

FINAL MINUTES

VIRGIN TOWN COUNCIL MEETING

WEDNESDAY, August 27, 2014

Work Session at 6:30 pm

Regular Meeting at 7:00 pm

Virgin Town Office, 114 So. Mill Street, Virgin, Utah

Present:

Council Members: Mayor, Bruce Densley
Bill Adams
Danyale Blackmore
Jean Krause
Jay Lee

Others: Monica Bowcutt, Town Clerk
Linda Collet
Darcey Spendlove
Tom LaCosse
Greg Ballard
Lori Rose
Kason Smith, Munn Property
Sean Amodt
Andria Wenzel
Bonnie Timmerman

A. WORK MEETING/Non-Action Items:

The Work Meeting began at 6:31 pm.

a. Updates: Old Church, Kolob Road & names, Park Restrooms, Town Road Repairs.

Mayor Bruce Densley stated that the Town had been in discussion for over 6 weeks with the two companies who had submitted the lowest bids on the Old Church (by law they were in the allowed percentage). According to the law, the Town could renegotiate with them, plus the Town had found that there was a few more dollars in the church fund than originally thought. The Mayor reported that he had given each company an opportunity to come back to the Town and say where they could save money. He reported that apparently there was some misunderstanding on the part of one party, but it was very clear that they had both been notified. He reported that the bid would be awarded during the regular meeting agenda.

The Mayor reported that the Kolob Road was coming along fine, until the flood had come down and washed the culverts out where the creek had been diverted for the bridge. He stated that men had been working at putting the re-bar in, when someone had come and said “get out” just before a two foot wall of water came washing down.

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Mayor Densley stated that submitted names for the Old Kolob Road were everything from Dead End Road, Grapevine Spring, Sawmill Road, and Mountain Dell Road. He stated that he did not see any really outstanding opinions at this point. Council Member Bill Adams asked if anyone knew where the pioneer road went up to Mountain Dell, etc, in relationship to the Kolob Road. The Council discussed the possible locations. He suggested that Pocketville Road might be a very appropriate name for the road. Town Clerk, Monica Bowcutt, stated that someone had asked her to call Lenny Brinkerhoff and get some information on Grapevine, which she had not done yet. Council Member Jean Krause volunteered to call Lenny Brinkerhoff about the questions on Pocketville Road and Grapevine. Mayor Bruce Densley stated that the Town was still taking opinions on the road name.

The Mayor reported that the Pocketville Park restrooms had been put on hold for awhile because Chris had been pulled off to fix water leaks. He stated that most of the rough in plumbing was done and the block had been purchased.

Mayor Densley reported that the Town road repairs were underway. They were working on the patches starting in the center of Town and working out.

b. Discussion of Recycling & Dumpster location.

Mayor Densley stated that the issue of recycling was that Southern Utah wanted it, but the Towns should have the option of whether to go with it or not. The price was still unavailable. This was the program where residents were given two garbage cans, one for trash and one for recycling, which was known as curb side. He reported that the Town could still keep the binnies where they were, but St. George and Washington were both looking at going curbside. He also explained that citizens would have the option to opt out of the program, which was why a cost was not known, until they knew how many participants there were. Mayor Densley stated that the price was probably from \$5 to \$8 a month. Council Member Jean Krause stated that she already paid for curb side, which cost her about

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\$30 quarterly. Council Member Bill Adams asked what was wrong with the binnies. Council Member Jean Krause replied that it was because residents had to go there instead of the truck coming to them. Council Member Adams clarified that the binnies gave the Town money back, which was about \$150 last year. Council Member Krause also stated that no sorting was required in curb side, and no glass was allowed.

The Mayor stated that the Solid Waste District was still considering making the dumpsters a manned transfer station and perhaps later enlarge the station. This would mean that it would be manned six days a week and would also charge the commercial businesses that were currently dumping there. Mayor Bruce Densley asked the Council if a different location would be better so it would not interfere with the proposed soccer fields, and rodeo grounds, etc. at that location. He suggested maybe moving the dumpster location up the Kolob Road half a mile farther, perhaps even out of Town limits. Council Member Bill Adams stated that he would prefer to move the station up the road just around the turn in order to have the station be a Kolob Mountain station (as opposed to a Virgin Town Station) otherwise the Town would have defeated the purpose of reducing the traffic on the Kolob Road. He stated that in 10 years down the road he would not like to see a county dump station in the Town recreation facilities. Mayor Densley stated that the BLM land across from the Danny field would be a less obtrusive site.

Danyale Blackmore stated that perhaps the Town would like to work with Rockville and Springdale to make a place that would work for all three communities. She suggested finding a sight on the North side of the river that would make access easier.

Lori Rose stated that she liked to utilize the facilities so close to her home and did not want to lose that possibility, although a mile farther up the Kolob Road would be fine.

Sean Amodt asked the Mayor to talk with the County about the tree limbs which get dumped, because they were the biggest problem. He suggested that perhaps if the limbs were dumped in a separate part

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it would alleviate the problem. Lori Rose stated that if a chipper was available for charge at the manned station, it would be well used.

Council Member Danyale Blackmore stated that Kolob was its own community, so maybe the County could provide them a dumpsite instead of relying on Virgin to provide the dumpsters. Mayor Densley answered that Kolob residents were charged to use the site and also year round availability was not possible on Kolob. He further explained that the County knew that if they did not provide the service, the trash will be left everywhere.

Council Member Jay Lee stated that if the site was moved onto County property, the County might begin charging Virgin residents also.

c. Discussion of Days of '47 Celebration.

Mayor Densley stated that there was an emphasis from the State to encourage small towns to combine the celebration and make it a County wide celebration. One suggestion was to have each community sponsor different parts of a celebration. He stated that the State had asked that in the coming year the celebration have a little more unity.

d. Discussion of Height Limitations/Hotel.

Mayor Densley stated that this was a hot potato item. He reported that he had read where St. George was offering some incentives in the form of tax refunds to bring business into town. He stated that it was an accepted thing to bring businesses in, if it was an advantage to the town. He also stated that the one hotel that wanted to build in Virgin was on hold for various reasons. He asked for feedback from the Council on whether the Council should ask Planning and Zoning to work on a situation where the Town Council could grant certain circumstances (for example: topography) to use as an incentive.

Council Member Danyale Blackmore stated that the tax issue was very different than a height limitation and changing VULU. She explain that it was fact that the developer still needed to come in

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and bring their plans and their thoughts and what they were doing, and the Council had a right to look at that and decided. She stated that incentive wise, the tax refund, was not the same issue. Council Member Danyale Blackmore stated that the issue should be left as was in VULU.

Council Member Jay Lee stated that as he was reading through the minutes from July, he came across the comments from Larry Amodt, who stated that in the Resort Zone if the developer was asked to improve facilities and/or install trails, it allowed them a height advantage of ten feet. He wondered if that would cover what was being talked about. Mayor Bruce Densley stated that he remembered the maximum that a commercial developer had was 30 feet with all the bonus points and the residential maximum was 25 feet.

Council Member Bill Adams clarified that the question Mayor Densley was asking was whether Council should write something into the ordinance that said that incentives could be given for certain things, and also spelled those things out. For example, the Town would be willing to waive or adjust the height ordinance for something in return. He stated that some person may want one incentive where a different person may want another. He answered yes, he felt that the Town could offer incentives to people for bringing their business to Virgin, although, the Town should be flexible and offer incentives as appropriate, but should not be hemmed in. That was why the Town had a rule.

Linda Collet stated that she remembered when the fire chief spoke, stating the when the third story was added it would cost the Town a considerable amount of money. She asked the Council if they were opening themselves up to incentives and then turning around and slapping the residents with more taxes in order to encourage the business to come. She also reminded the Council that most hotels were willing to go with two stories if that was what the community wanted. The Mayor asked if the Town citizens were better off to have their fire insurance rate go up a little bit in order to provide a tax base so that general taxes did not have to be raised and also provide employment for people. Plus, the Fire District might be planning to ask the county to help the small communities. He suggested that people

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don't have tunnel vision on the issue.

Jay Lee clarified that the insurance rate might go up, if your company used the ISO rating system.

Lori Rose agreed that some business growth in Town would be helpful and she saw the value of having a nice motel and nice compatible businesses to help the tax base, but she expressed concern about feeling the need for finances now, trying to incentivize to bring in businesses that would not be helping us. She stated that in the long term, the Town was going to be the most successful with businesses that keep Virgin quaint and unique. She stated that the businesses that say "we have to be three stories to be successful", sounded like a chain. She thought that the Town should want to incentivize people to come who would help maintain the feel and the quality of our community and ultimately help the Town be successful. Mayor Bruce Densley stated that he felt in order for those small businesses to be successful, the Town had to have something that was going to stop the three million people that were going through Town.

Council Member Bill Adams and Jay Lee stated that they felt it was something worth looking into. Council Members Jean Krause and Danyale Blackmore stated no. Council Member Danyale Blackmore explained that she felt the Council would be changing the ordinance and laws that had been established. She stated that either the Town had standards or we don't. We hold developers and people to certain standards and don't change them 'just because'. She stated that she was totally pro growth, but the Town should hold people to standards, rules, and regulations because that was what we say. We don't just allow them to come in with the idea of maybe. Let's hold them to the standards that we have. We have already set our precedent. Let's maintain that and not change just because we think 'this is going to benefit the community'. Yes, it will benefit the community, but we still have to hold them to standards. I'm not saying being overly strict with the ordinances. The Town ordinance have already been set, and Council Member Blackmore was not willing to say 'you don't have to follow that ordinance because'. They must follow procedure, just like the Town had held other people to

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standards. We can still be flexible, but follow the rules. Council Member Jean Krause stated that once the Town made an exception, they had to give everyone else with the same set of circumstances that exception. The Town could not refuse to give them the same exceptions. It would be unconstitutional.

Council Member Jay Lee stated that he was not saying that that the Town was going to allow exceptions. He was saying that the Town was going to increase the standards and have standards, which must be followed.

Bruce Densley stated that these things were fluid and subject to review. He then asked, for example, if St. George allowed a tax exemption to each business that came in, did that mean they had to give the same exemption to everyone that came in. Council Members Blackmore and Krause stated that tax exemption was a different issue. Council Member Krause stated that it was different because no neighbors were being effected.

e. Discussion of existing Lots less than one acre.

Mayor Densley moved the item to Council Comments.

f. Discussion of Property South of the River-Jeff Morely

Mayor Densley moved the item to Council Comments.

B. REGULAR MEETING/Action Items:

1. Call to Order-Mayor Bruce Densley

Mayor Bruce Densley called the meeting to order at 7:05 pm.

2. Invocation/Pledge of Allegiance

Mayor Bruce Densley gave the Invocation. Council Member Bill Adams led the Pledge of Allegiance.

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3. Declaration of Conflicts of Interest.

No Conflicts of Interest were disclosed.

4. Citizen of the Month-Mike Crawford-Sanded and varnished floor in Town Hall, Gina Amodt, Summer Stout, Alison Stout, Jeseka Amodt-Helped Royalty organized 4th of July and Fair activities.

Mayor Densley stated that Mike Crawford had taken it upon himself to sand and varnish the Town office floor. He thanked him for his contribution. Mayor Densley then presented an award to Jessica Amodt for her help at the Washington County Fair and July 4th festivities. The Mayor asked citizens to nominate members of the community that they saw doing good.

Old Business/ACTION ITEMS:

5. Review with possible approval of July 23, 2014 draft minutes.

The Mayor reported that in the future the minutes would be approved on a consent agenda item. He also stated that he had a few changes, which were grammatical. Jean Krause stated that she had emailed her changes to the Council.

Jean Krause moved to approve the July 23, 2014 Minutes with the proposed grammatical changes that herself and Mayor Densley had submitted. Jay Lee seconded the motion. Vote on motion: Bill Adams-Aye, Danyale Blackmore-Abstain, Jean Krause-Aye, Jay Lee-Aye, and Mayor Bruce Densley-Aye, The motion passed.

6. Review with possible approval of July Invoices and Checks.

Council Member Jay Lee asked what the two big checks were that were written to Utah Local Governments Trust, which was almost \$10,000. Monica Bowcutt, reported that she thought it was for insurance, but was not sure. She stated she would ask Town Account, Candus Tibbits.

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Jean Krause moved to approve the July 2014 Invoices and Checks on the condition that follow-up is done with Candus Tibbits on questions about the checks to the Local Governments Trust which was brought by Jay Lee. Bruce Densley seconded the motion. Vote on motion: Bill Adams-Aye, Danyale Blackmore-Aye, Jean Krause-Aye, Jay Lee-Aye, and Mayor Bruce Densley-Aye, The motion passed unanimously.

New Business/ACTION ITEMS:

7. Discussion of turn around on 225 North-Tom LaCosse

Mayor Densley stated that for some time Tom LaCosse had some concerns with the turn around in front of his house. He had come up with a suggestion that made good sense and would enable him to use his property better and not cost the Town anything. The Mayor reminded the Council that the item was just for discussion. He then explained that there was pavement to the end of St. Francis Way, and then there was a dirt turn around on 225 North. He stated that Tom LaCosse would like to eliminate the turn around by turning it into a hammer head, which was legal with the fire department and met all requirements. This solution would free up part of Tom's property and allow him to have build-able lot there. He reported that Tom had figured that it would not cost the Town any money, in fact, it would save the Town money because it would eliminate the \$8,000 which was listed to pave the turnaround.

Tom LaCosse stated that he had met with the Fire District and had received the go ahead. He would be able to leave the current fire hydrant on the right, but would have to add one on the left. He felt that the property taxes would generate income from the second home. The Council discussed where the bus turned around and when.

Council Member Bill Adams questioned if the area was steep going into the gully toward the West. He felt that it would not be a good turn around or hammer head because it was too steep. Council Member Jay Lee stated that the steepness did not start until past the turn around. Tom LaCosse stated that the slope was gradual, but he was going to have to do some work on it before the fire department would

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pass it off as acceptable.

Council Member Danyale Blackmore asked if the Hammond property was going to be affected. Mr. LaCosse answered no, Mr. Hammond was happy with the proposal.

The Council agreed that Tom LaCosse could and should go to the Planning and Zoning to start the process. Council Member Danyale Blackmore suggested that he have some engineering studies done, for drainage, staking, and grading, etc.

8. Discuss and possible Award Bid for Old Church Restoration Support Building.

Mayor Densley reviewed the Old Church renovation recent bid history. He explained that the first bids were all slightly too high, the second bid was way too high, and no bids were received the third time. He further explained that the law said that if the bids were within a certain percentage of the funds, the Town may talk to those bidders to renegotiate and come up with a better figure. There were two firms that came within the percentage, which had been contacted about the issue. The Mayor reported that he had asked them to come back with some suggestions from the specifications of the plans, of how they could modify the plans to lower the cost, but maintain the historical integrity of the church and the accessory building. He stated that it had been six and a half weeks ago that the Town had advised contractor A that there were two companies that were being offered to rebid and the Town was offering each the same opportunity. One company thought they were the only ones bidding, in spite of the Mayor's constant referrals to them and had not put a bid in. The second company received their information a week later and had their bid into the Town, which was within the doable range. The Mayor stated that he wished to see if the Council was prepared to award the bid. The Council agreed the bid should be awarded.

Mayor Densley stated that the bid was \$285,191.00. The contractor would save money by changing the shingles on the roof of the church from pine to cedar. The savings would be over \$28,000 because

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the specs called for a certain type of pine that must be shipped in from back East. The contractor would use vinyl window cranks instead of wooden, which looked the same, but it saved over \$11,500. He reported that the contractor would also only install the kitchen counter tops in the accessory building, but not the cabinets, which would save \$4,500. Lastly the contractor would not use wooden doors. The Mayor stated the Shirlene Hall, Committee Chair, was very clear that wooden doors must be used on the Church, but the accessory doors could be the cheaper kind, which would save about \$2,000. The Mayor stated that the bid included removal of asbestosis. Council Member Danyale Blackmore asked if the spec changes had been passed through Kim Campbell because he was certified to make sure it would stay on the historical list. Mayor Bruce Densley replied no. He also suggested that if the Town took money from the parks budget, the cabinets in the kitchen could be installed.

Linda Collet suggested that the cabinets be put in, as a place for storage. Mayor Densley stated that the Town had asked for ways we could save money and that was just one of the ways suggested. Council Member Danyale suggested that we should get the project done, and then come back and finish the cabinets. The concern was to use the CIB money before it was lost. She suggested that maybe someone would donate or money would come in from another source, and then the cabinets could be finished. Darcey Spendlove stated that money would come in from renting the building out. That was the whole purpose of completing the project.

Council Member Danyale Blackmore stated that she felt the Town was opening itself up to ‘maybe’s’ by approving it with a condition. She thought the Council should first ask Kim Campbell and then award the bid by a phone call vote. Council Member Danyale Blackmore volunteered to contact Kim Campbell for his approval.

Mayor Densley suggested that the kitchen cabinets be included in the motion, which would be used from the Parks budget. He also wanted to include the wood doors for the front of the Old Church.

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Bill Adams moved to award the bid for the Old Church Restoration and the Accessory Building for \$285,191 plus the \$4,454 for the kitchen cabinets, plus the approximate \$2,000 additional for the wood front doors, conditioned on Kim Campbell's acceptance of the changes made for historical purposes. Jean Krause seconded the motion. Vote on Motion: Bill Adams-Aye, Danyale Blackmore-Aye, Jean Krause-Aye, Jay Lee-Aye, and Mayor Bruce Densley-Aye. The motion passed unanimously.

9. Adopt Resolution #14-082714-F Amending the 2014-2015 Budget, Roads Dept.

Mayor Densley explained that the Town found that they had more road money than previously thought, but had not budgeted to spend it. The public hearing had been held to amend the budget to spend \$180,000 on roads this year. The Resolution amending that in order to spend it. The Council noticed that the Resolution was incorrect stating "from \$150,000 to \$180,000". Monica Bowcutt clarified that the budget was to increase \$30,000. The Council agreed that the if "from \$150,000" was left out of the Resolution, so it stated "to \$180,000", it would be correct.

Jean Krause moved to approve the Resolution #1-082714-F, deleting "from \$150,000" to just say "increasing the road budget to \$180,000". Bill Adams seconded the motion. Vote on Motion: Bill Adams-Aye, Danyale Blackmore-Aye, Jean Krause-Aye, Jay Lee-Aye, and Mayor Bruce Densley-Aye. The motion passed unanimously.

10. Discuss Process for Zion Sunset Resort (Munn Property)/Zone Change, Amend Ordinance, Legal Agreement-Kason Smith

Kason Smith addressed the Council stating that this was the other hot potato item. Mayor Bruce Densley stated that it was not too hot yet, the zone change was required first. Mr. Smith stated that when he had called in January to begin the project, Steve Masefield, from the Planning and Zoning, had left him a voice mail that basically said 'unless you guys changed what you were trying to do, there was no chance' and also 'you better be buttoned up when you come before the Town'. Mr. Smith stated

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that this was his way of being buttoned up. The reason he wished to give everyone the booklet was to make sure he was following the legal and correct process. He explained that he was requesting an ordinance amendment, not an exception. Chapter 22 was limited to 2 or 3 parcels ID numbers. He stated that he qualified for Chapter 22, other than his parcel ID number was not listed. What he was asking for was to have his parcel ID numbers listed in Chapter 22. Also, he was asking for the conditional uses that were listed in Chapter 21 Resort Zone be put in Chapter 22, which was the RV Resort and Campground, plus he was also having cabin rentals. Mr. Smith also wanted to put as conditional uses, if approved later on in the process, playgrounds and park amenities included in the Resort Zone. He stated that he was not looking to make an exception, but looking to add to it. He stated that it was not a usable ordinance in a way that he could qualify for it, unless he added the changes and this was the easiest and cleanest way to do that. However, before he could do that, he had to get a zone change from Rural Residential 1 to Highway Resort Zone. He was asking for both changes simultaneously. After that, he would apply for the conditional uses, which was a whole different ball game on what he could do on the property. Mr. Smith stated that the booklet was the process, but he had also included the applications, notices, plat maps, and everything that was needed to move this process forward. It was really clear on the steps that the Planning and Zoning and Town Council must take. What Mr. Smith wished to do was have this reviewed by the Town Attorney and the Town Engineer. He stated that he would also pay for public notice expenses that the Town had. Mr. Smith stated that he had a one page simple agreement that said he would pay all fees up to \$2000, and then he would like to approve anything over that, however he would cover all public notices cost. He suggested that the Town Attorney review the agreement so there were no unanswered questions. He stated that he had read and reread VULU. He also stated that the project had been in the works for two years, and to be fair to the land owner, he either wanted to stop it or move it forward. He stated that he had prepared the neighbor notices, many of which were not required by law to send. He wanted to have as many people as possible know about the project. He stated that he wanted to start with Planning and Zoning on September 10 and needed Town Council approval today for that. He explained that it was required to send the public notice out ten days before the hearing, so it needed to be done

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right now. Two public hearings were required on September 10 and two action items. One for the zone change and one for the ordinance amendment.

Council Member Jean Krause stated that she did not believe he needed Town Council approval. He agreed, but stated he just wanted everyone on the same page.

Council Member Danyale Blackmore stated that she loved the fact that he had outlined what he was going to do, step by step by step. He had shown Council how he was going to handle the situation to get it where he needed to be. He had taken the initiative to show us our own ordinances and how to make it happen. She commended Mr. Smith on that. She also stated that he was willing to follow those processes. Mr. Smith stated that he was not assuming the project would be approved, but he was looking to start it. He did not want any exceptions or incentives. He explained that the land owner came to Virgin several years ago, loved it and bought property (80 acres). Mr. Smith stated that he was a great guy and you wanted him for a neighbor. He stated that if he sells the property at a loss, which he will, the Town was going to end up with someone they did not want. The Town was going to end up with a possible 80 residents down there. Mr. Smith reported that he was ready to start.

Council Member Jean Krause asked about Chapter 22, where he was asking for the rezone to Highway Resort Zone. She specifically questioned 22.7.6 where it stated that “open space intended for use and enjoyment by all occupants and guests of the development and often by the general public”. She stated that because the project had so much activity and recreation, was it going to be something that the owner was going to allow to the local children. Mr. Smith answered yes. Council Member Krause found the section in the packet that answered her question.

Mr. Smith thanked the community for helping Robin Bliss, especially with the loss of Doug. He stated the plan was to hire Robin as the manager, with 12 full time employees, hopefully all from Virgin.

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Mayor Densley clarified that what Mr. Smith was asking was for Town Council agree to have the Town attorney review the application, documentation, and plans, in which Mr. Smith would pay up to \$2000, and anything beyond that would need to be reviewed by Mr. Smith before payment was made.

Mayor Densley stated that what was presented had been very open and a very good step. The next step was to get it rezoned and start with Planning and Zoning.

Council Member Jay Lee stated that what Mr. Smith was looking for was a recommendation that he could start the process with Planning and Zoning.

Council Member Jean Krause stated that she had no objection to reimbursement document or recommending the project to the Planning and Zoning so that they could look at this.

Council Members Jay Lee and Danyale Blackmore stated that the application looked great.

Lori Rose, Planning and Zoning Member, stated she was nervous about the implications of signing some kind of reimbursement agreement when he had no legal rights to receiving a zone change. It might happen, but it seemed awkward to her to enter into a financial agreement in a situation when there was no guarantee to Mr. Smith that his process was going to resolve the way he wanted it too. She continued that maybe that was in the agreement, but it seemed awkward to her.

Mayor Densley stated that all the agreement said was that the Town would agree to run it by the attorney and Mr. Smith was going to pay the bills. Kason Smith stated that it was already in Town ordinances that he would pay. Mayor Densley stated that there were no commitments. It only said that we agreed he was going to use our Town Attorney to review his documents, and then Mr. Smith will pay for it. Council Members Danyale Blackmore and Jean Krause agreed that there were no commitments to approve the project in the financial agreement, only to review the addendum.

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Mayor Densley recommended that the Planning and Zoning look at the project.

Council Member Jean Krause asked what notices were being sent out. Mr. Smith answered that the notices were required by Utah Code and Virgin Ordinances, stating that the project must give notification to any property owner that will be affected by what we were doing. He stated that with the zone change it affected many people.

Town Clerk, Monica Bowcutt, stated that the notices would need to be to the Spectrum by 5:00 pm tomorrow. Mr. Smith stated he was aware of that, which was why he wanted to get them sent out.

Mayor Densley stated that he would be willing to sign the reimbursement agreement and tell Kason Smith to go for Planning and Zoning.

Council Member Danyale Blackmore addressed the people talking in the background stating that anytime someone goes for a development or zone change whether the planning and zoning approve it or not, they still have to write a letter to all the surrounding people saying that "I am looking for that". This was why Mr. Smith was sending the letters out. She then mentioned that the City of Hurricane posts a sign in front of the property and maybe Virgin should begin to do that.

Lori Rose, Planning and Zoning Member, stated that the only thing she was reacting to was that usually Planning and Zoning was a little more aware of something before a public hearing was scheduled. Kason Smith stated that there were two types of notices. Planning and Zoning had to give notice of the public hearing. Town Council had to give notice of public hearing. The land owner had to give notice to anyone around them of the zone change, which he was prepared to send out. Kason Smith stated that he had already approached the landowners adjacent to the property and told them what he was doing. He stated that he had also given the Planning and Zoning and the Town Council a memorandum

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that explained what he was doing. He stated the addendum was just a bound version of what he had brought to the Town to say this is the process.

Linda Collet stated that a Public Hearing was to get the public input and how can that be done if they don't know.

Council Member Jean Krause stated that she did not think the notice of public hearing should be sent out, although, she had no objection to the letter going out to the residents. She stated that the project should not be going to public hearing before the Planning and Zoning had even been approached and had a chance to discuss the issues. She suggested that Mr. Smith should have a meeting with Planning and Zoning and then have a public hearing. She wondered how they could be prepared when they did not know anything about it.

Mr. Smith replied that he had already tried to give his plans the Planning and Zoning at the special meeting. They had told him to bring it to the meeting when he came. Council Member Danyale Blackmore stated the public hearing was only asking for public input, it was not asking for a vote. It was only so Planning and Zoning could hear the public input. Council Member Jean Krause stated that it was inappropriate to schedule a public hearing before the Planning and Zoning knew about the project. Town Clerk, Monica Bowcutt, stated that Kason Smith had been before the Planning and Zoning. Mr. Smith stated that he had been down here for several months worth of meetings. Lori Rose, Planning and Zoning, stated that he had presented an old plan and the new plan wasn't clearly developed. Mr. Smith replied that was not the case. Council Member Danyale Blackmore stated that he had come many times to try to get Planning and Zoning to look at the project, but they kept pushing him back to Town Council to make a decision. Monica Bowcutt, Town Clerk, stated that Mr. Smith had tried to call all the Planning and Zoning members. Lori Rose, (Planning and Zoning Member) disagreed. Monica Bowcutt, Town Clerk, stated that he had asked her for everyone's email addresses and phone numbers, but not everyone had set up their .gov accounts. She stated that she was not

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comfortable giving out personal email accounts and phone numbers, so she had emailed all the Planning and Zoning Members and had given them his number and asked them to call Kason because he wanted to speak to them. Mr. Smith stated that he had tried to contact everyone and had been turned down.

Mayor Densley stated that the consensus was that he could go before the Planning and Zoning and that the public hearing could be held, just to get public comment. The Council agreed. They also agreed that the neighbor notices could be sent out. The Council agreed that the attorney should review the financial agreement before it was approved.

Council Member Danyale Blackmore stated the application was being submitted and the Council was waiting for Heath Snow's approval on the financial agreement before it was approved.

11. Adopt Resolution #14-082714-G to Ratify BOA Bylaws, Policies and Procedures.

Council Member Jay Lee stated that he had read the Bylaws, but wondered where the Resolution was. Town Clerk, Monica Bowcutt, stated that Fay Cope had explained to her that there was no Resolution needed, the Council just needed to vote to adopt it. Mayor Densley stated that the Council's vote of adoption was sufficient.

Bill Adams moved to approve adjusting the Board of Adjustment Bylaws and Policies and Procedures dated June 15, 2014. Jean Krause gave the second.

Jean Krause stated that she had compared the new Bylaws with the Chapter 3, Board of Adjustment, and they were very, very similar.

Vote on Motion: No roll call vote. All Ayes. The motion passed unanimously.

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Mayor Densley stated that the Board of Adjustment would be announcing their decision on their action pending on Tuesday evening regarding the short term rentals matters that they had been considering. They would publicly announce their decision at 6:30 pm.

12. Discuss and Re-Appoint /Steve Masefield as P&Z Chair for 1 year, Dan Snyder 2 years, Lori Rose 2 years, Valerie Wenz 1 year, Dean Woods 1 year, and consider names for Alternate.

Mayor Densley stated that Dean Woods had just recently been put in for one year. He did not feel action was necessary. Council Member Blackmore thought that it would be good, just for the record. Council Member Jay Lee stated that he did not think the Council appointed the Planning and Zoning Chair, because that was up to the Commission itself. He felt that they should appoint their own chair.

Mayor Densley explained that the one and two year terms were just to stagger the terms. It was set up so that there would only be two expire each time. Council Member Adams stated that these terms were just extensions. Council Member Jean Krause read the Chapter on Planning and Zoning Member terms to further explain the reasoning. Mayor Densley stated that all the listed members had agreed to stay on the Board.

Bill Adams moved to reappoint Steve Masefield, Valerie Wenz, and Dean Woods for 1 year and Dan Snyder and Lori Rose for 2 years to the Planning & Zoning Commission to ensure that we have alternate terms of service. Jay Lee gave the second. Vote on Motion: No roll call vote. All Ayes. The motion passed unanimously.

Mayor Densley stated that he had a name for an alternate, but had not spoken to this person. He asked that names be submitted for alternate commission members.

13. Consideration of Suspending Business License/CUP-Jack Ruggles.

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Mayor Densley stated that the reason this item was on the agenda was that Jack had agreed to have all the documents in Town hands by August 7. He stated that partly due to Town and Attorney problems, that did not happen, so the Town had extended the date. Mayor Densley stated that Jack did not get the notarized bond and notarized payment of the legal fees. Mayor Densley suggested that Jack Ruggles license be suspended until next Tuesday, although, he did not really have any licenses because they had already been suspended. Monica stated that Jack was having his attorney look the bond over because he did not agree with the full agreement. She also reported that he was supposed to get back to her by 5:00 today, but she had not heard from him. Mayor Densley stated the he really could not suspend his license, because he did not have a license and that made him subject to arrest. Council Member Jean Krause suggested just revoking his licenses. Darcey Spendlove stated that if the business license and CUP were revoked, Mr. Ruggles would have to reapply. The Mayor agreed.

Mayor Densley made a motion to table the item. He stated that he would work with Jack and advise him that he was working without a business license and a CUP. Bill Adams gave the second. Vote on Motion: No roll call vote was taken. All Ayes. The motion passed unanimously.

COUNCIL COMMENTS:

- Mayor Densley stated that he was going to hold off on discussing existing lots of less than one acre.
- Mayor Densley stated that Greg Ballard was present to discuss a situation he was having in Desert Gardens. Mr. Ballard would like to do something and it appeared it was in violation of our Town Ordinance. What he wanted to do would be attractive and it was Council's job to help people use their property as they wanted. Mayor Densley explained that what it regarded was 6 foot fences and where they may be located on a property line. Council Member Danyale Blackmore stated that it was actually measured from the curb, but where the fence had to be built depended on the road and road size. In Desert Gardens it was 6 ½ feet from the curb line, so what he had to do was go 6 ½ feet from the curb

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line, basically where his hydrant was and back from there. She stated that the highest concern was the line of height. Mayor Densley stated that the question was not location, it was height. He also stated that the Town Ordinance stated that if it was a side street it could only be 4 feet, until you were back far enough. Mayor Densley stated that Town Ordinance supersedes CC&R's, because they were more strict. He also stated that there were other complaints around town because horses could jump 4 foot fences. Mayor Densley stated he wanted to be fair to everyone, but the issue came up that so and so is doing it, why can't I?

Greg Ballard asked if the Mayor was considering his yard a front yard or a side street yard. Mayor Densley replied that the west end was considered a side street. Mr. Ballard stated that according to Town Ordinance 4.15.2, he could have a 4 foot wall or hedge, but not to exceed 4 foot, and it must be back 6 ½ from the street. He stated that he was going to get that height and according to Town Ordinance he could build 5 of those walls to retain property or for landscaping. Mayor Densley stated that Greg had suggested building a 4 foot wall, going back 2 feet and building another 4 foot wall. He also explained to Greg that there was a differentiation between wall and a retaining wall. Greg Ballard disagreed, saying not in the Town Ordinance.

Jay Lee suggested that the reason the 4 foot rule was there was so people could see traffic coming. When they get back farther, they were not out where traffic was. Mayor Densley stated that the Ordinance stated 25 feet back on a line of sight and Greg had agreed to go 30 feet back. Greg stated the if he goes the 6 ½ feet also, he was going to be more like 40 feet back. Mr. Ballard stated that his question to Council was that he wanted a 6 foot privacy wall for an outdoor pool. He stated that if he did not get that, then he would build two 4 foot walls for privacy. Then his neighbors would have an 8 foot wall to look at, which was perfectly legal according to Town Ordinance. He stated that he was just trying to be neighborly, so he did not have his neighbors calling and complaining every time he moved a teaspoon of dirt. Mr. Ballard stated that he understood that it was a pool issue and if he got his 6 foot wall, he would build an outdoor pool. If he didn't get the 6 foot wall, he would build two 4 foot walls,

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so his neighbor would have to look at an 8 foot wall. Then he would come to the Planning Commission and get a permit to build an addition to his house and put the pool inside. He reminded the Council that there was no wall restrictions on an indoor pool.

Council Member Danyale Blackmore stated that what he was asking for was very reasonable. Aesthetically it was not going to change anything, because the front of his house faced North, and he had been using that side lot as a side lot anyway. She stated that Mr. Ballard had a side where he wanted to put the pool and had agreed to come back enough. Her only concern was that the CC&R committee gave him the variance in the fact that he had already met the line of sight on the curve. The only variance he was asking for now was a 6 foot fence on a front lot versus a 4 foot fence, but it was because of a pool issue. She further explained that the other issue he had was that Lenny Brinkerhoff, Zoning Administrator at the time, told him the set backs were different than what they actually were. Because of this, Greg had set his house way further back, trying to meet what Lenny had told him, but it was wrong. He could put the pool in the back yard if the Town officials would not have told him wrong in the beginning. Where he was putting the pool was his only option. She continued that the wall would not change the view or the line of sight, and Greg was willing to make it aesthetically appealing, plus he was still coming back the 6 ½ feet. Besides all of this, the wall was not going to cause neighbors any problems. In fact, it would help everything because the neighbors did not want to see him in his pool.

Council Member Danyale Blackmore questioned Mayor Densley about his comments about ‘the Town can’t restrict the CC&R’s and he did not care what the CC&R’s say’. The Mayor replied that he had stated that the Town cannot be involved in enforcing the CC&R’s. Council Member Danyale Blackmore asked if he recognized CC&R’s. He replied that he recognized them, but as Town he could not enforce them. Council Member Blackmore stated that she felt that when the CC&R committee reviewed the project in the third phase, Greg Ballard had met everything and that the committee was giving him a variance because of the circumstance with the pool. Mayor Densley asked how could the

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Town legally give him a 6 foot wall, since it was a Town requirement. Council Member Blackmore asked how did the Town legally allow Kneisha Grow to move her house forward. Mayor Densley answered that the Grow's had set their lot. Council Member Danyale Blackmore and several others said no they did not. Greg Ballard gave examples of 3 of his neighbors who had out buildings that were higher than 20 feet, which were clearly in violation of ordinances. He stated that Town officials knew about it and did nothing. Mr. Ballard stated that he was not coming here and making complaints everyday because the building were not coming down. He stated that if he moved a teaspoon of dirt, he had lawyers coming after him. Council Member Danyale Blackmore stated that she did not feel like Mr. Ballard was asking for anything outside of his rights.

Council Member Jay Lee stated that he should go to the BOA and get a variance. Greg Ballard asked if the Town had a generic complaint form. He stated that somewhere he had read the that the Town encouraged people to make complaints, which he thought was funny. He stated that he would start submitting complaints of clear violations and asked if the Town's zoning guy had the time to do that. He stated that he had been a really long time trying to get this pool in. He stated that he was going to put up two 4 foot fences. He was going to put a 4 foot fence, 6 ½ feet from the roadway and then terrace another 4 foot fence. Mr. Ballard stated that all he wanted was a 6 foot wall at 7 feet back.

Planning and Zoning Member Lori Rose stated that Planning and Zoning should look at a long term solution. She stated that she did not see a point to the 4 foot limitation. She gave an example of Shane and Alecia who now owned along Mill Street, who were required to put in a 4 foot fence. It did not impact the sight distance and was as silly thing, in her opinion. She stated that it seemed there could be a variety of reasons that a 6 foot fence up along the side property line was completely consistent, unless there was some traffic issue. Mayor Densley stated that he thought a 6 foot fence would be more attractive than terraced 4 foot fences. His only concern was can the Town do that without jeopardizing the Town legally.

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Council Member Jay Lee suggested Council check with the lawyer, to see if it could be done. Greg Ballard stated that his attorney had said that “if he got stopped again without a red tag, then keep on going, because you were impacting me”. Mr. Ballard stated that he put the 4 foot fence up because he was following what his neighbors did, which was wrong. Council Member Danyale Blackmore stated that the issue needed to be resolved now, and stop dragging it out. Council Member Jean Krause said all it would take was a phone call tomorrow.

Greg Ballard clarified that he was not going to be happy if the Town told him he could not build his 4 foot walls.

Lori Rose, Planning and Zoning Member, suggested advertising a change of ordinance at the September 10 public hearing.

OPEN FORUM

– Not comments were made.

C. ADJOURN PUBLIC MEETING:

19. Approve motion to adjourn public meeting.

Jay Lee made a motion to adjourn the public meeting. Bill Adams seconded the motion. Vote on Motion: Bill Adams-Aye, Danyale Blackmore-Aye, Jean Krause-Aye, Jay Lee-Aye, and Mayor Bruce Densley-Aye. The motion passed unanimously.

The Meeting adjourned at 8:40 pm.

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Monica Bowcutt

Town Clerk

Approved: _____