

**FINAL MINUTES**

**VIRGIN TOWN COUNCIL MEETING**

**WEDNESDAY, June 17, 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  
Danyale Blackmore  
Bill Adams  
Jean Krause  
Jay Lee

Others: Monica Bowcutt, Town Clerk  
Darcey Spendlove  
James Lee  
Bonnie Timmerman  
Lyman Everett  
Mark SaVee  
Jesse Smith  
Steve Masefield  
Sean Amodt  
Linda Collet  
Derek Spendlove  
Dalley Spendlove  
Candus Tibbits-Town Accountant  
Cindy Escude'  
Rosemary & Osvaldo Marchi  
George Walsh  
Adele Pincock  
Bonnie Strauser  
Julie Densley Page  
Matt Spendlove  
Monte Lutz  
Jerek Spendlove

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

Mayor Densley called the Work Meeting to order at 6:31 pm.

**a. Discussion of surplus chairs.**

Mayor Densley stated that the town had 35 surplus chairs that were stacked in the basement. He wondered about offering them to the citizens for a small price. He asked the Council to look at them and decide what price the town would charge.

Darcey Spendlove suggested that the chairs be auctioned off at 4<sup>th</sup> of July silent auction. The Mayor thought this was a great idea.

Cindy Escude suggested that the chairs be rented out. Mayor Densley stated that he did not

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want to be bothered with accounting for them.

**b. Discussion of pursuing possibly leasing water shares from bank-5-10 year lease?**

Mayor Densley stated that the bank had not contacted the town since the May meeting, so nothing had been done.

**c. Discussion of annual review of Hinton Burdick contract.**

Mayor Densley stated that the contract was signed in 2011, which called for an annual review and a \$1,500 a month payment. The contract had not been reviewed since 2011. Council Members Danyale Blackmore and Jean Krause felt that the work Candus Tibbits, town accountant, did was worth the money. Mayor Densley stated he did not question the quality of the work, but rather the amount of time it took to get the work done. He wanted more promptness.

Cindy Escude' asked if the work was duplicated. Council Member Bill Adams replied no, most of the work was not duplicated.

The Mayor asked the Council to review the contract and think about the issue in the coming months.

**d. Discussion of change to definition of short term rental from 30 days to 90 days.**

Mayor Densley stated that St. George and Toquerville were looking at making this change because real estate agents were finding a way to circumvent the law. Council Member Danyale Blackmore stated that the town needed to first decide where it stood and how it was

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going to handle VRBO's before amending the current ordinance. Mayor Densley stated that the town had already decided that, but needed to decide if it was going to set a zone specifically for the use. Council Member Danyale Blackmore asked why the change needed to be made now. Mayor Densley replied that there were reports of people looking to purchase very expensive homes in town with the very intent to use them as a short term rental. Council Member Jean Krause explained that she had spoken to two different people in Rio de Sion who told her they knew how to get around the law. She also had heard of people looking to purchase in Desert Gardens with the same intent. Council Member Blackmore stated that she had a client who rented for less than 3 months because of his work schedule. She felt that the Council should not even look at this until they decide where the town was going with the issue. She thought the town needed an ordinance dealing with short term rentals, which might mean the town allowed short term rentals. Council Member Jean Krause stated that she was worried about people purchasing with the intent to rent, and then if the town changed the ordinance, the people would say they were grandfathered in.

Council Member Jean Krause and Monte Lutz discussed how the home owners were getting around the law. Mr. Lutz suggested the town punish those that were actually breaking the law, not the ones who were following it. Mayor Densley stated that the issue boiled down to if the town wanted hotels in residential neighborhoods or not. He stated that more security was present in hotels than rentals, because hotels had someone on sight 24 hours a day. He felt the majority of the Council would not approve short term rentals in the middle of a residential area. Council Member Danyale Blackmore stated that the Mayor was contradicting himself because a VRBO was a vacation rental by an owner, and did not a special zone.

Rosemary Marchi suggested the change would present a hardship to long term renters who only rented month to month. Mayor Densley stated that was a valid point.

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Steve Masefield suggested that the survey would be a good opportunity to get a sense of what the townspeople wanted. He felt perhaps the Council should wait until after the survey results were known. Mayor Densley liked that idea, but stated that he understood both sides of the issue. He also stated that other towns were dealing with the gray area by enforcing the 90 day requirement.

Oswaldo Marchi stated that Virgin was not St. George and the situation would be different. His house had grown in tax value since he had purchased it, which also helped the neighbors increase their value. He then stated that rental homes were well taken care of. Mayor Densley stated that people who lived in the neighborhood had a different perspective of the homes.

Council Member Jean Krause told of a bad experience she had with people who were VRBO renting in her neighborhood.

Mr. Marchi replied that there were bad people all over the world.

Mayor Densley asked the Council to consider the different ramifications of all sides of the issue. He stated that it did not have to be 90 days, it could be 60 days, but he wanted it to be discussed further so people could not get around the law.

Oswaldo Marchi stated the situation that happened to Council Member Krause was not rampant in the area. He felt that the home owners who were entrusting their furnished homes to the care of others would not rent to people of that sort. If that happened to Ms. Krause, and she had proof, why had she not contacted the law, sued them, and put them in jail.

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Monte Lutz stated that the town had quantities of non conforming uses that would not be subject to the law.

Cindy Escude asked if Mr. Marchi was stating that the only houses in Virgin that were taken care of were the VRBO homes. She stated that if that was the case, she took offense to that. She stated that Virgin was a family town, where people took care of their homes. Mr. Marchi stated that he did not say that, or intend to say that.

#### **e. Discussion of delinquent availability fees to be brought current.**

Mayor Densley stated that the town was owed many thousands of dollars by people not paying the water availability fee. This was people who owned a lot and were supposed to be paying a reservation fee to assure that they had a hook up in the future. The town was paying the conservancy district for those lots. They Mayor stated that the town should go after these people, and if not paid these people would loose the opportunity to have a hook up. Council Member Bill Adams stated that it was unfair and these people should be brought up to current. He felt that they should be given a letter and then a lein should be placed on the property (30 days after they were delinquent). Council Member Danyale Blackmore stated that some of the property owners thought that is was unfair to them. They had not received a building permit, yet were being expected to pay a monthly water fee, let alone paying the back fees. Mayor Densley stated that he would be sympathetic for them if the towns people were not the ones paying the back fees. Council Member Jay Lee stated that the \$22 fee came from Water Conservancy District, not the town, so the people should be paying it. The Water District would not allow the water to just be canceled. The Council felt that the legal authority should be contacted to see what options were available.

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Cindy Escude suggested that the water fee should be tied into the annual property tax fees. Mayor Densley stated that the county and state handled those taxes.

Council Member Jay Lee felt that a letter of explanation and compliance be sent before the town spent money on attorney fees.

#### **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 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.

##### **4. Consent Agenda: Items 5, 6, & 7.**

##### **5. May 6, 2015 Special Meeting Draft Minutes**

Monica Bowcutt stated that this item needed to be tabled because they were not available.

##### **6. May 27, 2015 Draft Minutes**

Council Member Jay Lee pointed out that the executive session motions and voting were not included. Monica Bowcutt stated that it was in the office. It could be approved with the changes to be added.

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#### **7. May, 2015 Invoices and Checks.**

Council Member Bill Adams asked what the check was to Bingham and Snow. It was answered that it was the town attorney.

***Jean Krause moved to approve the consent agenda-items 6 & 7-the May 27, 2015 draft minutes as amended and the May, 2015 Invoices and Checks. The May 6, 2015 Special meeting Draft Minutes were not available and were tabled.***

***Bill Adams gave the second. No roll call vote was taken. The motion passed. Danyale Blackmore abstained.***

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

- \* Monte Lutz handed each Council Member a paper. Mayor Densley stated that it was dealing with pending litigation and could not be discussed, but would be used for review.
- \* George Walsh stated that a little less traffic was on Pocketville road, but all the locals and the people going to the dump still used it. He suggested installing speed bumps. He also asked for information on the lawsuits against the town. Mayor Densley stated that the traffic would go down when the dumpsters were moved to the new location. He then stated that any legal information could not be discussed.
- \* Sean Amodt asked if the public could give comments on the ordinances on the agenda. He also stated that an indication of a bad law was that it created criminals and creative entrepreneurs. He thought extending the short term leasing days would turn a bad law into a worse law. Mayor Densley asked if that meant a meth house was a bad law.
- \* Monte Lutz stated that the Mayor constantly confused criminal and civil law. The Mayor replied that people either break the law or they don't. Mr. Lutz stated that meth houses were criminal while VRBO's were civil.
- \* Osvaldo Marchi asked if the Council would rather have a short term or long term criminal,

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because people could not pick their neighbors.

**9. Appoint George Walsh to Virgin Town Tree Committee.**

Mayor Densley stated that George was an arborist who had volunteered to serve with Bonnie Timmerman. Mr. Walsh stated that he wished to give his time to improve the trees in town for the least amount of money as possible.

\* Cindy Escude asked if there was list of all the committees in town and who was on them. Mayor Densley stated no, but the town had tree, princess, old church, arbor day, recreation, and trail committees, just to name a few.

**C. PUBLIC HEARING:**

**10. Motion to Close Public Meeting and Re-Open Public Hearing from May 27, 2015:**

- a) Discussion of Amending 2014-2015 budget**
- b) Discussion of Adopting 2015-2016 Proposed Budget**
- c) Discussion of Amending Current Fee Schedule**

***Jean Krause moved to close the public meeting and re-open the public hearing from May 27, 2015 to discuss issues regarding the budget. Jay Lee gave the second. No roll call vote was taken. The motion passed unanimously.***

\* Adele Pincock asked where the Heritage Town Square fees could be found. It was reported that those fees were not on the current fee schedule, but would be added as part of the amended fee schedule process. Mayor Densley reported that residents would pay \$75 plus \$25 for the kitchen. Non residents would pay \$100 plus \$50 for the kitchen.

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**11. Motion to Close Public Hearing and Re-Open Public Meeting:**

*Jean Krause moved to close the public hearing and re-open the public meeting. Jay Lee gave the second. No roll call vote was taken. The motion passed unanimously.*

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

**12. Adopt Resolution #2015-061715-A: Amending Budget for Fiscal year 2014-2015**

Mayor Densley stated that the amended budget was required by law. Town Accountant, Candus Tibbits, reported that on page 5-Transfers and Reserves was written as \$35,000 but should have been \$53,000. These were the all the Old Church funds that had been moved to Parks and Recreation. Page 7-Transfers from other Funds would now show \$53,000. Council Member Jay Lee asked what the \$395,320 was on page 12, the bottom line. She reported that it was the grand total of all the departments. He asked why there was only \$300 in BMX donations. Ms. Tibbits reported that if she was specifically told it was a donation, it went into the books as local revenue. Council Member Lee stated that Adam had donated his 70% back to the track several times and \$600 had been donated in signs. Candus Tibbits reported that when actual product was donated it was not marked down as donated. Only cash was recorded as donations. Council Member Jay Lee stated that \$600 cash was donated, but it had not been turned into the office as a donation. In that case, there was no way to state it was a donation.

***Jean Krause moved to adopt resolution #2015-061715-A: Amending Budget for***

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***Fiscal year 2014-2015. Bill Adams seconded the motion. No roll call vote was taken. Voting was unanimous.***

**13. Adopt Resolution #2015-061715-B: Adopting Budget for Fiscal year 2015-2016.**

Mayor Densley stated that he had come up with the money to hire an assistant for the office. He had found that he had actually budgeted too much. He stated that three changes had been made from the previous version. They were 1) Sales and Use Taxes increased to \$66,000. 2) Zoning Administrator fees had paid out \$4,000, not \$3,000. 3) There was an extreme probability that the Attorney Reimbursement fees would be paid up to \$10,000 in one form or another. Council Member Jay Lee asked if the payback amount from the budget deficient had been figured into the budget. Candus Tibbits replied that the town would be paying back \$4,322 for the year. Council Member Lee then asked how much of the salaries and wages came from the water fund. Candus Tibbits replied that one third from each account was taken to make the wages. He asked if there was a way to take less out of the water fund because the town was trying to build it up. Ms. Tibbits answered that the town could prorate wages any way they wanted, they just needed to decide and tell her. This would require employees to keep track of where they were working each hour. Council Member Danyale Blackmore liked the idea of having employees keep track of where they worked, so that the town had a good idea where their time was spent. Accountant, Candus Tibbits, reported that she had left the B & C Road salaries high. She did not see any reason to decrease them because they were restricted funds.

***Bill Adams made a motion to approve Resolution #2015-061715-B: Adopting Budget for Fiscal year 2015-2016 with the changes as noted. Jean Krause gave the second.***

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Danyale Blackmore stated that she felt the \$10,000 for reimbursement of attorney fees was speculation. Mayor Densley stated the whole budget was speculation.

***Roll call vote: Bill Adams-Aye, Danyale Blackmore-No, Jean Krause-Aye, Jay Lee-Aye, and Mayor Bruce Densley-Aye. The vote passed on a split vote of 4-1.***

**14. Adopt Resolution #2015-061715-C: Modifying the Virgin Town Fee Schedule.**

Mayor Densley stated that the Council had been working on this for several months and Council Member Krause had been researching fees from other towns. Mayor Densley stated that he thought \$100 for a building permit application, however, Council Member Krause felt \$125 would be better. Council Member Danyale Blackmore stated that she thought it should be based on square footage.

***Bill Adams moved to table the item until the Council came to a consensus.***

Jean Krause stated that she felt it should be tabled for only one month, because the budget was based on increasing the fees. The Council continued going through the fees by line item. Council Member Jean Krause stated that there was no grading and excavation schedule as stated in the fee schedule.

***Jean Krause gave the second. No roll call vote. The motion passed unanimously.***

**15. Review and possibly approve Ordinance #2015-061715-I: which includes item 16, 17, & 18 on this agenda.**

Mayor Densley stated that he was not prepared to approve all the items or ordinances at the

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same time. Council Member Danyale Blackmore agreed.

**16. P & Z Recommendation to Virgin Town Council to amend VULU 27.6.2.F Solar Roof Mounting.**

Mayor Densley stated that the ordinance should read elevate it 20 degrees, not 20 feet.

Council Member Bill Adams stated that he thought the language should read ridge line, not ridge line of the roof.

**17. Discussion and Possible APPROVAOL of Virgin Town Planning Commission's Recommendation to Virgin Town Council to adopt Housekeeping of VULU items as set forth in Agenda Items #7a-g**

No discussion.

**18. Discussion and Possible Approval of Virgin Town Planning Commissions Recommendation to Virgin Town Council to adopt reformatted and amended Chapter 13 of VULU.**

Mayor Densley asked about a recreational vehicle being defined as 400 square feet. Steve Masefield, P & Z Chair, replied that the number came from the Utah League of Cities and Towns. Council Member Jean Krause stated that the number was already in Chapter 13. Mayor Densley stated that filling propane tanks should be included as an amenity. Council Member Danyale Blackmore stated that to give the town a little more teeth pertaining to temporary use of recreational vehicles in commercial zones, she felt that the builder should only be allowed to live on the property while building for a maximum of 12 months. The Council felt the same item should also be changed in section 13.3.2, adding the 12 month restriction.

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The Council discussed changing all the exceptions to be granted by the Land Use Authority, instead of the P & Z or Zoning Administrator. It was decided that the Zoning Administrator would be fine in this instance because it was for clarification. Steve Masefield, P & Z chairman, explained that 13.2.2.E was allowing a security guard, not a family to live on the property. It was explained that 13.2.2.I.v Permit Fee had been raised from \$25 to \$50. Council Member Jean Krause stated that the fee was not on the fee schedule, so she recommended it be placed there also.

Council Member Jay Lee stated he thought the ordinance should be tabled because a lot of restrictions had been put in that were not originally in Chapter 13. Steve Masefield replied that Chapter 13 was a very thin ordinance that was pulled from somewhere else which did not reflect anything that was happening in Virgin. He had tried to be generous with restrictions by reflecting that Virgin was a rural community. Council Member Lee stated that the P & Z was tasked with adding tents and cabins into Chapter 13. He felt tents and cabins was not mentioned enough. Mayor Densley asked who determined if the design qualifications went to the attorney. Mr. Masefield replied that if the P & Z felt something was not right, they would send it to the attorney. Mayor Densley asked about 13.4.5.b-no more than 8 units per acre. He stated that at Zion River Resort they had 9.7 units per acre. Mr. Masefield replied that it depended on how the acreage and footprint was counted. He thought it would average out. He felt that the proposed RV Park could get anything they wanted with that restriction because they had a lot of acreage. Also, there were density opportunities listed in the ordinance. Council Member Lee stated that the town should allow the RV Park to make money.

The differences between sewer system and septic system were discussed. Council Member Lee asked if the town could allow higher densities because of the sewer/septic systems that

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were being required, which did not allow so much nitrate into the ground. 13.4.5.E was discussed and defined. It was decided that the developer could ask for certain things in exchange for other things. Trails was included in the section. 13.4.6.B.iv was discussed with Council Blackmore Danyale Blackmore stating that she thought it was a conflict of interest dealing with the Water Conservancy District and the ground water study. Council Member Lee stated that it was redundant, after all, the DEQ would grant the permit. Council Member Krause stated that the contract with the Water Conservancy District stated that an RV Park could not have more than one ERU per acre, unless they completed a study that the water district had to review.

Cindy Escude stated that the ordinance was being written for everything in the future, not just for one entity that was here now.

Gravel roads or pavement being required or preferred was discussed. Steve Masefield stated that keeping the rural feel and less water run off into the river were the purposes of recommending gravel. It was decided to eliminate the sentence "Gravel roads are preferred" in section 13.4.8.C.ix.b. It was also decided to change the word "require" to "recommended" in section 13.4.8.C.xiii dealing with wifi. 13.4.6.c dealing with electrical outlets should be moved to the section dealing with utilities 13.4.8.C.xiv.

***Jay Lee moved to table item #15, which included agenda items 16, 17, and 18. Bill Adams gave the second. No roll call vote was taken. The vote was unanimous.***

**19. Discussion and Possible approval of Resolution #2015-061715-D: A  
RESOLUTION THAT ORDINANCE #2015-061715-I IS PENDING.**

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Mayor Densley stated that he felt to protect the town the resolution should be passed. Mayor Densley read the last three paragraphs of the resolution, summarizing that the town would be protected if an application was submitted. Council Member Jay Lee pointed out that the resolution cited two different resolution numbers on page 2. Council Member Krause stated that both resolution numbers should read #2015-061715-1.

***Bill Adams moved to approve #2015-061715-1, with the number change. Jean Krause gave the second. No roll as taken. The motion passed on a split vote of 3-2. Danyale Blackmore and Jay Lee opposed the motion.***

### **COUNCIL COMMENTS:**

- Jay Lee stated that he had lived several years next to a short term rental, meeting people from all over the world. He stated that the house had never looked better than it did now.
- Bill Adams stated that he had been affiliated with the Council for 6 years, during which time there had been a constant strain on the Council whether to enforce the rules or not enforce the rules. Some people wanted only the rules that applied them enforced or not enforced, and vice versa. The Council could not do that. They had to enforce all the rules in a fair and judicious manner or enforce none of the rules. The Council could not selectively choose which rules to enforce. He asked that he be told which rules people wanted enforced, otherwise he was going to enforce all the rules.
- Jay Lee stated that he had spoken to the Utah League of Cities and Towns attorney, asking him how the town could be forced to enforce their ordinances. The attorney stated it could not be done. The Town could pick and choose which ordinance they enforced. However, the only way to make the town enforce the codes was to get a court order from a district judge ordering the town to enforce all their ordinances. Council Member Lee liked the idea of enforcing all the ordinances, but did not know how to do it.

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- Danyale Blackmore stated that there were a lot of things that changed and opposition came with those changes. People had fought against the RV Park and now it added to the community. People had fought against the Liahona Academy and it was now a beautiful building. People had fought against Phase III of Desert Gardens, but it was also another beautiful addition to the area. She stated that people needed to remember growth was going to happen, but it needed to be controlled. The Town had seen the issues before, but standards needed to be set so the town was the way people wanted it.
- Bruce Densley stated that the Springdale Town Council appointed Garren Breck as the new police chief. The Mayor felt the board should have been asked their opinion. There had been illegal camping on SR9 and Sheep Bridge Road. Signs had been order by the property owner stating no camping. Mayor Densley reported that the special election was going on with a large turnout.

#### **E. ADJOURN PUBLIC MEETING:**

##### **20. Approve Motion to Adjourn Public Meeting.**

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

The Meeting adjourned at 9:01 pm.

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Monica Bowcutt  
Town Clerk

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