

FINAL MINUTES

VIRGIN TOWN COUNCIL MEETING

WEDNESDAY, December 17, 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
Jean Krause
Jay Lee

Others:	Linda Collet	Ray Golata
	Darcey Spendlove	Bonnie Timmerman
	Lori Rose	A.J. Wenzel
	Sean Amodt	Matt Spendlove
	Andria Wenzel	Kason Smith
	Kunze-2	Tom LaCosse
	Kelly Crane	Neil Schwendiman
	Darren Cottam	Rod Mills

A. WORK MEETING/Non-Action Items:

The Work Meeting began at 6:30 pm.

Mayor Densley excused Council Member Danyale Blackmore.

a. General Discussion & Updates on Kolob Road, Old Church, Park Bathrooms.

Mayor Densley stated that the Kolob Road was coming along fine. The paving was all complete except for about 200 yards near the bridge area. He also reported that he was going to meet with the engineer to look at Pocketville Road. It was figured that the town would have about \$200,000 left over from the new road, which would be used on Pocketville Road.

He reported that the Old Church was almost complete, although, the siding would not be available until the first part of January. The inside of the building was almost finished including the floor.

The Mayor stated that the Park bathrooms would be complete within the month. The building would be used for storage until Spring.

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b. Discussion of enforcement of illegal vacation rentals & fines.

Mayor Densley stated that the homes in town which were being used for short term rentals had known they were in violation for several months. He reported that Springdale charged \$750 a day as a fine for that violation. Virgin Ordinance requires \$299 a day. He would be sending out letters to let the home owners know the town would be enforcing the law. Council Member Bill Adams stated that the town should be enforcing it effective January 1. Council Member Jean Krause stated that she had asked the town attorney about the issue and he had said the town must give the home owners 90 days because they had already made advance reservations. Mayor Densley stated that the homes had been in violations for several months, therefore, he did not have much sympathy for them. He stated that research needed to be done to find out if the offense was a Class B or Class C Misdemeanor, and to find out if the fine was based on advertising days or just renting days. Council Member Bill Adams read the Ordinance, interpreting it to mean advertising days because they were advertising to break the law.

Council Member Jay Lee stated that he objected to the letters going out. He stated that the Planning and Zoning had attempted to write an Ordinance dealing with the issue, which had failed. Council Member Lee reported that many people had come to him and asked if anything had been done because they wanted the opportunity to rent. He also stated that three of the Council members had said that something needed to be done in order to allow people to rent for the short term. Mayor Densley asked if the town wanted motels in the residential areas. Council Member Lee stated that if the Mayor was going to say that, he would also have to say that the town can't have motels because the town had an ordinance that said you can not have vacation rentals. Mayor Densley countered that the ordinance said you can't have vacation rentals in the residential zone. Council Member Bill Adams stated that it was a zoning issue. He stated that Planning and Zoning needed to write the ordinance, designate the area, have a public hearing, and pass the ordinance. Right now the homes are in violation of town ordinance and we must apply what is in front of us. He asked if we did not enforce the ordinances, what is the worth of having an ordinance at all. Council Member Jay Lee stated that there were other

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ordinance that were not being enforced. Mayor Densley stated that the law had been clarified months ago and he had held off pushing the issue in order to see how the other litigation fell into place. Regardless, those that did not join in the litigation had no standing because it had been clarified that the use was illegal. Council Member Bill Adams stated that the changes should be made as soon as possible and that Planning and Zoning have already been asked to come up with something outside of the residential area.

c. Discussion of purchasing tables and chairs for Heritage Town Square.

Mayor Densley stated that he had done some checking on prices from the Lifetime Company. The Old Church committee had some recommendations. He had suggested 10 round tables, but the Committee had suggested only purchasing 8. The Committee wanted to get 6 of the oblong/rectangle tables, which could be used for family reunions, gift tables, or serving tables, and they were less money. The capacity of seated people around tables is 66. The capacity with chairs only is 144 people. The old benches should be refinished and used in the Square somewhere. The committee had suggested purchasing 80 chairs from Lifetime and also 25 padded/fabric chairs from Costco. I chart for the round tables and three charts for the chairs. He suggested purchasing nice rolling chairs for the office and Town Council. The money would come from the parks budget. The Council agreed to go with 8 round tables, 6 long tables, chairs, and carts, plus the new chairs for the office.

d. Discussion of Ground Study-Rod Mills.

Mr. Mills was not present, so the discussion was moved to the Regular Meeting.

e. Discussion of upcoming Road Repairs.

Mayor stated that he wanted to pave around the entire square, widen Jepson Street and put 90 degree parking, plus a 5 foot sidewalk all the way around. The money was available in the road budget, but paving 50 South and 625 West may be put off for a few months.

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He also asked the Council to think about taking the island out when the Pocketville Road was redone.

f. Discussion of training in January for Chris Holm.

Mayor Densley reported that the training was 4 days on water and cross hook ups. It will cost about \$500. The Council agreed the Chris should attend.

Mayor Densley stated that the Town had a referendum vote in November regarding the rezone petition. He stated that he was glad to be living in a country where people had the opportunity to do things like that, but he was saddened at the outright lies and distortions that were told to get some people to sign the petition. He stated that it was almost criminal what some people had been told. One example was that if the rezone stayed, their home would be rezoned and they could no longer live in it. However, it had been signed and the Town would deal with that. He had people who had signed the petition tell him that had they known the truth, they never would have signed it. He stated that there was now time for everyone to get the truth, evaluate it, and evaluate the effect the RV Park would have on traffic, etc. He stated that his personal opinion was that it would actually produce less traffic than 80 homes would.

Council Member Bill Adams added that the Town had spoken to the attorney about the referendum procedure. He stated that a petition had been circulated, provided to the Town Clerk, who had provided it to the county clerk, who had verified the 114 signatures. He had also been told by many citizens the reasons behind their signature, all of which were untrue. There would be a pamphlet made with pro's and con's, plus the financial impact of the RV Park proposal. In addition, 60 to 90 days before the vote, there would be several meetings held to discuss the information. In November, there would be a vote. He hoped to achieve the facts being available to all citizens, as opposed to the lies, guesses, and innuendos.

Council Member Jean Krause stated that she had done a lot of research on referendums. She had come

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across the Saratoga Springs City website that was written by their attorney in a 'frequently asked questions' format, including the answers.. She suggested that Virgin do the same type of thing as time goes by. Council Member Adams stated that anything to get the facts to people would be very good. He was using the Utah League of Cities and Town instruction book, which dedicated a portion of the book to referendums.

Mayor Densley clarified that what was passed was a rezone, not granting anyone authority or permission to do anything on the property. There would be time for everyone to evaluate the project and make their own decision before the vote.

B. REGULAR MEETING/Action Items:

1. Call to Order-Mayor Bruce Densley

Mayor Bruce Densley called the meeting to order at 7:00 pm.

2. Invocation/Pledge of Allegiance

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

3. Declaration of Conflicts of Interest.

No Conflicts of Interest were disclosed.

CONSENT AGENDA: Items 4, 5, & 6

4. Review with possible approval of November 19, 2014 draft minutes.

Council Member Jean Krause stated that she had given a copy of her corrections to Darcey Spendlove and all members of the Town Council. Council Member Jay Lee made one other grammatical correction.

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5. Review with possible approval of October Invoice and Checks.

No discussion.

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

No discussion.

Jay Lee moved to approve the Consent Agenda with the corrections to the minutes. Bill Adams gave the second. No roll call vote was taken. The motion passed unanimously.

7. Neil Schwendiman-Dumpsters

Mr. Schwendiman stated that he had a power point presentation to show if the town had a screen and power plugs available. The Council moved on to item numbers 8 and 9 while he was getting set up. He continued with his presentation after these items.

8. Review & Approve Ferber Plat map.

Mayor Densley explained that the land swap had been approved months ago, but having the Council finalize it had fallen through the cracks. It had been signed by Stu Ferber, but needed to be passed by the Council in order to record the Plat. He further explained that it had to do with making the Rio de Sion Road line up with the new Kolob Road.

Bill Adams moved to approve the Kolob Road exchange as indicated in the Plat for the Stu Ferber property. Jay Lee gave the second. No roll call vote was taken. The motion passed unanimously.

9. Review & approve St. Francis hammer head.

Tom LaCosse was present to discuss the hammer head on his property. Mayor Densley stated that Mr. LaCosse had had the property surveyed, the fire department had approved it as meeting code, and the

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School District had been notified of the proposed changes. Council Member Jay Lee clarified that the round about was being done away with and was being replaced with the hammer head, which would give Mr. LaCosse a usable lot.

Council Member Bill Adams stated that he was troubled by the proposal. He wanted to speak to the School District before a decision was made because the safety of the children should be first and foremost. Tom LaCosse showed a map and explained where the buses had extended the circle beyond the town's right of way and when they had began doing that. He also showed and explained where they used a three point turn when it had rained. He hoped that the hammer head did not become a school bus turn around issue, but stayed with the original intent as a fire department mandated turn around. This was why he had given up his land to begin with. The Council also discussed in detail with Mr. LaCosse the wide circle that the buses were extending onto his property. Council Member Jean Krause clarified that the hammer head would not be paved. Mayor Densley read from a letter from Hurricane Valley Fire District signed by Merlin Spendlove, which stated that the hammer head met the 120 foot model in the 2014 International Fire Code Standards.

Bill Adams moved to approve the hammer head on the West end of St. Francis Street (225 North, 8?? West) and seed the rest of the property back to Tom LaCosse. Jean Krause gave the second. No roll call vote was taken. The motion passed unanimously.

Neil Schwendiman proceeded with his presentation. He explained that other sites which were built similar to the one on Kolob Road were also messy and a major headache. He showed a power point with pictures and details on the manned site in Central, which would be very similar to the new site in Virgin. The site includes a limb chipping device, dumpsters, 6 foot block wall, chain link fence, drainage retention pond, and landscaping. He stated that he would like to build on the current site (where the dumpsters are now), but realized that the town would like the Solid Waste District to consider other sites. One of the other sites was about 250 feet from the new road intersection. Mr.

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Schwendiman stated he wanted the facility too look nice and would not charge the citizens to dump household waste. Commercial businesses would be charged to use the facility.

Lori Rose stated that many of the Kolob residents came down the mountain during abnormal times. She suggested asking the residents what would be the best times to be open.

Mr. Schwendiman answered the station must be manned when open. It would have a locked gate. He also answered that he was looking at a site big enough to house a chipper, but other alternatives were also being looked at. Mayor Densley stated that he had met with Ron Thompson and expressed interest in the site off the Kolob Road.

Sean Amoldt asked how much land the site would need. Mr. Schwendiman answered 1 ½ to 2 acres would be adequate.

10. ORDINANCE amendment #2014-12-17 adopting new Virgin Town Water Rates effective January 1, 2015.

Mayor Densley explained that Rod Mills had a comment dealing with the base monthly water rate and the Mayor had received an email from him stating that the base rate should be higher for a certain reason. Kelly Crane, from Ensign Engineering, was present to fill in answering questions for Rod Mills, who was not present. Mr. Crane explained that the State looks at many things, including what the town's median gross income is, when they are looking at doing any project or helping communities out. The median gross income is actually the average gross income of the entire community, which is based off all the tax returns each year. Mr. Crane stated that as of a few days ago, the annual gross income of Virgin was \$35,848 and the average for the state was \$40,489. In order to decide how to fund water or sewer systems, the State looks at the median gross income, not liking the town's water bill to go over 1.75% of the gross income. So, after doing the math, the highest they would want Virgin's water bill to be was \$52.28 per month. He suggested when setting the rate structure, keep that

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amount in mind. He stated that amount takes into account overages, base rates, commercial rates, and usage. Setting this amount opens up opportunities for funding from the State.

Council Member Jean Krause explained that the town could not charge this amount because they were purchasing water from the Water Conservancy District and then reselling it to the citizens. She stated for the water system to work, a higher amount must be charged. Council Member Bill Adams stated that the lowest amount the town was going to charge was \$56.00. Mr. Crane admitted that there were constraints that forced that number to be higher. Council Member Krause asked what happened if the town was above that number. Mr. Crane replied that it opened the town up for more grant money and the town could not apply for grants unless the town was over that number.

Rod Mills entered the meeting.

Council Member Jean Krause stated that she had written the ordinance for the water rate increase, which included the increases for the next three years. Kelly Crane stated that he like the approach and that applications for funding would look at the numbers and realize that the town could not go any lower. He explained that grant funding was getting tighter and tighter and currently the most they would go was about 50% for systems. They might possibly go higher for studies and mapping.

Council Member Krause stated that Monica Bowcutt, Town Clerk, had calculated that 86 houses use less than 8,000 gallons of water per month, 57 households used between 8,000 and 15,000 gallons, 61 houses go about 15,000 gallons and 17 use about 30,000 average gallons per month. Monica Bowcutt, Town Clerk, had also broken down an average bill which showed that with the new rate, users that used under 8,000 gallons would pay about \$5.00 more per month. A household that used between 8,000 and 15,000 gallons would pay about \$19.00 more. The people who went above 30,000 gallons, the bill would go to \$120.00, which is only 17 people. All the figures included the garbage pick up. Council Member Bill Adams stated he could live with those rates.

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Rod Mills stated that the revenue would change and he believed conservation would follow in order for people to get their rates down. He stated that the town was positioning themselves very well. Mayor Densley pointed out that some of the commercial rates in the area were as high as \$15 per thousand gallons and Virgin's water rates were relatively lower than surrounding towns. He also stated that the Water Conservancy District informed him that if new building was going to pay for itself, water impact fees were going to have to go up to about \$12,000-\$15,000. They are now about \$6,400.

Council Member Jay Lee suggested that the town consider what options were available to purchase its own water so it did not have to buy from the Water Conservancy District. He gave examples of entities that own their water that do not pay hardly anything. Council Member Bill Adams stated that he felt the town was taking care of the future.

Dean Kunze asked how the new rates deviated from the present rates. The Mayor answered that the current rates did not include a base rate, without any water. The new prices would charge a base rate without giving any water. The Mayor stated that the changes needed to be made because the town was paying for the balance of the water bill to the Water Conservancy District and the General Fund was subsidizing the water fund. Mr. Kunze stated that the website was not correct where it listed the amount citizens paid. The Council told him that the website would be updated in January.

Matt Spendlove asked why the town wanted their water rates high enough to go after grants, when the citizens were paying for the water. The Mayor answered that if the town could secure grants, it would be that much less the citizens had to pay. Matt asked if the water bills would come down when the grants were received. The Mayor replied no. Council Member Jean Krause clarified that the grants were going to be for things like radio read water meters. Matt Spendlove asked if by the third tier the rates were going to be high enough the town could do things like that. The Council answered no. Rod Mills explained that the rates the Council were looking at had nothing to do with the grant discussion.

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He had added that grant discussion into the equation because he wanted the Council to consider the possibility if the rates were not at a level that would get grants. It had turned out that it was a moot point, because the rates that were being set qualified the town for grant monies. Council Member Bill Adams added that the rates were being raised independent of any grant money. Council Member Jean Krause stated that the rates would have been raised anyway, but doing it this way allowed grants to possibly be received.

Council Member Jay Lee stated he like the way Monica had written the ordinance. He felt that is should be reviewed every year and maybe one tier would do it. Mayor Densley and Council Member Jean Krause countered that they knew one tier would not make enough money and that the ordinance could be reviewed at any time and changes made if needed.

Mayor Densley stated that he wanted to change the second WHEREAS, to read.....increased the overage fees for gallons used each month. He wanted to remove the rest of the sentence. He also wanted to change the fourth WHEREAS to read....Town of Virgin needs increased annual water revenue to cover Washington Count Water District..... Taking out the specific number \$230,000.

Bill Adams moved to approve Ordinance #: 14-121714-1 A Water Rate Ordinance with the changes as indicated on the Mayor's copy. Jean Krause gave the second. No roll call vote was taken. The motion passed unanimously.

Council Member Jean Krause stated she would give the Mayor's copy to Monica Bowcutt, Town Clerk.

11. Review & Approve 2015 Meeting Calendar.

The Council reviewed and discussed the calendar. Council Member Jean Krause reported that Steve Masefield, Planning and Zoning Chairman, wanted to leave the Planning Meeting on November 11, which is Veteran's Day. The Council decided to move the Planning Meeting to November 4, so the

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office would be open. They also decided to move the November Town Council Meeting to November 18 and the December Town Council Meeting to the 16th. All of the other meetings will be held on the 2nd (P&Z) and 4th (TC) Wednesdays of each month.

Jean Krause moved to approve the 2015 Meeting Calendar with the changes for November and December. Jay Lee seconded the motion. No roll call vote was taken. The motion passed unanimously.

Mayor Densley moved back up the agenda to discuss the Ground Water Study, which was listed in the Work Meeting section. Rod Mills reported that he had met with the officials from the Department of Environmental Quality to involve them in the process of updating the water plan in Virgin. He stated that they were on board and understood the necessity and concern of the Council and entire community had about the population equivalents. The Department of Environmental Quality had given him some specific guidance and insights into funding and indicated some interest in helping the town with funding. He reported that his firm had done some preliminary reviews of the study and the way the population equivalents were calculated. They had found some things to do differently in terms of how to prepare the scope. He reminded the Council that last month they had talked about the fact that no soil samples were actually taken from Virgin town and the Department of Environmental Quality had agreed that was a flaw in the study. He had suggested that some samples be taken from the area or at least gather some of that data. However, the Department had suggested that he go to another State source rather than rely on soils testing, because the soils tests are unreliable in the area. He stated that he would do a blend for the analysis. Council Member Bill Adams offered a geologic study of the area around Desert Gardens. Mr. Mills stated he would like to read anything of that nature. Council Member Adams stated he would bring it into the office. Mr. Mills explained that he was looking at any specific geotechnical reports that were available from anywhere in the Virgin community.

Council Member Jean Krause asked if there was a time line for the study to be started and completed

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Rod Mills replied that he was under the impression that the town wanted in done now, which was his intent. The Department of Environmental Quality had redirected him to make some additional contacts in the Department and he was facilitating those discussions so that he could begin accelerating the specific aspects of the study. He continued that the population equivalents piece did not have to wait until the entire document was complete, rather it could be a quick analysis of where the town was based on current population and land use.

Mayor Densley commented that Rod Mills had agreed that he would not get paid until he was able to secure some funding for the study. His payment would be in the form of the grant money that he secured. The agreement had been signed by both parties. Mr. Mills clarified that it may be a blend of grants and other funding opportunities, which may not be 100 percent. He also stated that he was going after 100 percent and would bring the best scenarios to the town

12. Review & possibly award Bid for Road Repairs.

Darren Cottam was present to discuss the bids for the town road repairs. Mayor Densley stated that the town had a bid out on the crack seal. Four bids had been received. The low bid was Straight Stripe Painting at \$14,774. Superior Asphalt was second at \$19,145. The third bid was \$23,000 from Southwest Asphalt. He reported that all the roads had been sealed in the fall, so they had wanted to crack seal every road (except for Pocketville and Mesa Roads) this winter. Council Member Bill Adams asked if Straight Stripe could do it for that much less. Mr. Cottam replied yes, because they were located in the area and did not have to travel. He reported that the new subdivisions were the worst roads, especially Sierra Bella. The cold weather makes the cracks contract, so they can be filled up entirely. Mr. Cottam also explained that asphalt is built to move and give, so when traffic is not heavy, it is detrimental to the pavement.

Bill Adams moved to approve Straight Stripe at \$14,774 to do the current road repairs. Jay Lee seconded. No roll call was taken. The motion passed unanimously.

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Darren Cottam stated that Straight Stripe was going to California for January. They would begin work in Virgin at the beginning of February and it would take about 7 to 10 days. He also reported that the new asphalt would be poured in the Spring.

OPEN FORUM:

– Lori Rose stated that the Master Road Plan, passed in 2008, included a Northern linkage off of the highway. She asked the Council to be thinking of that when they were doing any development, dedication, or vacating of roadways. She asked them to see how that northern link could be included and do not miss any opportunities. She also stated that a bike and pedestrian right of way had been planned for along the new Kolob Road, which she did not think was happening. She suggested that the town work with the Water Conservancy District to incorporate the walkway. She thought it was very important to get multi-modal transportation at every possible location. The Council replied that it might not have made it into the final plans, but they would check on it. She then stated that she was thrilled with the progress on the Old Church, as part of the Committee. She stated that she was concerned about the plaza not having drainage away from the church. She expressed that it would compromise the longevity of the church and it was also against code because impervious surfaces within ten feet of a building are supposed to be sloped away at a 2%. It was bad specifically because cement acts like a sponge, with capillary action and the wood and adobe is dry, which attracts the water. She was fearful of the structural integrity of the church and wanted it to have another 150 years (if not longer) before they had to come in and do this again.

– Linda Collet stated that last month Mayor Densley stated that the Town Council does not have to rubber stamp every recommendation from Planning and Zoning. By the same token the people of Virgin do not have to rubber stamp every decision made by the Town Council. By State Law the referendum process is available to every city and town. 114 people did sign the referendum petition, the County verified all of the signatures, the town attorney stated the petition to be valid and proper. And yes, this

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is democracy in action.

COUNCIL COMMENTS:

- Jay Lee stated that the hammerhead on St. Francis falls into the Master Road Plan better than the turnaround, because it would be easier to hook into.

- Jean Krause stated that she had met with the attorney on the referendum, specifically the fiscal impact analysis that needed to be done. They agreed on wording for that. Because there is 11 months until the election and because the law is brand new, they had agreed that they would reserve the right to do a supplemental fiscal analysis as the time to the election gets closer. This agreement was in the letter that she had drafted. Council Member Krause said that the attorney had said that he felt the referendum was solid and on the ballot. Mayor Densley stated that the brochure had to go out 55 days before the election. Council Member Jean Krause also stated that they had agreed to push the pamphlet to 90 days before the election. She reported that herself and the attorney would get together to prepare the pamphlet. Mayor Densley stated that he foresaw several public hearings on the issue beforehand.

- Jay Lee thanked Monica Bowcutt for the gifts and cookies. He wished everyone a Merry Christmas and a very prosperous New Year.

C. ADJOURN PUBLIC MEETING:

13. Approve Motion to Adjourn Public Meeting.

Bill Adams moved to adjourn the Public Meeting. Jay Lee seconded the motion. No roll call vote was taken. The motion passed unanimously.

The Meeting adjourned at 8:01 pm.

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Monica Bowcutt

Town Clerk

Approved: _____