begun on the cemetery which was a \$34M-36M project. Paul reported that it was explained at the meeting that during construction the rocks were crushed and all the vaults were pre-buried and some were deeper than others with a shell which allowed a veteran's spouse to also be buried there. Commissioner Cozzens reported that there needed to be unanimous agreement from the Veteran's family to move a veteran from a regular cemetery to a veteran's cemetery. He noted that a developer had donated 20 acres north of Enoch for the SUVA to build a VA Arts Center for those suffering from PTSD, a 300 seat Amphitheatre, and a full-size replica of the Vietnam Memorial Wall.

Marilyn Wood, Iron County Commissioner, reported that Iron County had applied for a grant through Congresswoman Maloys' office for \$10M to make Iron Springs Road improvements. Congress appropriated Iron County \$7M for the road. The Inland Port now used the road, and Commerce Crossroads with BZI group were building a large complex and would be using the road. The initial plans were to improve Iron Springs Road from Hwy 56 over to the landfill, but that would not be available until bids were returned. Marilyn reported that the road department continued to work on 7700 West, and planned to chip seal the road in June. She

noted at the road would be closed in the coming week to place drainage culverts for heavy rain or runoff. Marilyn reported that she attended the Annual Grazing meeting on February 27th with producers from the area, the Bureau of Land Management (BLM), the Forest Service, Department of Wildlife Resources (DWR), and the Department of Natural Resources (DNR). She explained that the meeting was previously sponsored by the Department of Agriculture, but they had decided to not handle the meetings any longer. The local Farm Bureau, American Lands Council, and others put together the meeting and they would continue holding the meetings in Cedar City. It was important to sit and talk about successes and issues facing Iron County. Commissioner Wood reported that there had been issues with keeping the North Iron County (in Parowan) Landfill staffed. Workers from the Cedar City Landfill worked some days at the Parowan Landfill. The hours and days were modified to try and help the Cedar City Landfill workers work their regular 10 hour week, as the hours in Parowan were 8 hours, and the workers had to use comp or vacation hours for the extra 2 hours. Like any change, most residents were great with the new hours, but there had been some who were very unkind. Marilyn noted that she called Parowan City Mayor Halterman and Parowan City Manager Dan Jessen to discuss a solution. Iron County does not want to close the Parowan Landfill. There was an employee at the Parowan Landfill and hoped that everyone would be understanding that Iron County was trying to keep it open. Marilyn reported that there were still issues at the shooting range. She explained that the BLM had put their paintball site northwest of the shooting range and the bullets from the shooting range were ricocheting over to the paintball site. Maria Twitchell, Iron County Parks & Rec, had reported about the issue at her previous departmental report. Marilyn noted that she spoke with the BLM and assumed that they would take care of it. The shooting range was closed and Iron County would have to continue working with the BLM for a solution.

Michael Bleak, Iron County Commissioner, reported that he attended the SUVA meeting and was able to put them in touch with Representative Maloy. A breakfast meeting was set and Representative Maloy was excited about the project and said she would do anything she could to help with funding, or whatever they needed. Mike reported that he spent some in-person time with the Federal Emergency Management Agency (FEMA) team regarding the reimbursement of funds for road repairs from past flooding. He noted that they were very complementary to George Colson, Iron County Emergency Manager, for not trying to gouge them for money. George told them that he just wanted reimbursement for the damages. Commissioner Bleak reported that he, Sam Woodall (Iron County Deputy Attorney), and George Colson met to work on an Emergency Medical Services (EMS) agreement. This was an operating agreement between Iron County and Gold Cross to make sure those services were provided in Iron County.

PERSONNEL

Jennifer Bradbury, Iron County Human Resource (HR) Director, presented the new hire of Elliott Matheson as a Full-Time Corrections Deputy 1 for the Sheriff's Office – Corrections, effective March 18th. This was a backfill of a vacant position; the promotion of Aaron Wadley from a Deputy 2 to a Deputy 3 in the Sheriff's Department, effective March 31st; the promotion of McKayla Bess from a Part-Time Accounts Payable to a Full-Time Accountant 1, effective March 10th in the Auditor's Office, effective March 10th. This was a backfill of a vacant position.

Marilyn Wood made a motion to approve the Personnel changes as presented by Jennifer Bradbury. Second by Paul Cozzens. Voting: Michael Bleak, Aye; Paul Cozzens, Aye; Marilyn Wood, Aye.

PRESENTATION BY MISS IRON COUNTY, NATALIE ANDERSON

Karen Ence, Miss Iron County Pageant Director, explained that the Miss Iron County that was previously crowned in August 2023 decided to get married. Natalie Anderson, 2nd Runner-up, had accepted the role as Miss Iron County, and was doing a fantastic job. Karen turned the time over to Natalie. Natalie reported that she had spent 16 years growing up in Georgia before moving to Cedar City four years ago. She graduated from Cedar High School, and was currently attending Southern Utah University studying Communications with an emphasis in Media and a minor in Political Science. Natalie reported that her Community Service Initiative was “Protect and Prevent” child abuse in Iron County. She had met with the Iron County Children’s Justice Center (CJC) where she brought donations and was currently working on a fundraiser for the new CJC building. Natalie reported that she was able to meet with those involved with the “Policy Project” who worked hard to get SB 205 passed in the Utah Legislature. SB 205 allowed child abuse/prevention education to be implemented in schools in the State of Utah. She noted that she was honored to be included in that process. Miss Anderson reported that the Miss Utah Pageant would be held in June, and she was excited to represent Iron County.

PUBLIC HEARING, DISCUSSION, AND POSSIBLE APPROVAL OF A PROPOSED GENERAL PLAN TIER CHANGE FROM TIER IV TO TIER III, FOR APPROXIMATELY 482.86 ACRES, WITHIN SECTIONS 17 & 18, T38S, R12W, SLB&M. LOCATED NEAR 2900 EAST HWY 144, NEW HARMONY, UTAH (APNs: E-409-1-412, E-0409-10 & E-0409-11) Applicant: New Harmony Ranch, LLC, c/o Brad Esposito.

Reed Erickson, Iron County Planner, explained that the location was along Hwy 144 at the southern edge of Iron County along the Washington County line. The site was currently in a Tier IV area which, under current land use policy, would be limited to 20 acre lots. Twenty acre lots were the smallest lot size that were allowed in a Tier IV area. The current zone was A-20, which meant 20 acre minimum lots. On the east side of the interstate, property was a Tier II area in Kanarrville, which allowed 10 acre lots because the lots were not on a central sewer system that was based on the recent Septic Tank Density Study. Commissioner Cozzens asked Reed if the Density Study included the New Harmony Valley. Reed replied that it only included those properties located in Iron County. Reed noted that a zone change would not be eligible for anything less than 20 acres because it was in a Tier IV area. Reed explained that in 1995, Iron County implemented a County General Plan that was revised in 2005, which included 4 types of tiers:

- Tier 1: Urbanized Area – land available for Urban Growth within existing municipal boundaries.
- Tier II: Urban Expansion Area – land available for Urban Growth within a reasonable proximity to existing municipal boundaries with some services available/planned
- Tier III: Urbanizing Area - land that can be developed as a new master planned community, village, or resort project served with central sewer and water infrastructure, and a minimum of 320 acres.
- Tier IV: All other areas in the county – rural with limited or no services

Reed reported that agenda items 2-5 were separate items to be approved, but were related because it was a project. There was a Tier III change that related to the SPA zone, which was required by a Development Agreement. One could not be done without the other. A Tier III could not be done without a Development Agreement, the zone change to a Spa zone could not be done without a Tier Change or a Development Agreement. It was difficult to talk about just one of the item without including the others because they were tied together. A Development Agreement was to ensure everything would be accomplished and to meet the requirement of central sewer. Reed explained that the General Master Plan was a Concept Plan. This was not a Development Plan nor a subdivision. The Development Agreement authorized the developer to take the steps that were required. He noted that this was similar to a Conditional Use Permit (CUP) for a large solar facility, where it specified all the things that needed to be done in order to receive a building permit. The Development Agreement was in place to allow them to divide

property and sell lots, and to construct any type of development. Reed reported that the developer would need to come back through the subdivision process with a financial guarantee and bonding to ensure that the infrastructure was in place. He explained that this plan showed the general layout, concept plan, how the lots would conceptually be divided, the location, where the density were, where the commercial area was, and where the recreation amenities were. These would be discussed when the developer submitted a subdivision application. Reed reported that the SPA zone was an overlay zone that allowed for specific usage that was identified in the Development Agreement. He explained that the developer had created 9 zoning districts that were different from the zoning district that Iron County had, but they allow for the usage that they were articulating in the Development Agreement for low density and medium density housing. The developer had taken the Iron County Table of Uses and incorporated them into their zoning specific. Reed presented the Overview of the Development Proposal for New Harmony Ranch:

- Tier III change from Tier IV
- SPA zone change;
- Development Agreement;
- Sewer treatment facilities – sewer district (Special Service District (SSD);
- Water provided by CICWCD (if all criteria was met);
- 482 acres;
- Less than 600 Dwelling units (including hotel);
- Mixed housing units (Estate lots, medium to low density lots & townhouses);
- Commercial space (40K sq. ft.) and hotel (80 rooms); and
- 100 acres of open space (28%) – barns, stables, paths, ponds, recreational amenities, etc.

Reed reported that the Iron County Planning Commission (ICPC) had been receiving comments regarding the project and had tried to identify what those concerns were. He noted that it was always a challenge when there were projects being proposed and people were concerned with the impacts and how they would be affected by those. The ICPC worked to mitigate those concerns as much as what was reasonable to the ordinances. Sometime people do not feel they were heard when they do not agree with the ICPC or the Iron County Commission. Reed said that, honestly, the ICPC had heard these concerns earnestly and were aware of the concerns. The developer would attest during the discussions through the process that there were some things that could be addressed and some that could not. Some of these things were allowed in the ordinance and there could not be an agreement because people felt that they would be impacted by the project because it was not what they expected to see in that particular area. Reed reported on the Project Evaluation Criteria for Tier III, Section 1, General Provisions, and B. – Village: 320 acres minimum and less than 1000 housing units and not meeting the description of a resort, which was required in the Development Agreement. Commissioner Wood asked about the sewer system that needed to be put in place. Reed replied that the sewer system would be supervised and permitted by the Utah Department of Environmental Quality (DEQ)/Water Quality Division. The DEQ had permitted similar systems in different parts of the state. He noted that he had toured such facilities up in the Kamas/Oakley area. There were different companies that do this type of sewer system in the state and the DEQ was familiar with them, and what they were required to do, and newer technology that was being used. Marilyn Wood asked if Reed might report on Iron County's interaction with Washington County on this project. Reed replied that he met with Washington County's Planner, Scott Messel, a few times regarding this project and the overlay for New Harmony Valley and how it could work for Iron County. They discussed the corridor of Hwy 144 trail and what they wanted to see come out of that, like a trail system, a hike and bike trail on the south side of the highway, and an equestrian trail on the north. Reed noted that he had talked with the developer about the equestrian trail and maintenance along Washington County, and he would continue to cooperate with Washington County. Washington County's attorney spoke at the ICPC meeting and was interested in considering a development agreement with the developers on how the improvements on the roads would actually be done with the acceleration and deceleration lanes on the highway. Reed sent a copy of the proposal to Scott Messel as well.

Michael Bleak, Iron County Commission Chair, declared a Public Hearing open regarding the Tier Change only. He noted that a combined time limit of 30 minutes would be given to public comments, which included items 2 – 4, and Jon Whittaker would keep track of that time. Correspondence would come at end of the Public Hearing.

Diana Stiller, a resident of New Harmony, reported that Reed did a great job explaining the Tier change criteria that had to be considered before there was a change to the general plan. Diana noted that the “New Harmony area is still rural.” Her group had done a tremendous amount of research and spent a lot of time and money. The group believed that the commission could and should require a demonstration of feasibility and from their research it differed quite a bit, which the ICPC was aware of. She commented that we often hear “where did you come from and how long have you lived here,” which was irrelevant. What should be said was, “why we are here in Harmony Valley.” They live there because of the rural small community environment. Diana explained that she bought property in New Harmony Valley in 2007 to live in a rural, small community. She expected growth to creep up from St. George and down from Cedar City, but not the bombshell of this project being in middle of a rural community. There was a community already there and they did not need an urbanizing zone to establish a pathway establishing its own little city or municipality in their already existing community. Diana noted that she agreed that the owner of this property had property rights, but so did she. But those property rights were limited by our neighbors and those who surround us. The property rights were also limited by county ordinances. None of our rights anywhere or our constitutional rights were unlimited. They were limited by each other and our government puts rules into place to prevent fighting. They do have the right to peacefully protest and petition the government for regress of grievances. The New Harmony is still rural group was comprised of educated and active citizens. Diana stated the she appreciated the process that was being done here today. The members of the group were prepared to talk about some of these issues. She noted that there were some concerns that she did not see listed such as grave sites, which was on the list for the property in January and not there now; traffic impact on Hwy 144, and they would like a traffic impact study. They were not trying to close the door to New Harmony. What they did not want was a gated community that would not allow animals. Gated communities belonged in St. George, Las Vegas, and Southern California, not here.

Christy Frisby, a resident of New Harmony, noted that she was in opposition to of all the items. She had attended the ICPC meeting and did not have to explain how special New Harmony was. The other Tier III sites previously shown did not have a National Park in their front yard. She stated that a sewage treatment plant, in a septic only community, could be devastating because that was not going to stop urban growth. Growth was import, but it needed to be done in a respective way to the land and the Southern Utah heritage. Her main concern was the egress and emergency exits that were shown earlier during good weather. Christy showed the commissioners pictures of how the road looked on February 12, 2024. Another issue for her was not enough school busses. Her children each spend 2 hours a day for the Elementary school, and 2.5 for Middle school. This influx of 500 homes would only make it worse. The Hwy144 study reported that the road was currently at 3% capacity, with the influx of drivers it would bring it to 33%. The road would need a major upgrade. Christy was also concerned with the sewer plant and that it would be devastating to the area.

Pat Wall, a resident of Chekshani Cliffs, reported that during the 2012 fire, three of his neighbors’ homes burnt down because of the lack of fire coverage. The 2022 census reported that the zip code of New Harmony, 84757, had a total population of 1,305, 53.8 sq. miles, 23.3 people per sq. mile, and 675 total housing units. The city of New Harmony in the 2022 census reported 244 residents and this development would add a minimum of 1,800 residents to the zip code, which was approximately seven times the population of New Harmony that would have to drive through this development. Pat noted that he would like Iron County to stay on the master Plan of 5-acre minimum. Just because the development could be approved does not mean that it should be passed.

Jon Lee, a citizen of Iron County, noted that in Southern Utah water was always an issue. It had been said that there was enough water but we need to look at the data. Jon reported the

average family in Utah was 3.5 members, and each home would use approximately 12K gallons of water per month. This was 10-times more than what they use on a 5-acre parcel. This development was looking at a 10-times sewer load of discharge that would need to be treated. The Water District would have a 20-times load on its water service. He noted that the water district had to abandon a well because of water quality issues and had another well drilled. The current well feeds agriculture and homes in Chekshani Cliffs. Jon reported that he had tested wells in the area north of the project that dropped 51 feet in water level in 13 years. Water quality changed as water levels changed. He noted that the water company reported that they would have to drill new wells as this development progressed, which would add to the water burden in New Harmony Valley. Jon reported that Harmony Farms Water Company located south, down river from this project, had a Water Well Head Zone Protection Study in 2019. He noted that this project was in the red-zone of the Water Well Head Protection Study. Anything that was discharged from the treatment facility would affect drinking water for those located on 3430 and downstream from Exit 40. Jon reported that he had done a lot of work on Sewer Treatment Plants and there was not one of them that had not had a spill. There were a couple of wells ruined downstream. The potential for a spill was always there. He noted that this project did not fit 98% of Kanarraville and the New Harmony Valley. It should be reconsidered as 5 or 10 acre lots.

Robert Kurth, Jr. reported that he was a lawyer in Nevada and Utah and was representing his family that owns property adjacent to this project. Robert went over some specific points. This ordinance changed in 2005 and why was there zoning in the first place? The Home-Owners Association (HOA) was in place to protect property. This was a rural community with 20-acre parcels. He noted that previously Reed Erickson reported that a study might allow 16-acre parcels that was currently zoned for 20 acres. Presently, the ordinance did not allow any parcels under 20-acres unless it was changed to Tier III. Robert submitted that Iron County could change the zoning to 10 acre parcel even though Reed said 16 acres. The 10-acres would be allowed and the developer could develop it without the septic system. When his family purchased the property 30 years ago they did it for a reason. Robert understood that the Iron County Deputy Attorney disapproved the Development Agreement at the March 7th ICPC meeting and he would like to see the Development Agreement. He was concerned about the road and it would eventually need a light placed there if there were many residents coming out of a gated community. Robert noted that earlier Sheriff Carpenter reported on the lack of funding and officers. This would also affect New Harmony Valley. Provisions in Exhibit B Subsection 5 reads, "The applicant has demonstrated the feasibility of obtaining police, public safety, and fire services to the reasonable satisfaction of Iron County." He noted that the Development Agreement contained a mechanism to assure the financing of such services. Does this mean they will assess it and charge, or assess the people who buy in? Exhibit B also reads, "It will provide its residents' benefits that significantly outweigh those that would otherwise be derived if development occurred under the current zone." Robert reported that his parents knew that the Davies might sell their farmland for 20 lots, but not a town. This project would triple the population of Kanarraville and New Harmony. Will this project have an adverse impact on other property in the vicinity of the development, and have a reasonable financial plan? He was also concerned on the impact on the wildlife that traveled right through the development, would the BLM allow hunting, why doesn't Iron County start development from Cedar City and move outward, what would be the hours of construction and how long was it going to take, the entire project should be done at the same time and not in phases, will there be lighting, and fencing for livestock?

Patty Truax, a resident of Kanarraville, noted that this project would have a negative effect on Kanarraville. In the 1990's, New Harmony Mountain Ranch wanted to change their zone to 5-acre lots from 20-acre lots. The commissioners at that time did not allow the change because they could not provide enough safety precautions to prevent fires and law enforcement. There were reasons why the commissioners should not pass this project. This will affect all property owners.

Charlie McKnight, a resident of New Harmony, read from Iron County Code 17.12.030-Criteria for approval of general plan text and map amendments. "In considering a proposed amendment to the Iron County general plan, the applicant shall identify, and the county staff,

planning commission and the county commission may consider the following factors, among others:

- A. The effect of the proposed amendment on the character of the surrounding area;
- B. Consistency of the general plan land use map and the goals and policies of the general plan;
- C. Consistency and compatibility with the general plan uses of nearby and adjoining properties;
- D. The suitability of the properties for the uses requested and their suitability for uses identified by the general plan;
- E. Whether a change in the use proposed for the affected properties will unduly affect the uses or proposed uses for nearby and adjoining properties; and
- F. The overall community benefit of the proposed amendment.

Charlie expressed his appreciation for all the commission had done and that they were very accomplished professionals. Prudence was very important in everything and required that we do not always do things just because we can, but also we do what makes sense. He respectfully suggested that what had been stated here that there be no smaller than 5-acre lots, and to maintain the New Harmony Valley. A village plan does not make sense.

Michael Bleak, Iron County Commission Chair, declared the Public Hearing closed.

Paul Cozzens made a motion to approve the General Plan Tier change, Tier IV to Tier III regarding APNs: E-0409-1-412, E-0904-4, E-0409-10 and E-0409-11 located near 2900 E Hwy 144, New Harmony, Utah as presented by Reed Erickson. Second by Marilyn Wood. Voting: Michael Bleak, Aye; Paul Cozzens, Aye; Marilyn Wood, Aye.

*Commissioner Bleak explained that since the Public Hearings overlapped, the motions would be made at the end of the public hearings after the public comments were all heard.

PUBLIC HEARING, DISCUSSION AND POSSIBLE APPROVAL OF A PROPOSED ZONE CHANGE FROM AGRICULTURE 20 ACRES (A-20) TO SPECIALLY PLANNED AREA (SPA). FOR APPROXIMATELY 482.86 ACRES. WITHIN SECTIONS 17 & 18, T38S, R12W, SLB&M. LOCATED NEAR 2900 EAST HWY 144, NEW HARMONY, UTAH (APNs: E90409-1-412, E-0409-10 & E-0409-11) Applicant: New Harmony Ranch, LLC, c/o Brad Esposito.

Reed Erickson, Iron County Planner, explained that a Specially Planned Area (SPA) was a zoning classification, but within that SPA zone overlay, there was an approval for various densities, mixed uses, etc., in which other zoning districts could be created of diversity and flexibility. Reed reported that Exhibit B, Ordinance 205, provided the considerations for a SPA. The SPA zone was intended to:

- Permit innovative consideration in the development of land, to ensure that all development is undertaken in a manner to significantly further the goals and objective of the General plan.
- Allow a creative approach to the development and use of the land and related physical facilities to produce better development, design and construction of quality and aesthetic amenities.
- Allow for a choice in the type and quality of environments, including a mix of land uses, available to residents and the public.
- Better relate residential, commercial, and other development with community facilities and infrastructure location, size and design.

Reed explained that the SPA zone allowed the creation of new zones that may not be in the current zoning, which the developer had opted to do as proposed in their zoning plan, to allow for smaller lots. Even though a R½ zone was allowed in a SPA zone, it also allowed the creation of other zones or densities. He noted that the ICPC was not exceeding what other zone categories allowed for. The provision of a SPA zone allowed the developer to create a zoning structure that provided for the type of development that they were proposing. Reed reported that after the ICPC staff reviewed the proposal with the Table of Uses and the definitions, they found the project was commensurate with the type of zone that Iron County currently had in the zoning

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structure that could more easily be enforced. Commissioner Cozzens asked Reed to explain the issue brought up about the road access for emergency purposes. Reed explained that the access road would come out of the north end of the property and run along the base of the hill into Kanarraville. He noted that the requirement for two accesses was met by two exits off Hwy 144. The dirt road to the north was planned for evacuation and was an Iron County Road but not maintained up to standards.

Richard Wilson, Iron County Engineer, reported the mentioned road was a Revised Statute (RS) 2477 road and was typical a dirt road. It would be used in an emergency only, and most in the area would use Hwy 144 for evacuation.

Michael Bleak, Iron County Commission Chair, declared a Public Hearing open regarding a SPA zone change and reminded the attendees about the time limit.

Diana Stiller, a resident of New Harmony, noted that this was a situation where the people who live in New Harmony know better regarding the road. If there was a fire the whole valley would need to evacuate. It would double the population that would need to evacuate and those living there would use Hwy 144 as noted by Richard Wilson, because the other road was not usable. People get stuck on that road even when it was dry. It was not adequate or safe.

Robert Kurth, Jr., a resident of New Harmony, noted that he was concerned that if this was converted to a Tier III it limited the size of parcels. Now that it was a Tier III it could be amended. He reported that he drove the mentioned dirt road yesterday on a side-by-side and it would not be usable by a vehicle.

Jon Lee, a resident of New Harmony, noted that he was concerned about moving to a SPA zone and the treatment plant. The treatment plant would need a Level 5 operator and there were only 12 of them located in the State of Utah. He did not believe that any of them would be willing to leave where they currently live and making better wages.

Patti Truax, a resident of Kanarraville, reported that if the developers buy property that was zoned 20 acres and thought they could make more money by reducing the acreage just by asking for it, then our ordinances were ineffective.

Michael Bleak, Iron County Commission Chair, declared the Public Hearing closed.

Marilyn Wood made a motion to approve the zone change from Agriculture 20 acres (A-20) to Specially Planned Area (SPA) regarding APNs: E-409-1-412, E-409-4, E-0409-10 and E-409-11 located near 2900 E Hwy 144, New Harmony, Utah as presented by Reed Erickson. Second by Paul Cozzens. Voting: Michael Bleak, Aye; Paul Cozzens, Aye; Marilyn Wood, Aye.

*Commissioner Bleak explained that since the Public Hearings overlapped, the motions would be made at the end of the public hearings after the public comments were all heard.

PUBLIC HEARING, DISCUSSION AND POSSIBLE APPROVAL OF A PROPOSED DEVELOPMENT AGREEMENT FOR THE NEW HARMONY RANCH VILLAGE, PLANNED MASTER VILLAGE COMMUNITY WITH OPEN SPACE, RECREATION, A VILLAGE CENTER, WITH SINGLE AND MULTI-FAMILY RESIDENRIAL- APPROXIMATELY 547 DWELLING UNITS. LOCATED NEAR 2900 EAST HWY 144, NEW HARMONY, UTAH WITHIN SECTIONS 17 & 18, T38S, R12W, SLB&M. (APNs: E-409-1-412, E-0409-10 & E-0409-11) Applicant: New Harmony Ranch LLC, c/o Brad Esposito

Reed Erickson, Iron County Planner, explained that a Development Agreement was a requirement of the Tier III and SPA zone. It was an agreement between Iron County and the developer in following the criteria outlined in Iron County Ordinance 17.42.010 – Development Agreements. The Development Agreement assured projects to advance policies, implement goals, or achieve other desired results not generally available under the other implementation strategies of the Iron County. It was a contract to assure the developer was in compliance with the ordinance. The Development Agreement had been discussed at length between staff, ICPC, the developer, and Iron County Deputy Attorney. It was in its final draft today and ready for adoption. The Development Agreement contained a commitment from the developer to provide central sewer, central water, build the roads to Iron County standards, and build all of the infrastructure according to Iron County standards. The Master Plan, Table of Uses, definitions,

site development standards, and the phasing schedule was included in the agreement. Reed read the purpose of the Development Agreement. "The party desires that the county have reasonable certainty considering the manner in which the New Harmony Ranch Village will be developed, and the developer would have certainty in proceeding with the development of the New Harmony Ranch Village." Discussion continued regard other provisions included in the amendment. Paul Cozzens asked if the treatment plant would be Type 1 or Type 2 effluent. Reed replied that they planned to use a Type 1 effluent.

Brad Esposito, New Harmony Ranch, reported that they had contracted two different engineer firms and looking at two wastewater treatment companies, Easy Treat and Aqua Tech. They would to adhere to the standards that need to be met. It was their intention to reutilize the water to put back into the lake and landscapes. They do not want to waste the discharge. Brad noted that they were currently having discussions with the Department of Environmental Quality (DEQ).

Reed Erickson noted that he had spoken with the Southwest Public Health engineer, who was aware of this project, and that the contractors had been in contact with the State of Utah DEQ, through which this project would be permitted. Reed explained that the Phasing Schedule was a concept of how they plan to move through the project. He noted that in regards to Mr. Kurths' comment of how long the project would take. It was difficult to foretell the length of the project and the impacts as the project developed because so much of it was market driven. Any developer would have to phase a project of this scale. The project was currently being presented in 11 phases. There was an equestrian area on the upper right hand corner of the Village. Brad Esposito reported that the equestrian trail had public access from the frontage road and out to the BLM land.

Michael Bleak, Iron County Commission Chair, declared a Public Hearing open regarding the proposed Development Agreement for the New Harmony Ranch Village and reminded the attendees of the time limit.

Pat Wall, a resident of Chekshani Cliffs, asked what the length of the Development Agreement was. Was it open-ended, 5, 10, 20, 30 years? Reed replied that the specific term was the time it took to develop the project and have all the requirements in the project fulfilled. If the Village was built out it could be a 10-year agreement. He noted that there was no time specific expiration. There was a provision in the agreement that Iron County could terminate the agreement if they felt the developer was not in compliance and was not committing to the promises made in the agreement.

Diana Stiller, a resident of New Harmony, noted that there were many experts here and they had done their own contacting including the state levels for water quality, as she has sent them to the commissioners' emails. Diana stated that she wanted to remind the commissioners that many here did not live in Iron County, except for the Kurth family, but they were your neighbors. She noted that Cedar City, Kanarraville, and New Harmony were extricably linked and had been for approximately 170 year, and asked the commissioners to respect and consider that when voting on this project.

Robert Kurth, Jr., resident of New Harmony, noted that he was concerned with the Development Agreement and hoped the commissioners would table this part of this project. He stated that he did not agree that this was a contract, rather an agreement between the developer and Iron County. If the commissioners approve the current proposed plan, that was putting the half-acre lots which was in violation of Tier III adjacent to their property. The emergency exit would have to be moved by the horses and fence. The road was insufficient and it would need to be moved to the NE corner. If approved it would concern him very much. He noted that the road was on BLM land. Paul Cozzens reported that it was a RS2477 road and could be maintained.

Reed Erickson reported that they were aware of the emergency exit and it came out on the east side of the property by the equestrian area. Currently, if someone came out on the corner they would be on the west side, but were able to come out on the east side. They were working with the BLM to avoid the draw, and working with the developer to make sure there would be a good access for emergency purposes.

Michael Bleak, Iron County Commission Chair, declared the Public Hearing closed.

Commissioner Cozzens asked Reed if it was a legal requirement for them to disclose the Development Agreement. Reed replied that it was a public document and copies would be available. The agreement had not been available previously because it was in negotiations to make changes before it was made public. They needed to be sure that it was the final copy before releasing it to the public. Commissioner Wood asked if the Development Agreement was not approved today could it be moved to the next commission meeting? Reed explained that the Development Agreement was required to approve the Tier III and a SPA zone, so they were tied together. The criteria for the Tier III and SPA zone required the Development Agreement. He noted that it was a contract to ensure that Iron County was comfortable that they were committing the developer to what the ordinance required. It was not a public negotiation, but it was to ensure that the ordinance was being complied with, and getting the commitments from the developer that the ordinance required.

Sam Woodall, Iron County Attorney, reported that his office reviewed the Development Agreement and did not have any concerns with it.

Jon Whittaker read, or gave a synopsis of the comments sent to him through his email.

Jody Maclee wrote that, "If the "village" is allowed to proceed as a Tier III, it will impact South Elementary, Cedar Middle School and Cedar High School at approximately \$2M a year just for the Village. She opposed the project and asked that the commission not move forward and not put more burden on an already overcrowded and underfunded school system.

Carole Cragun wrote that, "The developer stated that he would build and pay the salaries for a new fire station. The property currently had no fire protection. Where would the sewer runoff go from the sewer treatment plant? She did not want to see and smell sewage and the treatment plant should be at least one-half mile to one-mile north of Hwy 144. A gated community did not fit with the aesthetic of New Harmony. Was Iron County ready for the influx of students? Keep New Harmony rural."

Laura Barnowski (summarized) wrote that, "She was opposed to the development because the proposition did not in any way conform to the nature of what was New Harmony Valley: wide open spaces, large presence of agriculture, farming, cattle, and horse ranches. Homes along the valley west of this proposal are on a minimum of 5-acre, most being actually at least 10-acre plots. In between are fields of cows and horses. Directly across the road are fields that feed cattle, horses, and sheep. Iron County Code 17.02.030 Purpose: The purpose of this title is to implement the goals and policies of the Iron County general plan. This title contains standards, provisions and requirements intended to protect the health safety and welfare of the citizens of Iron County by *ensuring that neighbors and adjacent and neighboring properties are protected from potential negative impacts in the development and use of land and resources*. The effect of the proposed amendment on the character of the surrounding area was not urban. Consistency and compatibility with the general plan uses of nearby and adjoining properties. There was only one adjacent property to this proposed development in Iron County, which is currently agriculture. Regarding the horse ranch to the west of the proposed development, no one has discussed the ramification of this proposed development on his ranch. Whether a change in the use proposed for the affected properties will unduly affect the uses or proposed use for nearby and adjoining properties. There is insufficient water to supply the proposed development. Within this statute, at 17D-1-301, creation of an SSD can only be challenged by "*a registered voter within the SSD*." This means that no one can protest the creation of an SSD on vacant land. I do not believe the legislature intended to deny any resident opposition. Hence, this should not be used when vacant land is the subject. Qualifications of administrative control board means that no one can be on the administrative control board other than a county employee when using this statute based on vacant land. I request you review usage of this statute to allow a SSD on this proposed development. Per discussion I had with the Utah Association for SSD's, they recommended other methods to be explored, such as a Public Infrastructure District, something aimed at providing these services to vacant land."

Craig Parmley wrote, "In 37 years in this business, this is the first time I have seen such a serious proposal treated so lightly and with almost no due diligence. We have heard from water, sewer, and flooding experts who have expressed similar concerns. As of March 7, we

have been told, *"Trust us-we'll make sure the proper stems are eventually taken-but let's approve this anyway."* I am not in favor of this development, but if the commission vote to proceed, he will at least feel that all the concerns were professionally addressed. *Despite not wanting this development, I am pragmatic and reasonable enough to accept the results of a thorough feasibility study and an exhaustively outlined and prepared developer agreement.* Sadly, we are far from that point. On March 7, Paul Monroe of the CICWCD informed us last Thursday at the Iron County Planning Commission (ICPC) meeting that they only have water for 250 residents. The current plan calls for twice that number of residents. Where is the water coming from? What will the effect be on nearby wells and water districts? Iron County Planning Commission (ICPC) employees provided differing answers on January 22, February 1, and March 7 regarding who had jurisdiction over Hwy 144. It's embarrassing and unprofessional and casts a huge shadow on the ICPC staff judgement. None of the ICPC representatives who made the recommendation held recognizable registrations or endorsements as traffic engineers, and none represented an agency with jurisdiction over the road. Despite this, on three occasions, a representative from the ICPC stated that they had reviewed traffic data, most recently in the form of counts, and deemed no improvements were needed." Jon reported that Craig was told that mitigation was not required. Craig was concerned with the confusion between Washington County and Iron County about jurisdiction. He was concerned that the traffic counts comprised only a tiny slice of data which should have included accident history, accident types, road construction details, sections, etc., where the road is in its maintenance life cycle, seasonal weather conditions impacting site distance, and road layout. Craig was concerned with the lack of coordination between UDOT and ICPC, flooding issues and coordinating with Washington County flood control. "A lawyer retained by New Harmony residents was told by the Iron County Sheriff, one day before the March 7th ICPC meeting, that they did not have a development agreement despite asking the ICPC to approve it the next day. Make your ICPC and developer do their due diligence. Make them properly outline the impacts on other jurisdictions. Make them return to the drawing board and provide enough information to assess the feasibility of this development accurately. Once you have that information on hand, make them good partners with your neighbors in local government and come to a reasonable choice backed by accurate data. We only ask that you don't sacrifice our rights as residents and property owners in favor of the perceived rights of the developer."

Jon Whittaker reported that he had received an email from **Diana Stiller**, but had expressed most of her concerns today. Jon noted that Diana wrote, "I believe that your Ordinance 205 requires you to consider the impacts of any development on neighboring communities when you make your decisions, and the impact of your decisions on the future residents of Iron County."

Brad Esposito, New Harmony Ranch Village, reported that he wanted to make sure some things were understood. Brad expressed his appreciation to the ICPC, who had been fantastic to work with and the staff should be commended. Brad explained that discussion on this project began 3 years ago and was not just beginning. The Development Agreement had gone back and forth for months to get to the point they were at now and all involved were in agreement. He noted that he had lived in Pine Valley for 6 years and owned property there since 1990. Brad loved this valley and understood the residents' concerns. This project could have been much larger in a resort situation and force over a 1000 home in there. He was personally committed, and so was his team, to work any way they could with any agency to do the best thing. In regards to the acceleration and deceleration lanes, they agreed to do the lanes, which was not forced on them. They had met with UDOT to do a traffic study, which was not mandatory, and they would adhere to the findings, and would do the same with the sewer or anything that would come up. In the future there would be many hurdles to overcome and he was committed to do what was right. Brad reported that he hoped that this Village would set the standard for how large developments should look like. Extra funds were being used for a gated community and putting in a 10-acre lake to make this a nice place that people could enjoy and the residents and citizens of Iron County could be proud of. He asked that this move forward with a vote of approval. He noted that he did not see any reason for the project to be tabled. If

there was a reason to table the Development Agreement approval, he asked that the commission move forward with the motions subject to the final draft of the Development Agreement. They would continue to work with the DEQ and what was best for Iron County. Commissioner Wood asked if they had enough water rights and what year were the water rights. Brad replied that they currently had 97 acre-feet of water rights that were pre-1935. Upon approval of the motions they had a seller that was holding water rights for them of 1917 water rights. This person was referred to them by the Water Reclamation District and there was an agreement between the three of them. That would make a total of 300 acre-feet of water rights.

Michael Bleak, Iron County Commission Chair, declared the Public Hearing closed.

Paul Cozzens noted that there were many who assumed that the commissioners do not study all the documents presented to them, they do read them and study them. Paul had talked with Paul Monroe, CICWCD, at length regarding the water situation. He reported that one thing the documents said that the developer would place a water tank. Paul Monroe told Paul that there would not be any connections until the water tank was complete. Commissioner Cozzens explained that when a well was put in in our valleys, the closer you get to the mountains the higher the Total Dissolved Solid (TDS) were. The water district drilled a new well for Chekshani Cliffs by I-15, which was better water for them. Last year they pumped 1,480 of 8760 or 60 out of 365 days. There was plenty of capacity in that well. The Development Agreement stated 200 acre-feet of water was good for 200 homes. When Commissioner Cozzens was on the water board they had a policy that if the development focused more on xeriscape and water-wise landscaping, the water board would require less acre-feet per home. Paul Monroe told Paul Cozzens that if the development had 200 acre-feet of water, that would be enough for up to 400 connections. Paul noted that Chekshani Cliffs was built in 1993 and had taken 30 years to build 57 homes on 70 lots. If this project was approved there would not be 200 homes right away. The CICWCD would not allow the developer to develop more phases if there was not enough water. Regarding property rights. Paul reported that he grew up in Moab and his parents had moved there in 1957. His parents purchased a lot of land in Moab before 1962. He was grateful for property rights. Paul reported that when he was 10 years old his father was paralyzed with encephalitis and could no longer work. Because of the land his father purchased in 1957, they were able to sell the parcels and that was how they supported his family. He was grateful to be able to develop that property and sell it. This had made him very compassionate to private property rights. If someone wanted to develop their land and they were in compliance with the ordinances and regulations that Iron County had in place, then they had the right to do that. Regarding the issue brought up about increase in crimes. Paul reported that the development was within a mile of I-15 and thousands of cars driving past every day. He noted that he had heard this argument on crime for many years. When he was on the Cedar City Council, Interstate Drive was proposed to go through to build the Courtyard Marriott and others developed in the area. The same arguments went on for a year that criminals would drive in and go into the neighborhoods and commit crimes and wreak havoc. This had not happened and people leave I-15 and drive back on. Criminalization was unfounded. Regarding the septic density. Reed Erickson brought up the fact if there were 10-acre lots and wells puncturing the aquifer and septic tanks could have a negative affect with the groundwater with just the septic tanks, whereas the sewer facility would keep the pollutants out of the aquifer. Paul reported that he felt this development was a very wise thing where they would take care of their own sewer with their own treatment plant. He noted that there was a letter from the Iron County School District stating that they could accommodate the development. The sewage would be regulated by the State of Utah. As Paul had listened to some of the minutes and conversations that there were only 5 to 10-acre lots in the New Harmony Valley. He looked at the map over the weekend and he counted 75 one-acre lots on the south side of the road that had been developed. Paul reported that had he read some of the documents that referred to the Iron County Fire Department. Iron County does not have a fire department. There was an agreement with Cedar City Fire Department through an Interlocal Agreement to provide fire service. Paul noted that it was his understanding, regarding the traffic issues, that a traffic study had been done. The development was one mile from the

freeway. If the developer included acceleration and deceleration lanes it would greatly enhance the flow of traffic.

Marilyn Wood noted that the developer was very brave in pursuing this Village. The New Harmony Ranch Village that was proposed was very costly and she could not imagine that Brad Esposito had not planned this project to do well. Brad had done his due diligence trying to go through the process to make sure he was in compliance. Marilyn expressed that she was doubtful that this project would be a success. It was away from the big cities to shop. In our country we all have private property rights and if Brad wanted to pursue this project he had the right to do so. Regarding the gated community that everyone was concerned about. If a property owner wanted to have their own community they could build a wall around it. There were walls up on a few of the subdivisions in Cedar City and she did not think this would be a problem. Commissioner Wood noted that she thought the planned central sewer was a good plan. A year or so when the Sewer Density Study was done it was very concerning. Reed Erickson worked very hard on the study. The 10-acre lots was a result of the study. Washington County had lots that were smaller and there were some in New Harmony. New Harmony residents who lived in Washington County need to encourage Washington County to perform a new study. The sewer treatment plant would help keep the nitrates low. There were several treatment plants all over the country and a few in Utah. She reported that Reed Erickson asked many communities to have a treatment plant placed in their community. Commissioner Wood noted that there that there was no market on scenery and it was free. She was sure that the developer chose that spot for the beautiful view.

Diana Stiller reported that Washington County was going to begin a study. They would begin in Pine Valley and circle around.

Paul Cozzens made a motion to approve a proposed Development Agreement for the New Harmony Ranch Village planned Master Village Community regarding APNs: E-0409-1-412, E-409-4, E-0409-10 and E-0409-11 located near 2900 E Hwy 144, New Harmony, Utah as presented by Reed Erickson. Second by Marilyn Wood. Voting: Michael Bleak, Aye; Paul Cozzens, Aye; Marilyn Wood, Aye.

*Commissioner Bleak explained that since the Public Hearings overlapped, the motions were made at the end of the public hearings after the public comments were all heard.

PUBLIC HEARING ON THE PROPOSED CREATION OF THE NEW HARMONY RANCH SPECIAL SERVICE DISTRICT (SSD)

Reed Erickson, Iron County Planner, explained that this was a Public Hearing that was identified for the Special Service District (SSD) for this project to provide sewer and transportation services within the boundary of the district to take care of and accommodate as required by the Development Agreement. The developer had to create this new legal entity. Reed reported that Resolution 2024-1 was approved on January 22nd and identified March 11th as the public hearing date. This would now begin the 60-day protest period, which anyone could protest, but there was a stipulation of whose protest could actually be used to terminate the project. Those included properties that were within the proposed district. The district boundary that was being proposed was the boundary of the project and does not include anyone else. He explained that there were concerns expressed that the Tier III and the district could be expanded and take in other property. That was not what the SSD was doing. Tier III was specifically limited to the 482 acres that was approved and this district comprised of the same property. The owners of this property have proposed to create the SSD. Reed explained that only owners within the property could go towards the 25% it would take to end the project, if 25% protested. Others could protest and voice their concerns and those concerns could all be heard as the SSD was being considered at the end of the 60-day protest period. At the end of the protest period, the SSD could come back before the commission and they could consider any of those protests and concerns and weigh those out and determine whether it's in the best interest to create the district or not. Only 25% of those within the project area could end the project, but if anyone else protesting made a legitimate argument or a valid concern, then the commissioners could elect to not approve the SSD. The SSD was a requirement in the Development Agreement in order to take care, own, and operate the sewer system. Reed explained that as previously mentioned in

some of the public comments, it took a qualified operator who was in the business and could do the testing, reporting, and maintaining the equipment. Reed reported that after the SSD was approved the commissioners would appoint the SSD Board members. Currently, there were not a multitude of property owners to select from so the commissioners could select anyone with experience and background to serve on the board to help establish the SSD, begin building, making improvements, and begin their operation systems. Reed noted that this public hearing was to establish the 60-day protest period.

Devin Snow, New Harmony Ranch in behalf of the developer, Devin explained that it might be helpful to differentiate between the actions the commissions just approved. The previous actions had to do with the uses of land and whether they were appropriate. The SSD public hearing was only about the sewer system and infrastructure to be operated and maintained in the future. It was assure that that infrastructure was taken care of and run well. Devin noted that there was no action to be taken today. Action would be taken on a future date to actually create the SSD. The public hearing today was to hear from members of the public about the creation of the SSD. Devin reported that the SSD would be a public entity, which meant that it would have open meetings and a budget would be approved and adopted by the SSD. The SSD would not affect non-residents. Fees that residents within the development pay would be for sewer service. Residents outside the New Harmony Ranch development would not be required to pay those fees. He noted that one of the public comments suggested that maybe a Public Infrastructure District (PID) might be more appropriate vehicle for this project. PID's were specifically not authorized for operation and maintenance of sewer treatment plants, which was the reason to move forward with a SSD.

Michael Bleak, Iron County Commission Chair, declared a Public Hearing open regarding the creation of the New Harmony SSD.

Diana Stiller, a resident of New Harmony, reported that she heard that perhaps the SSD included the maintenance of the roads, and wondered if that was true. Diana noted that an SSD could be done on vacant land, but the document but talks about persons who were there and needed these services. An SSD was not intended to be created on open land.

Jim Barnowski, a resident of New Harmony, noted that he would like a clarification on the protest period. The protest period was restricted to those who reside within the district. Marilyn Wood replied that others could protest. Jim stated that only those within the district were considered appropriate protests. Only the property owners were appropriate protests. Marilyn noted that if 25% of those within the district could end the project, but anyone was allowed to protest. Jim stated that that was true, but his point was that there was zero population on the property, so only the property owners could effectively protest against the SSD.

Pat Wall, a resident of Chekshani Cliffs, reported that at the first ICPC meeting regarding this project, it was stated that no outside builders would be allowed. Pat reported that this entire project was up to the developer to build and develop everything. He would like to hear from the developer what his timetable was to fully build out this project outside. Commissioner Bleak replied that those questions were outside the perimeter of this public hearing. Comments were to be specific to the SSD.

John Lee, a citizen of Iron County, reported that the amount of water that would be discharged into the wastewater treatment ponds would be wholly inadequate because they would be too small. This was going to cause issues with runoff downstream.

Michael Bleak, Iron County Commission Chair, declared the Public Hearing closed.

PUBLIC COMMENTS

No Public Comments were offered.

DISCUSSION AND POSSIBLE APPROVAL OF A PARTIAL SUBDIVISION VACATE AND AMEND FOR LOTS 14, 15, & 16, WINTERWOOD SUBDIVISION UNIT 1 – TO COMBINE INTO A SINGLE LOT RENUMBERED 14A. LOCATED IN THE NE¼ OF SECTION 35, T34S, R10W, SLB&M, IRON COUNTY, UTAH. (APNs: D-69-4, D-69-9 & D-69-13) Applicant: Brent Dean

Reed Erickson, Iron County Planner, explained that the lots were located in the Winterwood Subdivision south of Summit on the south side of I-15. The land ownership pattern was all private around this area. Reed explained that the lots were too small to accommodate septic and well and accommodate the setbacks. The owners proposed to amend this currently zone R-½ property on half-acre lots and combine the three lots into one single lot.

Marilyn Wood made a motion to approve a partial subdivision vacate and amend for lots 14, 15, & 16 to combine into a single lot renumbered 14A regarding APNs: D-69-4, D-69-9 and D-69-13. Second by Paul Cozzens. Voting: Michael Bleak, Aye; Paul Cozzens, Aye; Marilyn Wood, Aye.

DISCUSSION AND POSSIBLE APPROVAL OF THE POTENTIAL SALE OF TWO PROPERTIES OWNED BY IRON COUNTY IN THE CEDAR HIGHLANDS SUBDIVISION (APNs: D-1024-5-1, D-1024-5-2)

Richard Wilson, Iron County Chief Engineer, explained that these properties had been previously discussed. The court ordered that they be transferred to Iron County when Cedar Highlands City was unincorporated. Richard reported that after discussions between staff and the BLM regarding alternative routes, the two lots would not be part of the rerouting plan for the road that was approved by the BLM. This sale did not suggest or imply that Iron County would be taking over any roads. The two lots were not necessary to be on the roles of Iron County owned properties. This would give him permission to list these properties for sale. He noted that Cedar Highlands and the CICWCD had claims for unpaid bills and would have to be paid by the buyer. It would be made part of the condition that any leans or other encumbrances on the property would be paid by the buyer. The money from the sale would be returned to the Corridor Preservation funds.

Paul Cozzens made a motion to approve the potential sale of two properties owned by Iron County in the Cedar Highland Subdivision (APNs: D-1024-5-1 and D-2024-5-2), as presented by Richard Wilson. Second by Marilyn Wood. Voting: Michael Bleak, Aye; Paul Cozzens, Aye; Marilyn Wood, Aye.

DISCUSSION AND POSSIBLE APPROVAL OF TO RATIFY AN AGREEMENT BETWEEN IRON COUNTY AND SUNROC CORPORATION FOR THE CONSTRUCTION OF THE IRON COUNTY EWP PROJECT, RIGHT HAND CANYON AND RED CREEK

Richard Wilson, Iron County Chief Engineer, reported that the Emergency Watershed Protection (EWP) projects were previously approved and received permission to move forward for bids. Sunroc Construction was awarded the bid and there was need to ratify the contract between Iron County and Sunroc. Richard noted that he had a pre-build meeting scheduled with Sunroc and Bowen Collins later this week and hopefully get the project started as-soon-as possible. He explained that Ladybug Nursery was included in the project because Iron County had a cost share requirement, and after consideration, he felt that it could be fulfilled within Iron County for the \$20K cost share. Richard reported that he was sensitive to the budget and how to save money, and the road department could do most of the hauling.

Marilyn Wood made a motion to ratify an agreement between Iron County and Sunroc for the construction of the Iron County EWP Project, Right Hand Canyon and Red Creek, as presented by Richard Wilson. Second by Paul Cozzens. Voting: Michael Bleak, Aye; Paul Cozzens, Aye; Marilyn Wood, Aye.

DISCUSSION AND POSSIBLE APPROVAL TO RATIFY TWO BLM GRANTS FOR FLPMA TITLE V THAT AUTHORIZES IRON COUNTY TO IMPROVE, OPERATE, MAINTAIN, AND TERMINATE WATER FACILITY AND FLOOD CONTROL MITIGATIONS ON BLM ADMINISTERED LAND AND TITLE V RIGHT-OF WAY (ROW) UTU-82051 WHICH AMENDS LEGACY UTU-82051 TO ADD A FLOOD CONTROL STRUCTURE ON PUBLIC LANDS ADMINISTERED BY THE BLM

Richard Wilson, Iron County Chief Engineer, explained that the BLM gave Iron County permission to do EWP's on BLM land. Both Right Hand Canyon and Red Creek had BLM associated properties. He noted that instead of making this specific to the project in hand of the EWP, Iron County had the rights to go in and manage and maintain Right Hand Canyon and Red Creek for the next 20 years. Rather than it being a single project, it was a 20 year grant to work in that area.

Paul Cozzens made a motion to ratify two BLM grants for FLPMA Title V that authorizes Iron County to improve, operate, maintain, and terminate water facility and flood control mitigations on BLM Administered Land and Title Right-of-Way (ROW) UTU-82051 which amends Legacy UTU-80501 to add a flood control structure on public lands administered by the BLM as presented by Richard Wilson. Second by Marilyn Wood. Voting: Michael Bleak, Aye; Paul Cozzens, Aye; Marilyn Wood, Aye.

DISCUSSION AND POSSIBLE APPROVAL TO RATIFY A PROFESSIONAL SERVICE AGREEMENT BETWEEN IRON COUNTY AND GTC CONSULTING, INC

Marilyn Wood made a motion to ratify a Professional Service Agreement between Iron County and GTC Consulting, Inc. Second by Paul Cozzens. Voting: Michael Bleak, Aye; Paul Cozzens, Aye; Marilyn Wood, Aye.

CONVENE AS THE IRON COUNTY COMMUNITY DEVELOPMENT AND RENEWAL AGENCY (ICCD&RA)

Michael Bleak, Iron County Commission Chair, declared the convening of the Iron County Community Development and Renewal Agency (ICCD&RA).

ICCD&RA RESOLUTION 2024-1, APPROVING AN AMENDMENT TO PARTICIPATION AGREEMENT FOR THE FREMONT SOLAR COMMUNITY DEVELOPMENT PROJECT AREA

Adam Long, Attorney for the Iron County Community Development & Renewal Agency (ICCD&RA), explained that the next two agenda items could be presented together but have separate actions taken. Adam reported that Fremont and Rush Lake Solar Community initial Interlocal Agreements were approved in 2019 and were amended in 2020. He noted that the requested amendment was regarding the commercial operations date. This date was set that the developer had to have the 2 projects up and running, generating power and selling it to whoever the off-taker was. In the participation agreement that date was a prerequisite to get the project developed. They were requesting to move the date out by 3 years to January 1, 2028. Notably, they were not changing the Interlocal Agreements. The participating tax entities, Iron County School District and water district, signed the Interlocal Agreements that they would participate for a period up to 15 years with a "drop-dead" date of 2039. He explained that meant the agency would have to begin collecting tax increment in 2025, meaning the project would have to be built by 2025. Because of supply chain constraints and other issues that would not happen, which was the reason for the request.

Paul Cozzens made a motion to approve ICCD&RA Resolution 2024-1, approving an amendment to the Participation Agreement for the Rush Lake Solar Community Development Area. Second by Marilyn Wood. Voting: Michael Bleak, Aye; Paul Cozzens, Aye; Marilyn Wood, Aye.

**IRON COUNTY COMMUNITY DEVELOPMENT AND
RENEWAL AGENCY RESOLUTION 2024-1**

A RESOLUTION APPROVING AN AMENDMENT TO THE PARTICIPATION
AGREEMENT FOR THE FREMONT SOLAR COMMUNITY DEVELOPMENT
PROJECT AREA.

Whereas, pursuant to the provisions of the Utah Limited Purpose Local Government Entities – Community Reinvestment Agency Act (the “**Act**”), specifically Utah Code Annotated (“**UCA**”) § 17C-4, the Iron County Community Development and Renewal Agency (the “**Agency**”) has created and adopted a project area plan (the “**Plan**”) for the Fremont Solar Community Development Project Area (“**Project Area**”); and

Whereas, the development and construction of the project is expected to be completed by the end of 2027; and

Whereas, the Agency and the taxing entities now desire to amend the participation agreement for the Project Area (the “**Participation Agreement**”) in order to reflect the development schedule.

THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE IRON COUNTY COMMUNITY DEVELOPMENT AND RENEWAL AGENCY AS FOLLOWS:

1. The amendment to the Participation Agreement for the Fremont Solar Community Development Project Area is hereby approved, in substantially the form attached hereto as **Exhibit A**.
2. The Commission Chair is hereby authorized to execute the amendment, with such changes, modifications, and emendations as the Commission Chair deems necessary.
3. This resolution takes effect immediately.

APPROVED AND ADOPTED on the 11th day of March, 2024.

IRON COUNTY COMMUNITY
DEVELOPMENT AND RENEWAL
AGENCY



Michael Bleak, Chairman

ATTEST:



Jonathan T. Whittaker, County Clerk



VOTING BY THE AGENCY BOARD

Michael Bleak	<u> Aye </u>
Paul Cozzens	<u> Aye </u>
Marilyn Wood	<u> Aye </u>

**ICCD&RA RESOLUTION 2024-2, APPROVING AN AMENDMENT TO THE
PARTICIPATION AGREEMENT FOR THE RUSH LAKE SOLAR COMMUNITY
DEVELOPMENT PROJECT AREA**

Marilyn Woods made a motion to approve ICCD&RA Resolution 2024-2, an amendment to the Participation Agreement for the Rush Lake Solar Community Development Area. Second by Paul Cozzens. Voting: Michael Bleak, Aye; Paul Cozzens, Aye; Marilyn Wood, Aye.

IRON COUNTY COMMUNITY DEVELOPMENT AND RENEWAL AGENCY RESOLUTION 2024-2

A RESOLUTION APPROVING AN AMENDMENT TO THE PARTICIPATION AGREEMENT FOR THE RUSH LAKE SOLAR COMMUNITY DEVELOPMENT PROJECT AREA.

Whereas, pursuant to the provisions of the Utah Limited Purpose Local Government Entities – Community Reinvestment Agency Act (the “**Act**”), specifically Utah Code Annotated (“**UCA**”) § 17C-4, the Iron County Community Development and Renewal Agency (the “**Agency**”) has created and adopted a project area plan (the “**Plan**”) for the Rush Lake Solar Community Development Project Area (“**Project Area**”); and

Whereas, the development and construction of the project is expected to be completed by the end of 2027; and


Whereas, the Agency and the taxing entities now desire to amend the participation agreement for the Project Area (the “**Participation Agreement**”) in order to reflect the development schedule.

THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE IRON COUNTY COMMUNITY DEVELOPMENT AND RENEWAL AGENCY AS FOLLOWS:

1. The amendment to the Participation Agreement for the Rush Lake Solar Community Development Project Area is hereby approved, in substantially the form attached hereto as **Exhibit A**.
2. The Commission Chair is hereby authorized to execute the amendment, with such changes, modifications, and emendations as the Commission Chair deems necessary.
3. This resolution takes effect immediately.

APPROVED AND ADOPTED on the 11th day of March, 2024.

IRON COUNTY COMMUNITY
DEVELOPMENT AND RENEWAL AGENCY


Michael Bleak, Chairman

ATTEST:


Jonathan T. Whittaker, County Clerk



VOTING BY THE AGENCY BOARD

Michael Bleak Aye
Paul Cozzens Aye
Marilyn Wood Aye

January 24, 2022

RECONVENE AS THE IRON COUNTY COMMISSION

Michael Bleak, Iron County Commission Chair, declared the resumption of the Iron County Commission.

NON-DELEGATED ITEMS

No Non-Delegated were discussed.


Michael Bleak, Iron County Commission Chair, declared a recess for lunch.


DISCUSSION REGARDING ONGOING LITIGATION. THIS PORTION OF THE MEETING MAY BE CLOSED PURSUANT TO UCA §52-4-205(1)(C), "STRATEGY SESSIONS TO DISCUSS PENDING OR REASONABLY IMMINENT LITIAGATION"

Paul Cozzens made a motion to move into a closed session pursuant to UCA §52-4-205(c) – Strategy Session to discuss pending or reasonably imminent litigation. Second by Marilyn Wood. Voting: Michael Bleak, Aye; Paul Cozzens, Aye; Marilyn Wood, Aye.

STATE OF UTAH)
) s.s.
COUNTY OF IRON)

I, Michael P. Bleak, Chairman of the Iron County Utah Commission, hereby certify that the purpose of the closed session convened was conducted in accordance with UCA § 52-4-205(c) for discussion regarding ongoing litigation.


Signed: Michael P. Bleak, Chairman


Attest: Jonathan T. Whittaker, County Clerk





END OF CLOSED SESSION

Michael Bleak, Iron County Commission Chair, declared the closed session ended and the return to the open Iron County Commission meeting.

ADJOURNMENT

Michael Bleak, Iron County Commission Chair, declared adjournment.


Signed: Michael Bleak, Chair


Attest: Jonathan T. Whittaker, County Clerk

