

**SANTA CLARA CITY COUNCIL
WORK MEETING MINUTES
WEDNESDAY, JUNE 21, 2023**

THE CITY COUNCIL FOR THE CITY OF SANTA CLARA, WASHINGTON COUNTY, UTAH, met for a Regular Meeting on Wednesday, June 21, 2023, at 5:00 p.m. in the City Council Chambers of the Town Hall at 2603 Santa Clara Drive, Santa Clara, Utah. Notice of the time, place, and agenda of the meeting was provided to *The Spectrum* and to each member of the governing body by emailing a copy of the Notice and Agenda to *The Spectrum* and also, along with any packet information, to the mayor and each Council Member, at least two days before the meeting. The meeting will be broadcast via YouTube linked on our website at <https://sccity.org/meetings>.

Present: Mayor Rick Rosenberg

Council Members: Denny Drake
Christa Hinton
Leina Mathis (via Zoom)
Ben Shakespeare
Jarrett Waite

City Manager: Brock Jacobsen

City Recorder: Chris Shelley

Others Present: Dustin Mouritsen, Public Works Director
Jim McNulty, Planning and Economic Development Manager
Cody Mitchell, Building Official
Ryan VonCannon, Parks Director
Andrew Parker, Fire Chief
Matt Ence, City Attorney
Tyrel Hansen, Fire Department
Debbie Bannon, Finance Director (via Zoom)

1. Call to Order.

Mayor Rick Rosenberg called the meeting to order at 5:30 p.m.

2. Opening Ceremony

A. Pledge of Allegiance: Christa Hinton.

B. Opening Comments: Shadman Bashir, Islam Faith, St. George Interfaith Council.

3. General Citizen Public Comment.

There were no public comments.

4. Conflicts and Disclosures.

There were no conflicts or disclosures.

5. Working Agenda.

A. Public Hearing.

i. Public Hearing to Receive Input Regarding the FY 2023-2024 Budget.

Finance Director, Debbie Bannon, reported that this year there was a 3% increase in the General Fund over last year. There were a few variations, but the major changes involved the new requirements that rental property owners obtain a Business License and the interest rate on the revenue side. With regard to Expenses, the Justice Court had an increase in Salaries and Benefits to abide by the new State rates. In Administration, the major changes were to the Solid Waste Contract, the purchase of a new server, changing out older laptops, and the bond payment for the City Building.

Ms. Bannon next reviewed the General Fund Budget and reported that with regard to Public Safety, the contract is split with Ivins. 44% is paid by Santa Clara and Ivins pays 56% of Court expenses, the Police Department, and the Fire Department. Fire expenses increased primarily due to staffing needs. Under Public Works, Engineering was built in for the new drive design. Public Transportation was also built in. Parks were down due to the BMX Improvements and the Canyon View Parking Lot was moved to Capital Projects. Under Parks, a walking mower was being purchased along with the leased backhoe and a field groomer under the Capital Equipment line item. Economic Development was up due to the purchase of the Dowdle Santa Clara puzzles. They have also increased the Miscellaneous Revenue. Ms. Bannon reported that the increase was lower than last year.

The Enterprise Funds were next addressed. The Special Revenue Fund includes the American Rescue Plan Act (“ARPA”) funds for which they received two different payments with approximately \$250,000 to use toward expenditures. Under Impact Fees, 55 Building Permits were estimated. There were also trees for the orchard on the expense side included as well as the traffic signal on Red Mountain and Pioneer Parkways. The engineering fees for a Splash Pad and pickleball court were also added in.

Under Capital Projects, revenue was moved over from the Restricted Recreation, Arts, and Parks (“RAP”) Tax Funds. Ms. Bannon explained that with the two previous years of transferring funds with the over/under, they have to remain in compliance with the General Fund balance requirements. They were able to move money in to use toward upcoming expenses. Those funds will be used for the Bicycle Motocross (“BMX”) Park and the Vineyard Drive improvements.

The Water Fund increased mostly due to Capital Improvements consisting of Solace, the Black Desert Upsize, the PRB Upsize, the customer app, and the Crestview Irrigation Line. A majority were impact fee eligible.

Under the Sewer Fund, cameras were purchased for the sewer main built-in at a cost of \$30,000. \$42,000 was budgeted for the upsizing of Silverado and Solace. Money was built in for improvements but purchasing power was the driving force behind the increase. For Stormwater, money was budgeted for the Vineyard Drive improvements.

Mayor Rosenberg opened the public hearing. There were no public comments. The public hearing was closed.

B. Consent Agenda.

i. Approval of Claims and Minutes:

- **May 17, 2023, City Council Work Meeting Minutes**
- **May 24, 2023, Regular City Council Meeting Minutes**
- **Claims through June 21, 2023**

ii. Calendar of Events:

- **June 28, 2023, Regular City Council Meeting**
- **July 4, 2023, Independence Day (Offices Closed)**
- **July 12, 2023, Regular City Council Meeting**
- **July 19, 2023, City Council Work Meeting**
- **July 24, 2023, Pioneer Day (Offices Closed)**
- **July 26, 2023, Regular City Council Meeting**

Council Member Shakespeare moved to APPROVE the Consent Agenda. Council Member Waite seconded the motion. Vote on motion: Council Member Shakespeare-Aye, Council Member Hinton-Aye, Council Member Drake-Aye, Council Member Waite-Aye. The motion passed unanimously.

6. General Business.

A. Consider Approval of the FY 2023-2024 Budget and Ordinance 2023-12. Presented by Finance Director, Debbie Bannon.

Council Member Drake moved to APPROVE the FY 2023-2024 Budget and Ordinance 2023-12. Council Member Drake seconded the motion. Vote on motion: Council Member Shakespeare-Aye, Council Member Hinton-Aye, Council Member Drake-Aye, Council Member Waite-Aye. The motion passed unanimously.

B. Discussion Regarding the Proposed Amendment to Black Desert Development Agreement. Presented by City Attorney, Matt Ence.

City Attorney, Matt Ence, reported that the above item was on the agenda primarily for information purposes to discuss what is being proposed with the Amendment to the Development Agreement. The next agenda item is a Preliminary Plat for the first plat in the Black Desert Project. Staff thought it would be appropriate to include this on the agenda to ensure that they are up to speed with the discussions that have taken place. The actual approval of the Amended Development Agreement will come to the Council at a later date. This is not an action item but is being discussed tonight due to the relationship of the proposed Preliminary Plat.

Mr. Ence described staff's objective in proposing the amendment to the Black Desert Development Agreement. He explained that the proposed action primarily simplifies the Development Agreement. There have been changes made since the signing of the original Development Agreement. Originally, there was contemplated to be a permanent golf course maintenance building on the Santa Clara side of the project. Since then, the applicant has elected to build a temporary maintenance facility rather than a permanent structure. A separate agreement has been entered into with the developer that sets out all of the conditions and requirements. The Development Agreement did not contemplate that. There were a number of requirements in the Development Agreement that were tied to the approval and construction of the permanent golf course maintenance facility. When that went away, it no longer made sense. As they have better understood the developer's intent with the project and as their plans have become firmer, they have gone back to the Development Agreement and recognized that there are things that could be written better to make them clearer and more consistent with the intent of the project.

Mr. Ence identified the major changes as:

- The development originally contemplated a different method of dividing the project into planning areas. It was modified to require that if the developer wants to sell a certain portion of the project to another developer, the developer will have to subdivide the property from the larger project. The intent was to bring that in line with the ordinances and State law.
- The Temporary Maintenance Facility Agreement was incorporated and made an exhibit to the amendment.
- Clarification was added regarding which trails the developer is required to dedicate to the City. It includes the trails that are meant to satisfy the requirements of the City's Parks and Trails Master Plan.
- The Road Circulation and Traffic Impacts Section was tied to the anticipated development of the permanent maintenance facility. With that going away it did not make sense to keep that connection. They have since reverted to a traditional set of requirements that obliges the developer to put in the required infrastructure as they develop the various phases of the project. For example, if a plat is approved for the South Village, they would simply be required to put in all of the required improvements on and off-site for the subdivision as would normally be required under the City's subdivision ordinances.

Mr. Ence reported that Black Desert was asked to provide the City with an updated concept drawing or map for the project. When the Development Agreement was originally approved, the only thing

that had been designed was the golf course. They attached to the Development Agreement at that time to a rough layout of the golf course. Back then, the City had only approved the golf course use and no specific plans for any individual development phases of the project.

Mr. Ence referenced Area 6 and stated that where it was anticipated that the lava will be preserved, is identified on the map as having development density. That is consistent with what has always been anticipated in staff's conversations with the developer which was that at some point they would set aside a Conservation Easement to preserve the property. In doing so there is a certain value they receive in the form of a tax benefit. Having that indicated as potentially developable is of benefit to them. Staff still anticipated that the property would eventually be set aside permanently in the form of a Conservation Easement. The actual boundaries may be impacted by the City Council's decisions tonight.

Black Desert's legal counsel, Damon Georgelas stated that the developer, Patrick Manning, apologized for not being able to be in attendance. He reported that with regard to Area 6, it was always their intent for it to be gifted as a Conservation Easement or an outright gift to the City. Along with that would go some of their density. They thought it pertinent to show the type of density they assumed would go with it when that gift is made. To the extent there is any change to Area 6, they have also made a port in South Village and two of the lots that were originally on that plat will now be Homeowners Association ("HOA") controlled open space to maintain the view corridors that were communicated as being very important.

Mayor Rosenberg indicated that the matter would come back to the City Council for approval. Mr. Ence was very comfortable with the direction the project was going, recognizing that the City Council has decisions to make regarding the specific application before them to South Village. Whatever decision is made will be accounted for in the amendment, as needed. He did not expect it to have a significant impact. He explained that what is proposed is not controversial and will involve cleaning up and simplifying the document so that the City is in a better position going forward.

C. Discussion and Action to Consider a Proposed PDR Zone Amendment and Preliminary Plat for the Proposed South Village at Black Desert Subdivision. The subject property is part of the Black Desert Planned Community, which includes a 19-Hole Golf Course. Patrick Manning, Applicant. Presented by Planning and Economic Development Director, Jim McNulty.

Planning and Economic Development Manager, Jim McNulty, presented the Staff Report and referenced the Subdivision Plat. He reported that the applicant, Patrick Manning, is proposing a total of 40 single-family lots on just under 44 acres of property, which is Very Low-Density Residential. The proposed density is .91 units per acre. The lots range in size from one-half to 1.67 acres.

The subject property is in Area 5 of the Black Desert Community. The overall Black Desert Planned Community includes approximately 570 acres (298 acres with approved Development Agreement in the City). Area "A" is adjacent to Area #5 and includes a portion of the golf course that is built around the proposed project. The proposed Project Plan was displayed. A portion of the golf course was built in Area 5 and in return, some lots were being shown in Area "A". It was noted that the golf course is in place and complete.

Chapter 17.68, Planned Development Zones, requires a review of the Preliminary Subdivision Plat along with the PDR Zone Amendment application for a planned development, which was being presented tonight. Staff determined that the Preliminary Plat is consistent with the Project Plan for Black Desert, except for the proposed revisions to Area 6 and the adjustments to the golf course location (Area 5). The following items were addressed:

- 1. Public Streets & Dedication.** All required public street improvements must meet City standards and be installed or bonded for prior to final plat recordation. The public streets required for this subdivision include a 66-foot cross-section for Red Mountain Drive and Road “E” along with a 50-foot cross-section for Road “C” (main access road), as well as all interior public streets within the subdivision. In addition, all cul-de-sacs within the subdivision are required to have a 50-foot radius (100-foot diameter). The Planning Commission’s motion to approve the Preliminary Plat included a recommendation for the City to consider allowing a 45-foot public right-of-way rather than a 50-foot public right-of-way starting just east of the golf cart tunnel to reduce disturbance in lava areas.
- 2. Building Setbacks/Height.** The building setbacks are required to meet the requirements of Chapter 17.68, Planned Development Residential, PDR Zone. The building height for all homes in the subdivision is limited to 35 feet. However, the applicant will be putting a building height restriction on the plat and in the Codes, Covenants, and Restrictions (“CC&Rs”) limiting height to 28 feet.
- 3. Flag Lot/Double Fronted Lots.** A flag lot (Lot 7) has been included on the Preliminary Subdivision Plat. A flag lot requires approval by the Planning Commission. The staff portion of the lot must front on a public street and be a minimum of 25 feet wide, with a maximum length of 200 feet. If the Planning Commission determines that this is an efficient use of the land, the applicant will be required to comply with the City Code requirement for flag lots. The preliminary plat also includes three (3) double-fronted lots (Lots 21, 22, and 23). These lots will be required to have a 25-foot rear yard setback rather than the typical 10-foot setback. This option (Chapter 17.20.110.B) has been selected by the developer rather than putting in a 6-foot wall in a natural lava area.
- 4. Preservation of Lava/Minimal Disturbance.** Each home is intended to be situated on a lot to maximize views and limit disturbance allowing for the preservation of lava areas. A Site Plan will be required for each home prior to Building Permit issuance. The CC&Rs will be enforced by the HOA allowing for the subdivision to be maintained as per Black Desert requirements.
- 5. Golf Course.** A portion of the golf course is included with the Preliminary Subdivision Plat. As previously stated, the applicant is intending to open soon. A “Golf Course Fly Zone” note has been added to the plat as requested by staff. Associated language for lot owners will be included in the CC&Rs for the project.

6. **Multi-Purpose Trail.** A 10-foot multi-purpose trail has been included north of Tuacahn Wash and adjacent to Red Mountain Drive (east side), and Road “E” (north side) which both include a 66-foot cross-section. The 2018 Trails Master Plan includes this required trail connection.
7. **Open Space Areas.** The preliminary plat includes two (2) open space areas to be maintained by the HOA. Area #1 is across the street from Lots 30 through 36 and 1.16 acres in size. Area #2 is in-between Lots 37 and 38 and is 1.04 acres in size. These two areas will be HOA-maintained and included in the CC&Rs for the project.
8. **Proposed Area #6 Revisions.** The applicant is proposing revisions to the original Area #6 of the Project Plan (attached). This area includes a Conservation Easement area that is approximately 18.85 acres in size. The applicant is proposing to revise Area #6 of the Project Plan to include approximately 13.3 acres within a conservation easement (a reduction of approximately 5 acres). Proposed Lots 37, 38, 39, and 40 along with Open Space Area 2 and the public road that lines up with Entrada (St. George, private street) are within the northwest corner of Area #6. A decision on this item which includes an amendment to the Development Agreement will be decided on by the City Council prior to, or concurrently with Final Plat approval. A Black Desert site visit with the City Council, staff, and applicants was conducted on April 19, 2023. The Council is aware of the proposed Area #6 revisions.
9. **Building & Fire Code/Emergency Access.** A second point of ingress/egress via a public street system has not been provided into the proposed subdivision. As a result, the applicant is required to fire-sprinkle all residential structures within the project. The IRC requires an NFPA 13D sprinkler system. Emergency access will be available from the southwest edge of the project adjacent to Entrada, which is a private development with gates.
10. **Entry Features/Landscaping.** All landscaping (Individual lots & open space areas) will be required to comply with City Ordinance #2022-05 (Water Efficiency & Conservation).
11. **Culinary Water Availability.** The applicant is required to obtain a Will-Serve Letter or other verified documentation from the Washington County Water Conservancy District (“WCWCD”) prior to final plat recordation.
12. **Secondary Water Availability.** The applicant is required to connect/install secondary water for all outdoor water use.
13. **Project CC&Rs.** A copy of the project CC&Rs is required by Chapter 17.68, Planned Development. The applicant will need to provide a copy of the CC&Rs to the city for review and approval at Final Plat submittal.

14. **Dust Control.** The applicant will be required to submit a Dust Control Plan prior to final plat recordation. Precautionary measures are needed to protect the general health, safety, and welfare of residents living in the vicinity.

Mr. McNulty reported that this is a public meeting. A public hearing was held on May 25, 2023, before the Planning Commission. The matter was properly noticed and is compliant with the General Plan, which is Medium-Density Residential. The proposed application was found to meet the intent of the General Plan. State Code considerations were also met for a zoning amendment for noticing, which was done prior to the Planning Commission Meeting. This meeting was to consider the zone amendment as well as a Preliminary Subdivision Plat. The Planning Commission unanimously recommended approval to the City Council. Staff recommended the City Council consider the PDR Zone Amendment and Preliminary Plat for the South Village at Black Desert Subdivision subject to the conditions set forth in the Staff Report.

In response to a question raised regarding the width of the entrance into the flag lot. Mr. McNulty indicated that it is 25 feet and meets City Code requirements.

It was noted that fire sprinkling is required because there is a dead-end system. The access is only for emergency vehicles as needed in the event of an emergency. Council Member Shakespeare commented that fire sprinkling systems can cause a lot of damage. Fire Chief, Andrew Parker, stated that per the Code if two accesses cannot be provided, fire sprinkling is required. Mr. McNulty explained that rather than tying back into Pioneer Parkway and disturbing the lava, which has never been the intent, it is a dead-end system.

Mr. Ence explained that the plan has gone through a number of revisions and many of the changes involved secondary access. His understanding was that the way it is configured in the proposal satisfies the Fire Code for secondary access. Under those conditions, sprinklers would not strictly be required. That condition was required because there was some question about the second access. As a result, that remained as a condition. His understanding was that the developer has agreed to meet the Fire Code with the access, which may satisfy that requirement. Mayor Rosenberg pointed out that the access on the St. George side does not yet exist but is planned.

Council Member Shakespeare commented that there will be two accesses at some point and there is a loop. If the crash gate suffices as secondary access, the City will have authority to cross it. Chief Parker stated that they can get through it. Mr. McNulty indicated that it is a gated community with a private street system that allows for fire and emergency vehicle access only. The applicant will be required to provide a key or an Opticom override system, which is much preferred over crash gates. That condition has remained under the direction of Fire Marshall, Con Fulde, who reports to Chief Parker. He asked that it remain to meet the Fire Code requirements.

Tyrell Hansen from the Fire Department reported that two points of ingress and egress are needed. Council Member Shakespeare asked if that suffices under the Fire Code. Chief Parker stated that he has never gone through a locked gate in an apartment complex and always drives a longer distance to gain access. The question was whether there are really two points of access.

Council Member Shakespeare did not want to require every homeowner to install a \$25,000 fire sprinkling system when 99% of the time if there is an issue with the sprinkler system, it will flood the home. Chief Parker stated that Chief Fulde is responsible and as the Fire Marshall, is certified and his opinion hinges on the functionality of the private access. Steps can be taken to make it an accessible point of entry for emergency vehicles. Mayor Rosenberg asked if the requirement would go away if there were controls at the St. George and Santa Clara points of entry. Officer Hansen's understanding was that it is a mandate for both. The Code is clear that there must be two points of access. Mr. Ence's reported that after discussing the matter with the Fire Marshall, he was comfortable with the two accesses as proposed and stated that the Code does not strictly require fire sprinklers in that instance. He suggested that Chief Fulde's recommendation be the requirement.

Shawn Skanky from Black Desert Development stated that if they are required to install fire sprinklers they will do so, however, their preference was to count what is provided as two accesses. They would prefer not to install a fire sprinkling system since it is an additional expense and a maintenance issue for the homeowners. He offered to continue to work with Chief Fulde to better understand and satisfy his requirements. Chief Parker deferred to the minutes but recalled previous discussions that took place with the developer on the matter. Mayor Rosenberg felt that the City Council could proceed based on satisfying the requirements of the Fire Marshall and Fire Code. If the road from Entrada cannot be built at the same time as this project, they may have to install fire sprinklers.

Council Member Shakespeare commented that if they meet the minimum requirement, he will support not requiring fire sprinklers. He stressed that they are problematic and costly. Mr. McNulty reported that Mr. Manning was represented by his team. The issue had been discussed on several occasions. What was portrayed to staff was that these are resort homes, many of which are owned by corporations, and cost is not of concern. Chief Fulde could be contacted again, and the matter brought back at the time of final approval. Chief Fulde's comments were incorporated into the staff report. Mr. Ence agreed with Mr. McNulty but did not consider it to be a controversy since Chief Fulde will help them understand the requirement and the developer has agreed to comply with it. Mr. McNulty reported that staff was also collaborating with the developer to move forward with preliminary approval, however, they do not yet have approval in writing from St. George City indicating that the access is acceptable. That written verification needed to be provided.

Council Member Shakespeare remarked that the decision does not affect the developer but does affect personal property and the cost to the homeowner. Mr. Ence commented that arrangements are being made with the St. George City Fire Department. There are already private agreements in place for access. Staff has reviewed them and are comfortable with them. Council Member Shakespeare commented that they supersede private development, and he did not think Entrada's HOA would have the power to prevent fire access. Mr. Ence agreed and stated that they are established easement rights.

Council Member Hinton asked about the 45-foot public right-of-way and asked Public Works Director, Dustin Mouritsen to speak to that. Mr. Mouritsen supported the decision to reduce the width to 45 feet as Mr. Manning has assured staff that the HOA will enforce the restriction on-street parking. As a result, 30 feet of asphalt was sufficient.

Council Member Waite recalled that on the tour they were informed that one of the Project Architects may be present to show how the homes will be situated on the lots that are sensitive. It was indicated

that insight would be given in that regard. Kent Bylund from Black Desert Resort, reported that because the lots are so large and the massing of the home is unknown, it is difficult to know what a home will look like. You have to assume that the location of the home based on the elevation of the lot is acceptable. Most homes will occupy less than 25% of the lot as a footprint. They want to have the freedom to move where they need to within the setbacks. He pointed out that the 28-foot distance only applies to six lots. Everything else with the design guidelines is restricted to 19 feet. Mr. Bylund referred to the view corridor in relation to Lot 37, which is positioned as far west as possible to take advantage of the view. The building envelope on Lot 27 was also moved off the ridge. Council Member Drake commented that the concern was that the homes will not be visible from the walking path since they will be on the opposite side of the lava ridge. Mr. Bylund stated that the homes will be visible from the walking path. Open space was provided next to the walking path to preserve the view. Changes made to preserve the view were described.

Council Member Waite referred to the last map and stated that it features a unique corridor. He wanted to protect unique areas of the City and stated that the reality is that a home could be built 20 to 30 feet from the trail. He considered that to be a significant change to Area 6. He wanted to ensure that Lots 37 and 38 be dealt with carefully in terms of how they will impact the view corridors from the trail. He commented that those two lots infringe on what they anticipated would be protected in Area 6. In response to a question raised by Council Member Hinton, Jared Bates from Rosenberg Associates stated that the last time they staked the area identified the setbacks, which could be the potential back of the home. They eliminated the two lots that were in the space that had the most lava they wanted to preserve.

Council Member Waite reported that he walked the area recently with his wife and looked at where Lot 37 will be located. He stated that it has a unique view that he would want to protect. Mayor Rosenberg suggested that a detailed site plan and elevation rendering for Lot 37 be presented prior to issuance of Building Permits so the Council can see what the projected disturbance will be and how it is mitigated. Council Member Waite commented that that would be helpful but hoped that would be available before changes are made to Area 6. He noted that it might be difficult going forward to make further changes.

Council Member Hinton assumed that a fence could be placed back to the lot line. Mayor Rosenberg stated that the CC&Rs do not allow that. Mr. Bates stated that potentially a fence or wall could be built to block the view from the trail.

Council Member Shakespeare commented that part of the reason the view is so good there is because the golf course was moved from the original layout to the lower area where 35-foot multi-family housing could have been allowed. He did not disagree with allowing a berm but felt that overall, what they are getting, in the long run, is better. They are getting lower density and a better view of the golf course. Council Member Waite agreed and stated that in talking with residents, they have stressed that the view is the priority. He suggested the potential of adding language to Lot 37 to address screening from the trail. The view will be of a 12-foot roof on the back that will be stepped up. Language could specify that the home be as low profile as possible toward the trail. The applicant's representative suggested that it be restricted to 19 feet on Lot 37, which was planned for a single-level home. The highest point of the home will be on the golf course with the garage in front. A three-

dimensional rendering could be submitted to the Design Review Board (“DRB”) to show what it would look like from the trail.

Council Member Hinton asked if there is a non-disturbance area within the lot as well. It was noted that the developer is required to submit a Grading Plan showing the areas they will disturb. Often the area is fenced off. Any areas that are disturbed must be restored. Mayor Rosenberg commented that the center of many of the lots is the former pit with 100% of the area in the middle of the project having already been disturbed. The intent was to mitigate the areas of disturbance. The intent of the development was to preserve as much lava as possible and restore as much of the disturbed area as possible following the disturbance for the home construction. The result is to make improvements to the existing viewshed by restoring some of the previously disturbed rock. The developer’s representative commented that they will also prevent someone from planting tall trees that could block the view as well. The intent was for the landscaping and trees to remain lower than the plane of the home.

Council Member Waite commented on the map and stated that he never would have anticipated a home next to the trail. The intent was to have a beautiful view of the golf course, Pine Valley, and the cliffs. Instead, what will be seen is the back of the home from certain angles. He struggled with what was originally presented and what is now before them. He noted that Lot 37 has changed from what was shown on the previous map but stated that there is adequate room to build a home and fully stay out of Area 6 as previously contemplated. Doing so would push the home away from the trail if it remains within the blue area. He could understand giving up a part of Area 6 for the road and the lots above it. Area 6 changes but there are restrictions on Lots 37 and 38. It may be necessary for the developer to come back and show where the home will be situated on Lot 37. He was hesitant to change Area 6 without knowing how the view corridor would be impacted.

Council Member Drake suggested that approval be granted conditioned upon the Planning Commission recommendations and a deed restriction on Lot 37. Mayor Rosenberg stressed the need for elevation, which allows them to look at the impact on the viewshed and address the mitigation at the same time. Mr. Bates recommended the elevation versus the pad since the pad can provide an unclear description of what is taking place. Mr. McNulty suggested that they clearly identify the area that can be encroached upon and the building envelope. Mayor Rosenberg reported that the building envelope is required to prepare the rendering.

Council Member Drake moved to APPROVE the PDR Zone Amendment and Preliminary Plat for the South Village @ Black Desert Subdivision subject to the following conditions:

- 1. That the applicant be required to comply with the recommendations from all City reviewing departments.**
- 2. That the applicant be required to install public street improvements which meet City standards. This includes Red Mountain Drive and Road “E” (66’ cross-section), along with Road “C”, as well as all interior public streets within the subdivision. That a 50’ public right-of-way be required from Road “E” and along Road “C” until east of the golf cart tunnel at which time it may transition to a 45’**

public right-of-way that serves the subdivision. Additionally, all cul-de-sacs within the subdivision are required to have a 50' radius (100' diameter).

- 3. That the building setbacks for this subdivision meet the requirements of Chapter 17.68, Planned Development Residential, PDR Zone. That the building height for all homes in this subdivision be limited to 28' as proposed by the developer.**
- 4. That Lot 7 be approved as a flag lot. That Lots 21, 22, and 23 be required to have a 25' rear yard setback because they're double-fronted lots.**
- 5. That each home in the subdivision be designed to maximize views and limit disturbance allowing for the preservation of lava areas.**
- 6. That the "Golf Course Fly Zone" note be required on the plat with associated language being required in the CC&Rs.**
- 7. That a 10-foot multi-purpose trail be required north of Tuacahn Wash and adjacent to Red Mountain Drive (east side), and Road "E" (north side).**
- 8. That the two (2) open space areas be maintained by the HOA. This includes Area #1 (1.16 acres), and Area #2 (1.04 acres).**
- 9. That a decision by the City Council which includes an amendment to the Development Agreement regarding Area #6 be decided on prior to, or concurrently with Final Plat approval.**
- 10. That the applicant is required to fire sprinkle all residential structures within the project with an IRC NFPA 13D sprinkler system. That emergency access be available from the southwest edge of the project adjacent to Entrada. That the applicant provides a key or Opticom override system control to the Fire Department.**
- 11. That all landscaping (Individual lots and HOA-maintained open space areas) be required to comply with City Ordinance #2022-05 (Water Efficiency & Conservation).**
- 12. That the applicant provides a will-serve letter or other verified documentation from the WCWCD prior to final plat recordation.**
- 13. That a secondary water system is required for all outdoor water use.**
- 14. That a copy of the CC&Rs for the project be submitted to the city for review and approval at Final Plat submittal.**
- 15. That the applicant provides a Dust Control Plan prior to final plat recordation.**

16. **Lots 37 and 38 shall be presented to the City Council with a rendering showing where the home will be located along with the elevation prior to any disturbance to the lot.**
17. **The City Council shall defer to the recommendation of the Fire Marshall with regard to fire sprinkling.**

Council Member Hinton asked if the size of Lot 37 can be reduced once approval is granted. Mayor Rosenberg stated that because of the size of the lot, the location of the home can be moved. Mr. McNulty explained that the final plat will still come back to the Planning Commission and City Council for approval.

Mr. Ence reported that what is proposed is a Preliminary Plat and an Amendment to the Project Plan. It will still have to be approved as a final plat so this is the last time they will see it. He asked if they expect the renderings to come back as part of the Final Plat Approval or a separate approval. Mayor Rosenberg expected it to happen before the Final Plat comes back since any results of the rendering will have to be reflected on the Final Plat. In addition, the motion specified that the renderings must be presented prior to any disturbance taking place on the site. Mr. Ence stated that it may make sense procedurally for the renderings to be provided before approving the Preliminary Plat because the developers will have to come back anyway.

Mr. Ence commented that requiring the renderings to come back to the City Council prior to Building Permit issuance assumes a detailed role in the approval process for the lots and a level that they would not go into for an individual lot or Building Permit. That gave him pause. He recognized that the applicant is anxious to move forward and felt that the renderings and elevations go beyond the original discussion of Area 6, which was to preserve an area on the ground. In previous discussions of Area 6, he did not recall any discussion about what the view looks like from Area 6 and what will be built next to it. It pertained to preserving Area 6. He cautioned the City Council and stated that if they are trying to preserve an area on the ground, they should indicate it on the plat. If they are comfortable with it being part of the plat that is approved but want it preserved, that can be specified on the plat. They do not have to have a separate review of the elevations to accomplish that.

The developer's representative stressed their need to move forward and asked if it was possible to approve the Preliminary Plat excluding Lots 37 and 38. The plat may be amended to add Lot 37 once the concerns are addressed. This would allow them to proceed to the Final Plat with the other lots. Mr. Ence did not object to that option if agreeable to the Council.

Council Member Drake moved to AMEND the motion to APPROVE the PDR Zone Amendment and Preliminary Plat for the South Village @ Black Desert Subdivision excluding Lots 37 and 38 on the Preliminary Plat subject to the following:

Conditions:

1. **That the applicant be required to comply with the recommendations from all City reviewing departments.**

2. That the applicant be required to install public street improvements which meet City standards. This includes Red Mountain Drive and Road “E” (66’ cross-section), along with Road “C”, as well as all interior public streets within the subdivision. That a 50’ public right-of-way be required from Road “E” and along Road “C” until east of the golf cart tunnel at which time it may transition to a 45’ public right-of-way that serves the subdivision. Additionally, all cul-de-sacs within the subdivision are required to have a 50’ radius (100’ diameter).
3. That the building setbacks for this subdivision meet the requirements of Chapter 17.68, Planned Development Residential, PDR Zone. That the building height for all homes in this subdivision be limited to 28’ as proposed by the developer.
4. That Lot 7 be approved as a flag lot. That Lots 21, 22, and 23 be required to have a 25’ rear yard setback because they are double-fronted lots.
5. That each home in the subdivision be designed to maximize views and limit disturbance allowing for the preservation of lava areas.
6. That the “Golf Course Fly Zone” note be required on the plat with associated language being required in the CC&Rs.
7. That a 10-foot multi-purpose trail be required north of Tuacahn Wash and adjacent to Red Mountain Drive (east side), and Road “E” (north side).
8. That the two (2) open space areas be maintained by the HOA. This includes Area #1 (1.16 acres), and Area #2 (1.04 acres).
9. That a decision by the City Council which includes an amendment to the Development Agreement regarding Area #6 be decided on prior to, or concurrently with Final Plat approval.
10. That the applicant is required to fire sprinkle all residential structures within the project with an IRC NFPA 13D sprinkler system. That emergency access be available from the southwest edge of the project adjacent to Entrada. That the applicant provides a key or Opticom override system control to the Fire Department.
11. That all landscaping (Individual lots and HOA-maintained open space areas) be required to comply with City Ordinance #2022-05 (Water Efficiency & Conservation).
12. That the applicant provides a will-serve letter or other verified documentation from the WCWCD prior to final plat recordation.
13. That a secondary water system is required for all outdoor water use.

14. **That a copy of the CC&Rs for the project be submitted to the city for review and approval at Final Plat submittal.**
15. **That the applicant provides a Dust Control Plan prior to final plat recordation.**
16. **The City Council shall defer to the recommendation of the Fire Marshall with regard to fire sprinkling.**

A question was raised regarding how Area 6 is being changed with the amended motion. Mayor Rosenberg stated that they are approving the roadway but nothing south of it. They are approving the two lots to the north on the road but nothing to the south with the exception of the open space. Mr. Ence stated that clarification was needed since Lots 37 and 38 were excluded but there was no mention of how the Council wants to address the open space between the two lots, which is part of the plat. Council Member Drake wanted to exclude the open space in two lots from the Preliminary Plat. Lots 37 and 38 and the open space would effectively become part of Phase 2. It was suggested that the Council approve the Preliminary Plat excluding Lots 37 and 38 and the open space. The boundaries of Area 6 were identified. Mr. Ence explained that everything included in the approved plat would be excluded from Area 6. The developer would come back subsequently with the detailed Preliminary Plat including the rendering for the area to the south. The line to the road would be moved in anticipation of the applicant coming back. Mayor Rosenberg clarified that they will not have any vested rights to develop Lots 37 and 38 and the open space as part of this action.

Council Member Shakespeare seconded the AMENDED motion. Vote on motion: Council Member Shakespeare-Aye, Council Member Hinton-Aye, Council Member Drake-Aye, Council Member Waite-Aye. The motion passed unanimously.

- D. **Discussion and Action to Consider a Rezoning of Property at 400 East/Patricia Drive and Pioneer Parkway. The Applicant, Clayton Leavitt, is Proposing to Rezone the Property from the R-1-10 Single-Family Residential Zone to the Planned Developed Residential (“PDR”) Zone. Presented by Planning and Economic Development Director, Jim McNulty.**

Council Member Hinton moved to TABLE the above item. The motion was seconded by Council Member Waite. The motion passed with the unanimous consent of the City Council.

- E. **Discussion and Action to Consider a Proposed Code Amendment to the Santa Clara Zoning Ordinance, Section 17.18, Amendments to Land Use Ordinance, Zoning Map, and General Plan. This includes general clean-up, updating of the zoning ordinance, and approval of Ordinance 2023-13. Santa Clara City, Applicant. Presented by Planning and Economic Development Director, Jim McNulty.**

Mr. McNulty reported that he and Mr. Ence have worked on the above matter, which involves a simple clean up to Section 17.18. A new section 17.18.100 was added and read as follows:

The General Plan may be amended from time to time by the City Council. General Plan Amendments will be considered on a quarterly basis by the City.

- A. All proposed amendments shall be submitted first to the Planning Commission for consideration at a public hearing. The City Council shall consider the recommendation at a public meeting, and make a final determination to adopt, modify, or deny the proposed amendment.
- B. For a General Plan Amendment which includes a Rezoning of property, and a required Project Plan Amendment may include a condition that the Rezoning Application on which the General Plan Amendment is based must be approved within a one (1) year timeline, or the property reverts to the General Plan prior to approval of the Amendment.

Mr. McNulty reported that there have been recent discussions and several General Plan Amendments that need to be processed. Staff suggested that amendments be processed on a quarterly basis going forward. It was proposed that General Plan Amendments would be brought to the Planning Commission for a public hearing four times each year. Mr. McNulty stated that St. George processes General Plan Amendments quarterly basis as does Washington City. Other cities entertain them bi-annually. Mr. McNulty did not recommend bi-annually and considered it too limiting. He supported processing General Plan Amendments quarterly in January, April, July, and October. They would go to the Planning Commission and then on to the City Council. The Planning Commission held a public hearing on the matter on May 25, 2023, and forwarded a recommendation of approval to the City Council. Staff recommended the City Council approve the proposed Code Amendment.

In response to a question raised by Council Member Drake, Mr. McNulty stated that the General Plan is normally updated every 10 years for a City of Santa Clara's size. He described the process of amending the General Plan. Mr. Ence stated that there are no guarantees and that the City Council, as the legislative body, can legislate and change the General Plan at any time. He explained that there is some limit on what they can do and activity on land use applications can be limited for up to six months.

Mr. McNulty reported that staff has brought multiple requests to the City Council in the last year with negative recommendations. It is a legislative decision and applicants have a right to apply. The proposed process differs in that amendments would be presented on a quarterly basis rather than as requests are received. The reason behind the change was due to direction from the City Council to staff to change the process. Mr. Ence explained that once they made the decision to fully separate General Plan Amendments from zone changes, which has been done recently, this was the next logical step. A General Plan change should be considered in most cases as more significant than a zone change and was a natural next step. It helps Mr. McNulty manage his workload as well. He suggested that amendments be given due significance. It differs from a zone change and it should not be as easy to amend the General Plan as it is to change the zone.

In response to a question raised by Council Member Drake, Mr. McNulty stated that the process is involved but prior to adopting a New General Plan, they must go through the same public hearing and adoption process. Previously, a Citizens Advisory Committee was formed to oversee the process.

Council Member Hinton liked the idea of streamlining and consolidating the process. In response to a question raised, Mr. McNulty stated that zone changes will take place after General Plan Amendments and will be managed separately. Mr. Ence pointed out that the City does not currently have a provision in the ordinance that specifies that an approved General Plan Amendment reverts if there is not an improved zone change. Since the decision has been made to do them separately, it makes sense to make the General Plan Amendments more significant. It also provides protection in the event a General Plan Amendment is approved, and a zone change is proposed that is not supported by the Council, within one year the General Plan Amendment will revert back. It will prevent a situation where a General Plan Amendment is approved that does not continue or there is a change in ownership. What is proposed will allow a developer one year to change the zoning.

Council Member Waite moved to APPROVE the Code Amendment to the Santa Clara Zoning Ordinance Section 17.18, Amendments to the Land Use Ordinance, Zoning Map, and General Plan, and APPROVE Ordinance 2023-13, as presented. Council Member Hinton seconded the motion. Vote on motion: Council Member Waite-Aye, Council Member Drake-Aye, Council Member Hinton-Aye, Council Member Shakespeare-Aye. The motion passed unanimously.

F. Discussion and Action to Consider City Office Lighting System Work-Bid Award. Presented by Building Official, Cody Mitchell.

Building Official, Cody Mitchell, reported that the above request is to discuss the bid received to replace the Lighting Control System for City Hall and request approval of the expenditure. The issue was brought to his attention early on in his employment with the City. As he walked through the building, he noticed multiple fluorescent fixtures that were out. In conducting research and talking to employees, he found that there have been several ballast changeouts on fluorescent fixtures and they were having difficulty finding the same ballast. Due to cost, they opted to change out the lights and retrofit them to LED. Mr. Mitchell agreed that they could invest the same amount, improve the existing fixtures, and bring them to the LED standard for cost savings and longevity.

Mr. Mitchell was also driven to pursue the matter further during Swiss Days when there was a request to turn the lights on for the 5K at 5:00 a.m. They managed to get them turned on, but they only stayed on for 20 minutes. That was one of the first indications that there were problems with the controller. He attempted to contact a Lutron representative to see if they could upgrade the system. As he learned more about the system, he found that it has always been problematic. He also was informed that the Lutron representative had since retired. He was led to another man who does retrofitting for the Church of Jesus Christ of Latter-day Saints (“LDS”) who was well versed in Lutron and Wattstopper. He looked at various ways to make the system work. Mr. Mitchell was not satisfied and invited five electricians to give their opinion on the matter.

The two most competitive bids were identified. He suggested going with the installation of the Vive System. Mr. Mitchell reported that the system comes in two parts. Before the new LED lights can be retrofitted, they need to be able to control them. The first phase involves replacing the controller. The estimate for the Lutron Vive System is \$37,800 for the equipment. The installation costs an additional \$35,660 for a total of \$73,460 for Part 1. One estimate was received for the lights at a cost of over \$60,000 to retrofit the entire building with LED lights. He suggested they start on Part 2 of this

maintenance item the first part of the fiscal year. Currently, the funds are available in the maintenance budget and the improvements line item to cover the expense.

It was reported that the building is 15 or 16 years old and is due for an upgrade. Lutron built the current system under the mandates from California for energy conservation. They may have failed in a couple of areas. For that reason, they had to look for a replacement. It was noted that the \$60,000 cost of Part 2 includes labor and materials. This expenditure would replace the potential shade structure that was budgeted for. The potential use of ARPA funds was discussed; however, it was determined that most of those funds were committed.

Mr. Mitchell reported that there are problems with the system aside from what occurred during Swiss Days. There are issues when trying to override the system. The clock does not keep up and slowly loses time throughout the day. As a result, lights go off earlier every week. The system can be reset but, in the process, other functions are lost such as override switches. Other components of the system are starting to fail as well.

Council Member Shakespeare commented that lighting control requires upgrades and maintenance, and the new system will be an improvement. Mr. Mitchell realized that the cost is a substantial number but could find no way around it.

Council Member Drake moved to APPROVE the lighting changes in the amount of \$73,460 for the new Lutron lighting system and award the bid to PR Electric. Council Member Shakespeare seconded the motion. Vote on motion: Council Member Waite-Aye, Council Member Drake-Aye, Council Member Hinton-Aye, Council Member Shakespeare-Aye. The motion passed unanimously.

G. Discussion and Action Approving an Amateur Radio Week Proclamation.

Ryan Seegmiller introduced himself and identified himself as a Senior at Desert Hills High School and Vice President of the Dixie Amateur Radio Club here in Southern Utah. He explained that amateur radio is a two-way radio communication. It is over 100 years old and over that time radio has made a huge difference. The concepts and principles of radio broadcasting have impacted every aspect of today's technology. Cell phones, diabetes insulin pumps, scanners, radios used by emergency personnel, and radio waves are part of our daily lives. Amateur radio operators have served as informal ambassadors of the communities they live in. Contact can be made with other licensed amateur radio operators all over the world, which has created a community of its own. In Washington County, there are over 1,100 licensed amateur radio operators. The Dixie Amateur Radio Club in particular has about 10% of those operators as members. They have been growing significantly as well.

Mr. Seegmiller reported that they have been involved in the marathon for the last 25 years and deliver supplies and other items as needed. He has been involved in amateur radio for just over three years and has enjoyed learning more about it. The proposed proclamation seeks to establish Amateur Radio Week as June 19 to 25. He reported on an annual event called Summer Field Day that is put on by the American Radio Relay League ("ARRL"). Many amateur radio operators in the US are members of this organization. The ARRL puts on an event every year and this year the goal is to make as many

contacts as possible on June 24 and 25. Mr. Seegmiller will participate in the event near the Dixie Sunbowl in St. George. They are trying to grow amateur radio, which is an important task. It has been important in emergencies such as 9/11 where amateur radios were the only way to communicate. The same was true during Hurricane Katrina where amateur radio operators were among the first to arrive and help.

Council Member Hinton moved to APPROVE the Amateur Radio Week Proclamation, as presented. Council Member Waite seconded the motion. The motion passed with the unanimous consent of the Council.

Rachel Campell, Executive Director for the Dixie Amateur Radio Club, reported that they have approached every community in Washington County. They received responses from St. George, Toquerville, Virgin, Washington County, and Santa Clara. Washington City declined to participate. She thanked the Council for recognizing the role that amateur radio play. Mayor Rosenberg thanked amateur radio operators for helping when needed.

7. Reports.

A. Mayor/Council Reports.

Council Member Shakespeare asked Mr. Mouritsen about the Black Desert plat and stated that most of the homes will not have turf. Mr. Mouritsen reported that they will not have secondary irrigation. Mr. Manning has indicated that he intends to remain under the .30-acre-foot threshold for indoor and outdoor water usage. As a result, they did not feel it was necessary to run a secondary system. The Mayor stated that it is a long dead end, and they have nothing to connect it to on the other end. Council Member Shakespeare remarked that it seemed like a lot of cost and maintenance down the road to have two meters for such a minimal use. He was pleased that the matter had already been resolved. Mayor Rosenberg stated that the current policy is that if there is not enough outdoor use to justify construction of a secondary system, it will not be required since the City will eventually take over the future operations and maintenance.

Council Member Hinton reported on the following:

- Samantha from Dowdle Studios reached out to her about the puzzle wall. The cost would be an additional \$10,000, which may be available in the RAP tax or elsewhere. With that, they would have a band come to the Swiss Days Celebration as well as singers and dancers from the American Folk Ensemble. Eric Dowdle will also speak. An amendment was sent to the Agreement if of interest to the Council. Mayor Rosenberg expressed his support. The Mayor commented that the puzzle wall would be a good activity for Swiss Days. Funding issues were discussed, one of which was an auction. It was anticipated that there would be a lot of support from the community. The Mayor stated that the second edition of the puzzles will pay for the \$10,000 cost. The Council expressed support.

Council Member Drake reported on the following:

- A meeting was held recently with the Solid Waste District, which is moving forward with plans for a New Scale House and Administration Building. The cost has not yet been determined. An application was made with the Community Impact Board for grants and loans.

Council Member Waite reported on the following:

- He attended a Utah Infrastructure Agency Meeting the previous week via Zoom where they were working on their annual budgets. It reported that UTOPIA Fiber and UA still have strong subscriber growth and their financial situations are good and payments are being paid to cities for the inconvenience they experienced. Council Member Waite reported that he was in the process of having fiber installed in his home. He estimated that the conduit is one inch in diameter. Several installations have been completed in the City thus far and to his knowledge, they have gone very well.
- UTOPIA completed the Rocketeers UTOPIA Fiber Story, which is a 25-minute YouTube video with a portion pertaining to Santa Clara. He offered to provide the link to the Council Members.

Mayor Rosenberg reported on the following:

- There was no Flood Control Authority Meeting this month as there were no flooding issues.
- The Mayors Association met with the area police chiefs and sheriffs who discussed outlaw motorcycle gangs that are a problem in Washington County. Chief Flowers attended as well. The Mayor stressed that it is a problem. The City will assign a representative to serve on a new task force to deal with the issue.
- The Dixie Metropolitan Planning Organization (“MPO”) recently met with a placeholder agenda. He attended via Zoom but there was nothing specific to Santa Clara.
- The Water District has not had any follow-up meetings and they have not heard back from the canal company. Mr. Mouritsen has tried unsuccessfully to set up a meeting with their new board. The New Board Members were identified as Jim Ence and Bret Smith.

Brock Jacobsen reported on the following:

- A date for the semi-annual meeting with Ivins City needs to be set for July or August. Mayor Rosenberg suggested that it instead be held in the fall and spring. He commented that the summer is a tough time to convene two councils. Last year they met in August. Mr. Jacobsen suggested they aim for the end of August or the first of September and again in February. August 30 was scheduled as the date for the Combined Work Meeting with the Ivins City Council.
- The Utah Associated Municipal Power (“UAMPS”) Annual Meeting was scheduled for August 13-16. Those unable to attend were asked to inform Power Director, Gary Hall.

- The Utah League of Cities and Towns (“ULCT”) Annual Convention is scheduled for September 6-9, 2023, in Salt Lake City. Those wishing to attend were asked to notify Mr. Jacobsen.

8. Executive Session.

There was no Executive Session.

9. Adjournment.

Council Member Drake moved to ADJOURN. Council Member Shakespeare seconded the motion. The motion passed with the unanimous consent of the Council.

The City Council Meeting adjourned at 7:39 p.m.

Chris Shelley
City Recorder

Approved: _____ June 28, 2023 _____