

FINAL MINUTES

VIRGIN TOWN COUNCIL MEETING

WEDNESDAY, April 22, 2015

Work Session at 6:30 pm

Regular Meeting at 7:00 pm

Virgin Town Heritage Town Square, 114 So. Mill Street, Virgin, Utah

Present:

Council Members: Mayor, Bruce Densley
Bill Adams
Danyale Blackmore-entered late when noted
Jean Krause
Jay Lee

Others: Monica Bowcutt, Town Clerk
Darcey Spendlove
Rod Mills
Mark SaVee
Lyman Everett
Chris Mahoney
Private Investigator
Jeff Morby
Shirlene Hall
Heath Snow, Town Attorney
Ron Smith
Monte Lutz
Cindy Escude
Linda Collet
Ken Long
Tisha Tree

WORK MEETING/Non-Action Items:

Mayor Densley called the Work Meeting to order at 6:31 pm. He excused Council Member Danyale Blackmore, stating that she would be arriving late.

The Mayor asked Council Member Jay Lee to invite the people from the BMX track to the May meeting to discuss changes in forms.

a. Hourly rates and curfew for Heritage Park

Mayor Densley stated that Jean Krause had discovered that the renovation loan payment was supposed to be made from renting out the building, in the amount of about \$700 a month. Mayor Densley stated that he believed the curfew should be the same as the other park, which was 10:00 pm. Council Member Bill Adams suggested that the rates be broken down into categories of resident and non resident, and also broken down further to non profit or

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profit rentals. Mayor Densley stated that the full day rentals were covered, but the current discussion was about renting by the hour. The Council agreed to charge \$15 an hour for residents and \$25 an hour for non residents on a work day. They also agreed to charge \$25 an hour for residents and \$40 an hour for non residents on a weekend.

b. BOA vs Appeal Attorney

Mayor Densley stated that at the Utah League of Cities and Towns seminar, he had learned the town could use an Appeal Attorney instead of a Board of Adjustment. This attorney would be hired from another town as a third party. He stated that that the Board of Adjustment was used infrequently, therefore, must be retrained each time they were needed. He suggested that it was something the Council should look at and be ready to discuss further.

Cindy Escude stated that she only knew of one time since she had moved to Virgin that the Board of Adjustment had been used. She asked if the Town Attorney was utilized before the decision was made to use the Board of Adjustments. Council Member Jean Krause stated that the town attorney was used before the issue was turned over to the Board of Adjustment. Mayor Densley and Council Member Krause explained that the attorney talked to the Board of Adjustment as part of the deliberations.

Monte Lutz asked if the town attorney was an integral part of the Board of Adjustment. Mayor Densley stated no, he was not. Mr. Lutz stated that either the Board of Adjustment spoke with the town attorney while they were deliberating or they did not. Council Member Jean Krause stated that the Board of Adjustment did not speak to the town attorney while they were in deliberations. Mayor Densley stated that they were very careful that things were done legally and properly.

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Mayor Densley stated that a work meeting was not necessarily a time to involve the public, although comments were taken as long as they were on topic and if there was time to do so. Any public questions could be taken before or after the meeting.

c. County Fair Display

Town Clerk, Monica Bowcutt, reported that the 2015 theme was 'Superfun' and Falcon Ridge would coordinate with the Fair Board for the display.

d. Zions Bank-Credit Card fees

Mayor Densley stated that the town would be using Zions Bank to take utility bill payments by credit card. It would cost the town \$22 a month, plus a fee for each transaction. The town would charge \$2.00 for each transaction in order to cover the costs. Mayor Densley stated that the \$2.00 fee would be charged for one month, on a trial basis, in order to make sure the fees would be covered. Adjustments would be made if needed.

e. Gina Amodt-Princess Pageant

The Council agreed that holding and funding a mini-princess pageant would be a good idea. It would be a place for young girls to learn talents, etiquette and poise. The \$50 which was needed was available in the budget.

f. Farmers Market

Mayor Densley asked if there was any interest in holding the market. Council Member Adams suggested that a volunteer was needed to manage or supervise the market. He did not wish to see it fall on the staff's shoulders.

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Monte Lutz suggested that times and hours should to be advertised, so that people would know when it was available. The hours should also be regular and not sporadic.

The Mayor asked that people let him know if they were interested.

g. Meeting Policies and Procedures

The Mayor stated that it had been understood for many years that the town used Roberts Rules of Order as a guide for meetings, but the actual resolution could not be found. Council Member Jay Lee stated that it had been approved years before he was in office. The Mayor reported that there needed to be a resolution for meeting policies and procedures, which would need to be adopted during the May meeting. Council Member Jean Krause stated that Roberts Rules of Order were extremely strict and did not allow the public to say anything. It was suggested that other town's policies should be researched and perhaps used. Council Member Jay Lee suggested that the public input section of the agenda should be listed before the voting section. The Mayor asked the Council to research and be ready to approve the policies at the May meeting.

h. Fee Schedule

Mayor Densley stated that most of the fees had not been changed in ten years. He stated that the fees needed to accommodate the increasing cost of running the town. Council Member Jean Krause stated that Virgin charged 25% less than the surrounding municipalities. She felt that the fees needed to be raised in order to cover costs.

Council Member Bill Adams stated that the fee schedule was the only place that the Council

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could raise additional funds to hire a part time assistant to help Monica. Council Member Jean Krause had prepared a spreadsheet comparing Virgin's fees to the five surrounding towns, which would be available before the May meeting.

Monte Lutz asked about raising taxes. Mayor Densley replied that the town was at the maximum mill levy allowed. If the town ran out of money they would have to cut services or get businesses in to earn revenue.

i. Budget Discussion

Mayor Densley reported that the Council needed to consider where the money would come from in the budget for upgrading the rock sidewalks under the pavilion at the park because they were not up to code and also the handicap accessibility of the Pocketville Park restrooms.

Council Member Jean Krause left the meeting and then reentered a few minutes later.

REGULAR MEETING/Action Items:

1. Call to Order-Mayor Bruce Densley

Mayor Bruce Densley called the meeting to order at 7:03 pm.

2. Invocation/Pledge of Allegiance

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

3. Declaration of Conflicts of Interest.

Jay Lee stated that he might have a conflict if he decided to sell produce at the farmers

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market.

4. Council Reports on Training.

The Council reported on the spring session of the Utah League of Cities and Towns training. Council Member Bill Adams stated that he had learned that the town was required by state code to have an approved form of meeting procedures. He also attended a class on wild land fires, which was a serious issue especially in the interface of public lands and town boundaries. He felt that because the area was going into third or fourth year of a drought, the Town Council should start looking for an effective plan to deal with the interface. He reported that the State had changed the way they billed for fires in the interface. If the Town was prepared with documents, the State would not charge for a fire in the area. If the town did not have the documents in place, the cost would fall back on the town.

Cindy Escude asked if camp fires on BLM land were allowed, especially to the south. She wondered who took care of them. Monte Lutz stated that people were allowed to camp for up to fourteen days and if citizens saw a problem they could call the BLM to report problems.

The Mayor mentioned that the Fire District had acquired a surplus Humvee to be used as an off road ambulance.

Mayor Densley stated that he had learned at the training that ex parte communications were held and expected, because the Council were public officials. Public officials should be contacted by citizens to be lobbied by them. He reported that it was also mentioned that public meetings were open to the public, but are not all meetings were public hearings. It was in the best interest of the town to accommodate public remarks, and wise to do so where

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possible, but within reason.

Council Member Jean Krause stated that the training did say that ex parte communications were to be expected, but there was still a question as to whether members must declare those conversations during a meeting. She reported that during the Springdale Town Council Meeting, the Council members declared all conversations and were very up front. She still thought that something needed to be disclosed about conversations. Council Member Krause also reported attending a seminar on revitalizing retail and how to attract businesses to town. She had learned how first impressions were critical. She felt the town should be encouraging people to clean up junk and beautify property.

5. Consent Agenda Items 6 & 7

6. Review with possible approval of March 25, 2015 Draft Minutes.

Council Members Jay Lee and Jean Krause made corrections and clarifications to the minutes.

7. Review with possible approval of March Invoices and Checks.

Council Member Jean Krause asked about the checks to Interstate Rock. It was clarified that more money was due to them.

Jean Krause moved to approve the consent agenda-items 6 & 7-the March 25 draft minutes and the March Invoices and Checks. Bill Adams gave the second. No roll call vote was taken. The motion passed unanimously. Danyale Blackmore was absent.

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8. Rod Mills Update on waste water Study.

Rod Mills was present to update the Council on the Waste Water Study, which existed as an actual document. He had received water quality analysis information on the Virgin River and soil reports, making the analytical data part of the study complete. Mr. Mills then reported that he had met with the Division of Water Quality, discussing some of the findings and also learned how they wanted to see the study presented. During the meeting they had talked specifically about the relationship between population equivalents and septic densities. Mr. Mills reported that he had completed a calculation of septic densities throughout the entire town. He pointed out that it was interesting to him that the densities the county was looking at (not specific to Virgin Town) used 7 acres per system as general rule. He explained that the town was approaching the 2 acres per septic system based on existing subdivisions and potential build out, which was approaching 2-3 times more dense than the county would normally recommend, although open space still needed to be looked at. He explained that the more populated areas of the town were already more dense than the county's recommended limits. The series of maps that were the basis of the observation would be part of the report. Mr. Mills had also spoken to the Division of Water Quality about the risks of nitrogen contamination into the river from septic systems. In general, the county did not see any current major issues from today's data, in fact, the levels were even significantly low. He then explained that because it was cheaper to prevent than repair them, the study would err on the side of being conservative about maintaining pristine water ways. Mr. Mills stated that he would want to discuss the draft copy of the report in detail during the May meeting. He would like to receive comments about the draft copy, so he would have a copy available before the meeting.

Jay Lee stated that when Lusen and Allen did the study for the county, he had pointed out to

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them that there was a 3,000 foot drop between the Hurricane Fault and the rest of the county. The study was looking at the Navajo Sandstone protection, which was not located in Virgin. Council Member Lee pointed out that when the county had recommended 7 acres, they had also corrected themselves and said that Virgin would stay at 1 acre. Mr. Mills stated that the recommendation that was listed for 7 acres was for the higher elevations and would apply to the outlying areas of the County.

9. People living in Trailers on property.

The Council clarified that they were discussing people living in R.V.'s on property that were not hooked up to septic systems, which had an impact on waste water contamination. Mayor Densley felt that the town should advise people that it was illegal and then enforce the ordinance. Council Jay Lee explained that the Planning and Zoning was working on an ordinance dealing with RV's in a residential zone anywhere in town. Council Member Jean Krause clarified that residents could host guests on their lot for up to 30 days or people who are building can apply for the proper permits. The Council agreed that letters should be sent to the specific violators, after which citations would be issued. Council Member Bill Adams suggested that a general notice be sent in the water bill.

Ken Long asked why send letters when citations could be issued in order to collect fees. Mayor Densley stated that the Council did not wish to be punitive, but give them an opportunity to be in compliance.

Heath Snow, Town Attorney, stated that he agreed with the Mayor. The town should give people an opportunity to comply, after which citations could be given. He pointed out that Chapter 13 clearly prohibited the use.

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10. Farmer Market

Mayor Densley asked that people give some feedback so the town did not waste time if there was not an interest. He stated it could be done without a lot of hassle. Council Member Bill Adams stated that it was an excellent idea, but was he very concerned about putting extra pressure on the staff. He suggested a volunteer coordinator be used. The Council agreed that they needed to know if there was an interest before volunteers were secured. Council Member Krause stated that the supervisors in Springdale were willing to help train whomever was going to run the market in Virgin.

11. Transportation Tax increase by State

Mayor Densley stated that the State was proposing a transportation tax increase for two reasons: there had not been an increase since 1997 and there was not enough gas tax revenue because of alternative vehicles. The State reported they were not making enough money to keep the roads in good repair. The county would also be talking about increasing their tax by 1/4 of a percent. Council Member Jay Lee asked why the county sales tax went from 6.25 to 6.35 the last month. Attorney Heath Snow reported that the County Commission had passed a sales tax increase, which did not have to go to vote. Council Member Krause clarified that the Utah and League of Cities and Towns presentation had explained that the state was proposing an increase to price per gallon, but they had already increased the sales tax. Now the road money would come from the gas tax and sales tax. The county tax that would be on the ballot would be strictly for all forms of transportation. The county was proposing to have the tax on the 2016 ballot, which was a presidential election year.

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12. Budget discussion to prepare for 2015/2016 Budget.

Mayor Densley reported that the accountant had not had time to get the recommended budget in order and printed out. He stated that the June meeting would probably have to be moved up in order to approved the budget before the state deadline. He reminded the Council that the budget did not reflect the carry over from the past year. He asked the Council members to review the budget and be ready to discuss it. He stated that the town would need an extra \$20,000 to pay for a 20 hour person to assist in the office.

Linda Collet asked if the Council was planning another work meeting(s) to discuss the budget. The Council agreed that a meeting would be very helpful and perhaps an early meeting would not be needed in June.

Mark SaVee stated the he did not get the notice on the work meeting help on Monday, April 20, 2015. Town Clerk, Monica Bowcutt, stated that it had been posted as required. The Council reported that the meeting had been attended by citizens Linda Collet and Sean Amodt.

OPEN FORUM: Limit 2 minutes per speaker

– Monte Lutz asked about the possible hotel on Stu Ferber's property. Mayor Densley stated that he would address that during his comments.

– Ken Long gave some of his background and wondered if the police department had to be called about fires. He thought that the local fire volunteers would be a better option. Mayor Densley stated that the days were gone when volunteers did not have to be trained. He also clarified that if a citizen suspected a fire, they did not have to call the police, but rather could

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call the fire department.

- Linda Collet asked the Council to take public comments at the beginning of the meeting, like Torquerville. She also reminded everyone of the benefit concert for Heritage Town Square landscaping by 3hatrio to be held on April 25.
- Monte Lutz stated that fires in pits are legal are on BLM land, however if there were fire restrictions in place, they must be followed.
- Cindy Escude stated that she was glad for the comments on fires made by Council Member Bill Adams. She also stated she would also like to see the public comments section first on the agenda. She then stated that she was not off topic during the work meeting, but questioned if the town attorney was involved before litigation began. Mrs. Escude asked for information on the status of the short term rental litigation. Mayor Densley answered that the town had come to an agreement with every short term rental in town to come into compliance, except for two. He was hoping that it could be resolved shortly. He reported that all rentals (who were not involved in litigation) had agreed to come into compliance by no longer taking reservations and the issue would be actively enforced this season. The Mayor also answered that one fine had been issued.
- Mark SaVee read a statement regarding new revenue from the Munn Property. He stated that it was his understanding that one of the reasons Council Members had voted for the rezone was for additional revenue the commercial development would give to the town. He continued that no site plans had been submitted to or approved by the Town Council, therefore, making the revenue figures speculative. He stated that an RV park with a 5 stage

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build out was a projection and speculation based upon the assumption that the proposed commercial development would be undertaken and completed. He felt that speculation, assumption, projection and proposed were not substance, but rather all smoke. The property owner had not committed to building anything at all and had not been given a time frame, which would not provide the town with the anticipated revenue if not finished. The property owner could also sell the property or pieces of it to other parties. He stated that increased revenue was only assumption and speculation about what would actually be done on the property, which was a familiar scenario. He felt the Council had acted irresponsibly by voting to take assumption to the bank.

Mayor Densley stated that the town had not accepted any plans and the income of a RV park had not been figured into any budget projections or numbers. The legal issue was the rezone.

Heath Snow, Town Attorney, stated that future development was not an issue. The only issue before the people was a rezone of the property. Mark SaVee stated that he was concerned revenue would be used as an argument in favor of the rezone in the voter information pamphlet. Mr. Snow replied that State Code was very specific as to what was allowed in the voter information pamphlet, which would include the financial effects (either way) of the rezone, along with the legal effects. He stated that the town was dealing with a zone change, not a specific development.

– Mrs. Escude asked Heath Snow, Town Attorney, if ex parte communications had to be declared at a meeting. Town attorney, Heath Snow, answered, no they did not because anyone can talk (and should be talking) to Council Members. This included property owners, lobbyist, or developers.

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COUNCIL COMMENTS:

– Bill Adams stated that during the last training they had learned that the town did not have to have a Board of Adjustment unless they chose that as the appeal authority. An appeal attorney should be an uninterested and neutral observer of the issue. A decision would be made sometime in the future about the issue.

– Jay Lee made reference to a letter sent out by Mike Lee concerning the proposed tax increases, which stated that the real obstacle was not a lack of funding, but a lack of imagination by the elected officials.

Danyale Blackmore arrived at the meeting.

– Mayor Densley stated that the signs for the Kolob Road would be moved very soon. Chris Holm, Maintenance Supervisor, had the signs ready to be put up, including a 'no outlet' sign for Rio de Sion. He then stated that he was a little upset, because the town was supposed to be left with \$25,000 surplus from the new road, but instead were left owing \$4,000, which would have to be taken from the road budget. He did not know who to be upset at, the engineer or Interstate Rock. He still was working on getting the figures to upgrade Pocketville Road.

– Ron Smith asked if the fence would be put back up along the highway where the turn lane was widened for the new Kolob Road. Mayor Densley asked Monica Bowcutt, Town Clerk, to follow up on the issue.

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- Monte Lutz asked if the town would be fixing and oiling the lower Smith Mesa road as promised by the Mayor last year. The Mayor replied that he was working on that and it had not been forgotten. He stated that he was really trying to get some help to pay for the entire road.

- Cindy Escude asked for clarification on the section of Pocketville Road that was going to be fixed. Mayor Densley replied that from the Highway to 300 East and 300 North was where most of the damage and traffic was. It would be upgraded first.

- The Mayor reported that \$400,000 had been approved to install a new transfer station, but he was still waiting for Ron Thompson to approve the new site. He was also still working with UDOT and the school district to improve the highway around the 101 area. The road would have to be changed from a wedge shape to a T. The Mayor then reported that the sidewalks would be poured at Heritage Square the coming week and the wall would be finished when the brick engraving was completed. The committee was working on illuminating lights for the wall and installing a dance pavilion.

- Cindy Escude suggested that lights be installed at Heritage Square to light the way to cars parked on the street.

- Mayor Densley then reported that the county was still working on getting a shuttle from St. George to Zion and UDOT had been contacted about allowing more passing lanes on the road to Springdale. The Mayor stated that the test site was hosting a tour for representatives of Senators Hatch and Lee, along with the County Commissioners and UDOT representatives, in order for them to better understand the Mesa Road. All entities were working together to

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come up with an economical solution to improve the Mesa Road.

- Shirlene Hall stated that so many positive things were taking place in town and she hoped it would continue, filling up the town with positive. She perceived that Virgin was getting a negative connotation for not inviting businesses. She stated that Virgin's history included being friendly and inviting for people and businesses, especially those that were beautiful and helpful and willing to involve the towns people. She hoped the town would continue being that way.
- Mayor Densley stated that he was grateful he had the time to do all the above mentioned things and he also thanked the staff. The Mayor stated that the proposed hotel was in limbo as far as he knew.
- Jay Lee stated that there were several different races held in town and the BMX was also hosting a State Race. Mayor Densley stated that many things were happening in town and he had learned that there had been 63 million dollars in sales in Springdale. He felt some of that money should be used in Virgin to help the town meet the needs.
- Monte Lutz stated that there was \$350,000 in fee money collected from the Washington County BLM just from tours using the BLM land. He did the figures and found that it was \$35 million in sales in Washington County. He felt Virgin should be taking a share.
- Chris Mahoney stated that tax revenue from businesses would be wonderful, but Springdale was a pit, and he did not wish to see Virgin go that route. He was also concerned about the amount of traffic that would be generated on the Mesa road if it was upgraded. He stated

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that he did not want the trash and fire rings and wondered if it was a good decision.

13. Vote to close PUBLIC MEETING and open the Executive Session to discuss eminent litigation.

Jean Krause moved to close the Public Meeting and Open the Executive Session to discuss imminent litigation. Danyale Blackmore seconded the motion. Roll call vote: Bill Adams-Aye, Danyale Blackmore-Aye, Jean Krause-Aye, Jay Lee-Aye, and Mayor Bruce Densley-Aye. Voting was unanimous.

The Vote was taken at 9:18 pm.

14. Vote to CLOSE Executive Session and OPEN Public Meeting.

Jean Krause moved to close the Executive Session and Open the Public Meeting. Danyale Blackmore seconded the motion. Roll call vote: Bill Adams-Aye, Danyale Blackmore-Aye, Jean Krause-Aye, Jay Lee-Aye, and Mayor Bruce Densley-Aye. Voting was unanimous.

The Council and town attorney discussed the ballot language for the referendum. It was currently 300 words, but according to State Code it could only be a 99 word ballot title. The Council agreed that the pro's and con's should be due on May 4, reviewed by May 11 and go out on or after May 13. The Town Council would be writing the pros and the sponsors writing the cons.

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ADJOURN PUBLIC MEETING:

15. 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 9:38 pm.

Monica Bowcutt

Town Clerk

Approved:_____