

**FINAL MINUTES**

**VIRGIN TOWN COUNCIL MEETING**

**WEDNESDAY, May 27, 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  
Jean Krause  
Jay Lee

Others: Monica Bowcutt, Town Clerk  
Darcey Spendlove  
Rod Mills and wife  
Mark SaVee  
Jesse Lewis  
Adele Pincock  
Kason Smith  
Sean Amodt  
Valerie Wenz  
Candus Tibbits-Town Accountant  
Ron Smith  
Steve and Deb Masefield  
Cindy Escude  
Linda Collet  
Bonnie Timmerman  
Ray Golata  
Greg Istock

**A. WORK MEETING/Non-Action Items:**

Mayor Densley called the Work Meeting to order at 6:30 pm. He excused Council Member Danyale Blackmore.

**a. Discussion of what to adopt for Town Council Policies and Procedures.**

The Council discussed using a mix of Roberts Rules of Order along with ideas from other towns. The Mayor asked that all Council members bring their proposals and recommendations to the June meeting.

**b. Discussion of P & Z Terms.**

The current terms of the Planning and Zoning Commission members was not available. The Mayor explained that the Planning and Zoning Commission wished that there be a clarification of whose terms were up when. Monica Bowcutt, Town Clerk, reminded the Mayor that he had expressed concern that too many members would be expiring on July 1. He wished that the terms be staggered more evenly, so that most members knew what was going

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on when changes were made. Council Member Jean Krause stated that she wanted the new P & Z members to start at the same time the newly elected officials started, making every term different. The Mayor asked each Council Member to be ready to discuss the issue during the June Meeting.

#### **c. Discussion of possibly leasing water shares from bank: 5-10 year lease.**

Mayor Densley reported that the bank had offered the remaining 25 water shares from Sierra Bella on a lease to own basis. The price was \$2,500 a share. Council Member Bill Adams asked how many shares the town currently had and how are those shares were being used. Mayor Densley stated that the shares were being used on the parks. It was unknown total amount of shares the town currently owned.

Matt Spendlove explained that the 25 shares being offered were out of North Creek, not the Virgin River. A share of North Creek water was about 18 minutes, not an hour. Water would be used once or twice a week, depending on how you took the water stream. He thought the town already owned 3 shares from the Virgin River. The town had already purchased 25 shares from North Creek. He also stated that when the water restrictions went into effect, North Creek shares would go under restriction before the river.

The Mayor asked everyone the think about the issue and be ready to discuss it in June.

#### **d. BMX Track-Jay Lee/Ferrins**

No one from the BMX track was present. The Mayor stated that the forms and accounting should be updated, so that all transactions were transparent.

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#### **e. Discussion of annual review of Hinton Burdick contract.**

Mayor Densley stated that it was supposed to be renewed every year, but it had not been updated since 2011. He stated that the Town was paying Hinton Burdick \$2000 a month and it was being researched how many hours the accountant was actually being used. He questioned if the Town was getting \$100 an hour for Candus Tibbits' services. He asked the Council to be ready to give thoughts during the June meeting. The Council asked for copies of the contract.

\* Mayor Densley stated that Police Chief Kurt Wright had turned in his resignation, effective August 1.

\* Mayor Densley stated that the Washington County Water Conservancy District had agreed to the site of the new landfill. It was located on the new Kolob Road.

#### **f. Discussion of Early Voting**

Mayor Densley explained that the town did not have to have early voting, however, the state has passed a new law that was a little ambiguous. He felt it was a good idea for the referendum vote. He had information from the County Clerk that the County would pay for the early voting. It would be four hours a day, for four days a week, for the two weeks prior to June 23. The dates would be June 9, 10, 11, and 12, plus June 16, 17, 18, and 19. The poll workers would be from another community, and would be an independent third party.

Council Member Jay Lee asked if the disruption would be too great at the town office. The Mayor answered that he figured only about four people a day would be coming in, so it would not be too much disruption.

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Linda Collet asked if the Town Clerk had to be present for voting. Mayor Densley stated no. Town Clerk, Monica Bowcutt, stated that she had been told she just needed to check in every couple of hours.

Adele Pincock encouraged the Council to consider having some of the days and hours be open after 5:00 pm. Mayor Densley stated that the instructions stated that it must be held during office hours. Town Clerk, Monica Bowcutt, stated she would look at the directions to make sure of the rules.

Mark Savee stated that the ballot must be ready by then. The Mayor stated that it was ready and the absentee ballots had already been sent out.

\* Mayor Densley asked Town Clerk, Monica Bowcutt, how the credit card payments were coming. She replied that everything was ready, except they were still trying to figure out how to assess the \$2.00 fee.

#### **B. REGULAR MEETING/Action Items:**

##### **1. Call to Order-Mayor Bruce Densley**

Mayor Bruce Densley called the meeting to order at 7:01 pm.

##### **2. Invocation/Pledge of Allegiance**

Council Member Jay Lee gave the invocation. Council Member Bill Adams led the Pledge of Allegiance.

##### **3. Declaration of Conflicts of Interest.**

Mayor Densley stated that Council Members could also declare Ex Parte Communications if

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they felt they needed too. No Conflicts of Interest were disclosed.

#### **4. Mayor Updates and Comments.**

Mayor Densley stated that the Police Department would be taking applications to fill the chief position.

Mayor Densley stated that the work on Pocketville Road would be moving forward. Cost estimates would be available soon.

He stated that by the beginning of the school year, the intersection of 50 South and SR9 would be upgraded so the school bus could stop near the 101 area.

The Mayor, along with other area Mayor's, were still working with UDOT to come up with a plan for passing lanes on SR9 from LaVerkin to Springdale.

He was still working on the funding to upgrade the Mesa Road. Estimates were being formulated. UDOT officials would be visiting the test site in November.

#### **5. Citizen of the Month: Hal Cannon, Greg Istock, Honorary Citizen of the Month**

##### **Eli Wrangle (3hatrio)**

Mayor Densley thanked 3hatrio for their benefit concert in support of the Heritage Town Square.

\* Mayor Densley reported that the engraved bricks should be coming by the first of the week, after which the wall and pavilion would be finished. The Committee was hoping to hold a ribbon cutting on July 24, with all the landscaping all completed. The sidewalks were poured.

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**6. Consent Agenda: Items 7 & 8**

**7. April 22, TC DRAFT Minutes.**

Mayor Densley stated that he had a few minor changes, which did not affect the substance of the minutes: it was not senators Hatch and Lee who visited the test site, but rather representatives from their office.

**8. April Invoices and Checks.**

***Bill Adams moved to approve the consent agenda-items 7 & 8-the April 22 draft minutes and the April Invoices and Checks.***

Council Member Jay Lee asked what the item to Chris Holm for \$600 was for. Town Clerk, Monica Bowcutt, answered that it was his Zoning Administrator payment. Council Member Lee also asked about the check written to the Virgin Canal Company. Mayor Densley answered that it was the annual fee due from all share holders. Council Member Jay Lee then asked about the payments made to The Home Company and the Salem Family for \$1000 each. Monica Bowcutt explained that both were deposit's which were returned. It was explained that the Hinton Burdick bill was \$3000 this month because the town was behind on payments.

***Jean Krause gave the second. No roll call vote was taken. The motion passed unanimously. Mayor Densley noted that Danyale Blackmore was absent.***

\* Monica Bowcutt stated that the June meeting was being moved to June 17, 2015, so the

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budget could be approved on time.

\* Mayor Densley stated that the town was taking applications on a position for a 20 hour per week person, without benefits.

#### **9. OPEN FORUM: Limit 2 minutes per speaker**

– Adele Pincock suggested that the Council should increase the fees for the Old Church to acquire sound panels in order to hear the meetings better. She also suggested that the town should have Pocketville road re-engineered before the island was ripped out, because it was put there for safety reasons. Council Member Bill Adams stated that sound panels would not be appropriate for the time period building. He suggested that rag rugs could be hung on the wall, which would be time period appropriate. The Mayor suggested pioneer quilts, but stated that he would work with the committee to come up with something suitable. Rod Mills wife suggested a little shop on the way to California that she had information on.

– Cindy Escude suggested that each Council person have their own microphone. She asked how much money was made at the benefit concert. It was reported that \$1,500 was made.

#### **10. Waste Water Study Report-Rod Mills**

Rod Mills stated that the study was done, but the Department of Environmental Quality and other entities still had to review it. They would make comments and then the study would be finalized.

The evaluation process for waste water studies focused on nitrate concentration, which helped evaluate the quality of waste water. Nitrates were very simple to see and monitor, therefore, they were the baseline of the study.

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Key assumptions that were used in mass balance of nitrate concentration and flow components were background flow, precipitation, irrigation, and septic tanks. He further explained that 10 mg/L of nitrate could be present in drinking water and 3 mg/L was chosen as the threshold for the study. This was a slightly conservative approach.

The population equivalent projections were a way to express the load of a commercial entity of waste water systems relative to the load by one person. The population equivalents were used to evaluate the risk management to the 3 mg/L base line. The study had calculated 1,630 population equivalents with the current platted lots, which were already approved. The calculated population equivalents with a RV park and hotel was 1,990. He stated that the study had basically reaffirmed the same numbers that the previous study had published, with 1,200 a population equivalent threshold.

Mr. Mills stated that the study reported that the nitrate concentrations were currently at 2.8 mg/L and the date the town would hit the 3 mg/L was 2021, with a 3.6 growth rate. Mr. Mills stated that would mean the town had 50 lots to build on using septic tanks. He stated that a 200 pad RV Park (on current policy) would exceed the threshold that the study recommended and would produce 4.2 mg/L of nitrate concentration. The town would need to require 90% removal of nitrate (alternative management treatment systems) to stay below the threshold in the future. Mr. Mills reviewed a graph which showed various approval levels which could be allowed.

Council Member Bill Adams asked who checked the nitrate levels in the Virgin River and where they checked it. Mr. Mills replied that the DEQ did that. Council Member Adams stated that he would assume the testing was done at or below the Quail Creek facility. Mr. Mills

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agreed.

Mayor Densley clarified that if the town wished to continue with residential lots, there were 50 available. If the town wanted to go to commercial operations, they must provide treatment plants to keep the nitrogen levels low, which would keep the town good for some years out. Mr. Mills replied that the town was good for 5 years out if the town required treatment systems that eliminated 90% nitrate. The Mayor asked how difficult it was to remove 90%. Mr. Mills answered that it was doable, but it was more expensive.

Council Member Jay Lee stated that the Luce and Allen study was done for the Navajo Sandstone Aquifer, which was in the rest of the county, so the 3.6 mg/L should not apply for Virgin. Mr. Mills stated that the study was for all the outlying areas of the county. It was consistent with the standard of practice and was a reasonable range. He had chosen a number within the range.

Steve Masefield, Planning and Zoning Chairman, clarified that if the development put in a sewer system, it must be managed by the town (body of politic requirement). He wondered if a treatment system would also fall under the body of politic requirement or would it fall back on the owners of the commercial development. Mr. Mills answered that the jurisdiction of waste water depended on the volume of flow, either the Southwest Health Department or the State DEQ. If the entity applying was a single owner and installed an approved system, the SWHD or DEQ would be over it. In any situation that involved more than one owner, it reverted to the local jurisdiction, which would be the town. It was the solution that made the most sense, as opposed to tying into Ash Creek Sewer District. Even a residential lot split would trigger the new ordinances, and they would be required to install an alternative treatment system, which the town would be required to maintain.

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Council Member Jean Krause asked what the units looked like, how they were maintained and who was in charge of cleaning them. Rod Mills answered that it fell to the town to certify someone to maintain them.

Cindy Escude asked if there were two different entities logging information from the Virgin River. Mr. Mills replied that the highest risk factor applied to the ground water, not the river and the ground water sat in slow flowing aquifers, which moved towards St. George.

Council Member Bill Adams asked where the water had been tested under the town. Mr. Mills replied that he had not tested, but had used previous data. Council Member Adams asked where the people whose study was used had tested the water. Mr. Mills stated he thought one place was on the south end of town and the other point was closer to Gunlock Reservoir. Council Member Adams stated that if the town did not have sand stone underneath, as the rest of the county did, the study appeared to be more hypothetical than it was actual. This was because ground water acted differently depending on what type of rock was under the ground. He stated he would like to see how much actual nitrate was in the ground at 50, 100, and 200 feet. Mr. Mills responded that he had used previous testing data, which was acceptable to the DEQ. It showed that the current date was right around 2.8 mg/L, as used in the study.

Linda Collet asked how the study would change after different government entities reviewed it. Mr. Mills replied that he did not know, but the numbers could change a little. He also stated the he still had to have dialogue with the DEQ before the study was final. He was hoping to have it finalized in about a month.

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Mayor Densley stated the town could go for years if the waste water was managed properly. Mr. Mills replied that the town must come up with an ordinance that required homes and developers to install a high removal level treatment system.

Steve Masefield stated that he understood the town could put in 50 more homes before the town started to get at saturation point. The town could do 90% removal of nitrate on a commercial development and it slowed everything down, but it impacted the 50 homes. He stated that if the town went with commercial development, they would have to trade down some of the 50 homes. Mr. Mills responded that if the homes went with traditional septic systems and the commercial development installed alternative treatment systems, the town was looking at a 50 home build out in the future, unless they went to a sewer system. Mr. Mills replied that if the town went to high levels of treatment, the town did postpone the system, but was looking at a 50 home build out. It was one or the other, however, the town could require a higher level of treatment system to mitigate that.

#### **C. PUBLIC HEARING: Motion to Close Public Meeting and Open Public Hearing:**

*Jean Krause moved to close the public meeting and open a public hearing to address budgetary issues. Bill Adams seconded the motion. No roll call vote was taken. Voting was unanimous.*

#### **11. Approve Motion to Close Public Meeting and Open Public Hearing: To gather public input on items A, B & C.**

##### **A. Amending the current 2014/2015 Budget**

Candus Tibbits, Town Account, was present to answer questions. No amended budget was available to look at. From memory, she reported that the attorney fees were over budget by

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about \$30,000. It needed to be amended from \$10,000 to \$40,000. She also explained that the police department budget had been assigned \$50,000, but in physical year 2014 the town had spent \$60,000. History was showing that the police fees were increasing, not decreasing. She also stated that the insurance account had increased by about \$6,000, which was not budgeted for.

Council Member Bill Adams asked if the budget had offsetting increases in income, so the deficits could be met. Mrs. Tibbits answered that the sales and use tax had an increase, but the others had not shown an increase.

Linda Collet asked where the money came from to offset the deficiencies. Candus Tibbits replied that money was not available, but the town would have to submit a plan to the state to show how the deficiencies were going to be rectified. It is not that the town has \$0 cash, it was just that money was supposed to be set aside for each account, which it was not. She explained that the state realizes that there were certain things that could not be avoided and attorneys fees were one of them.

Council Member Bill Adams stated that it was OK to go into deficient as long as the town tells the state how they planned to get out of deficient. Candus Tibbits replied that it was never OK to go into deficient because it was against the law, however, the state understands that it happens.

Cindy Escude asked if the town was penalized by the state. Candus replied that there would not be a fine, but the state would ask the town to bring the budget back into balance.

Adele Pincock asked that the public hearing be left open so the public would have to a chance

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to make comments. The Mayor replied that he would open the public hearing again, during the June meeting.

#### **B. Adopting the Proposed 2015-2016 budget**

Candus Tibbits stated that she had reviewed the budget. She stated that the Council had budgeted down the police department by \$15,000, which she was concerned about. She suggested the contract be reviewed and perhaps be amended to decrease the charges. Council Member Jean Krause asked if Mrs. Tibbits understood that the Council had planned to raise the fees in order to make the money balance. Mayor Densley stated that the utility fund had decreased, and he needed to find a way to increase the revenue.

Council Member Jean Krause asked if the Old Church loan payment had been included. Candus Tibbits stated the Council was doing the proposed budget, so they needed to make sure that it was included.

Mayor Densley stated that a \$6,000 bond would be paid off during the year. He asked the details be found and perhaps that same amount of payment be put away for the relining the water tank. He also asked why the fire and police impact fees were not being shown from new homes.

Adele Pincock stated that the public needed a copy of the budget in order to make comments. She asked if the various accounts had been answered and explained by accountant, Candus Tibbits. Jean Krause answered yes.

#### **C. Modifying the current Fee Schedule**

Mayor Densley stated that the proposed fee schedule was available during the May Meeting.

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Linda Collet was concerned that the fees the Council wanted to charge for renting the community center were not going to fulfill the expenses on the building (loan, setting up, trash, heating, air and generally taking care of it). She stated that the church would cost about \$1000 a month. It was stated that only 2 events had paid to use the building so far, but several had booked for the rest of the year. She suggested the town evaluate what was charged, so that they did not subsidize the people renting the building.

Rod Mills wife suggested advertising through the Spectrum, etc, for the month of December. She stated that through the Christmas season, there was a need for places for people holding Christmas parties. She stated that the current charge would be about \$75 to \$150 for 6 hours.

Adele Pincock stated that she thought charging higher fees would be the best idea, even if it was temporary. Mrs. Mills disagreed, stating this if it was too high, no one would use it.

Council Member Bill Adams stated that the Old Church belonged to the people of Virgin. He did not want to price them out of the market. He wanted to encourage a two tiered system of rentals, residents and non residents.

#### **12. Motion to Close Public Hearing and Open Public Meeting:**

##### **a) Approve Motion to Adjourn Public Hearing and Open Public Meeting.**

*Jean Krause moved to close the public hearing and open the public meeting.  
Bill Adams seconded the motion. No roll call vote was taken. The vote was unanimous.*

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**D. REGULAR MEETING continued/Action Items:**

**13. Adopt Resolution #2015-052715-A: Appointing Mayor Bruce Densley to Washington County Solid Waste**

Mayor Densley stated that a resolution was needed to appoint him as the representative. He read the resolution in its entirety.

*Bill Adams moved to appoint Mayor Bruce Densley as the Washington County Solid Waste Representative. Jay Lee seconded the motion. No roll call vote was taken. The vote was unanimous.*

**14. Adopt Resolution #2015-052715-B: Amending Budget for Fiscal year 2014-2015**

Mayor Densley stated that the amended budget was not available, so the item needed to be tabled.

*Bill Adams moved to table the temporary budget until next month. Jean Krause seconded the motion. No roll call vote was taken. The vote was unanimous.*

**15. Adopt Resolution #2015-052715-C: Adopting Budget for Fiscal year 2015-2016**

*Jean Krause moved to table the budget until next month because the proposed budget still needed to be reviewed. Jay Lee seconded the motion. No roll call vote was taken. The vote was unanimous.*

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**16. Adopt Resolution #2015-052715-D: Modifying the Virgin Town Fee**

**Schedule.**

Mayor Densley asked the Council to come with their conclusions in order to pass the fees during the June meeting.

***Bill Adams moved to table modifying the Virgin Town Fee Schedule. Jean Krause seconded the motion. No roll call vote was taken. The vote was unanimous.***

**17. Adopt Resolution #2015-052715-E: To approve recommending the County approve the authorized .25% Local Option General Sales Tax dedicated to Transportation.**

Mayor Densley stated that the County Commission had asked the communities who felt they could support the tax which would be used strictly for developing a transit system from St. George to the Park. One advantage of the tax was money would be collected from people passing through. Virgin did not have a lot a business, so it would not be collecting much. Council Member Jay Lee stated that the locals would also be paying. The Mayor stated that whether the Council passed it or not, the resolution would not have much bearing on the issue. Council Member Jean Krause stated she was for it because a transportation system would be great. Council Members Jay Lee and Bill Adams stated they were against it. Mayor Bruce Densley stated he was for it.

Cindy Escude asked if it said that the town would get a percent of the funds. Mayor Densley stated that if the county approves the tax, the town would get a percentage of it.

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Candus Tibbits stated that if the town was not the ones taking care of the transit system, it would not see a penny of the money.

Town Clerk, Monica Bowcutt stated that if the tax was approved the town would receive .10% of the .25% to be used strictly for transportation.

Jean Krause stated that she had just read the document and it was asking the town to support HB 362, which was the bill that was passed which changed the tax on gasoline. Each county had asked for the .25% sales tax, to be used on trails, roads, and parks. The resolution asked if the supported putting the tax increase on the ballot. It had nothing to do with the transit system.

***Jean Krause moved to approve resolution #2015-052715-E. Bruce Densley seconded the motion. Roll call vote: Bill Adams-No, Jean Krause-Aye, Jay Lee-No, and Mayor Bruce Densley-Aye. The vote was split 2-2. The vote failed because no majority.***

#### **18. P & Z Recommendation to Virgin Town Council to amend VULU 27.6.2F**

#### **SOLAR ROOF MOUNTING**

The Council did not have the amendment available for their review. Council Member Jean Krause stated it needed to be tabled until the Ordinance was prepared.

***Bill Adams moved to table item #18. Jay Lee seconded the motion. Roll call vote: No roll call vote was taken. The motion was unanimous.***

#### **COUNCIL COMMENTS:**

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- Jay Lee stated that it was 65 mph speed limit until Falcon ridge girls Home. Mayor Densley stated that the town was waiting for UDOT to give written approval to move the sign 200 yards. The Council discussed UDOT studies and how the speed could possibly go up, not down. Council Member Lee stated he wanted to ask UDOT for a cross walk to the post office. Mayor Densley stated he would talk to them about it.
- Mayor Densley stated that he had attended 86 meetings or appointments for the town during the month.

#### **19. Vote to Close Public Meeting and OPEN the Executive Session to discuss imminent litigation.**

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

The vote was taken at 8:50 pm.

#### **20. Open Executive Session.**

#### **21. Vote to CLOSE Executive Session.**

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

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**22. Open Public Meeting.**

**E. ADJOURN PUBLIC MEETING:**

**23. Approve Motion to Adjourn Public Meeting.**

*Jean Krause 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 9:19 pm.

\_\_\_\_\_  
Monica Bowcutt

Town Clerk

Approved:\_\_\_\_\_