

FINAL MINUTES

VIRGIN TOWN COUNCIL MEETING

WEDNESDAY, September 23, 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:	Darcey Spendlove	Lori Rose
	Linda Collet	Adele Pincock
	Ray Golata	Summer Stout
	Paden Stout	Serenity Stout
	Larry Amodt	Sean Amodt
	Dan Snyder	Andria Wenzel
	Lyman M. Everett	Lisa Coombs
	James Lee	George Walsh
	Sue and Mike Crawford	Monte Lutz
	Mark Coombs	Bonnie Timmerman
	Rod Mills and wife	Ernell Thayne
	Jonah Coombs	Johnny Lee
	Sean Amodt	Ben Amodt

1. Work Meeting/Non-Action Items.

A. Discussion of ground water study and water system update-Rod Mills

Rod Mills stated that the ground water study had been reviewed and accepted by the State. It was now an official document.

Rod Mills stated that the town had received a \$40,000 straight grant for a drinking water system master plan which would include evaluation of the current system, completing a hydraulic model, evaluating water rights and a capital facilities plan. Changes to the agreement could be made and then the study would be needed to be completed as outlined.

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B. Discussion of expert to modify VULU Chapter 13-Rod Mills

Rod Mills stated that his company had capabilities to modify Chapter 13 and he also knew independent companies who could write the document. BLU was a company that he trusted and had contacted for the town. He thought that having a company write it from scratch would cost more than the town could afford. He also thought that it would cost about \$5,000 to review what the town had already written. Council Member Bill Adams liked the idea of hiring an independent company to look at the Chapter. Council Member Jean Krause agreed. Council Member Danyale Blackmore stated that \$5,000 was a lot of money.

Mark SaVee asked if the water study (ground water) was available on the Town website. The Mayor stated that it had been accepted by the State and was a public document, so it could be picked up at the Town office and would be put on the website shortly.

* Mayor Densley stated that there had been comments made about a Council Member being too involved in issues. The Council person decided to withhold from helping with the income survey, which had put the town behind. This survey would be used to determine future grants. The Mayor stated that he was disappointed in the complaints.

* Mayor Densley stated that he had attended the Utah League of Cities and Towns conference in Salt Lake City. He reported that in conclusion, he had learned that sometimes there is not a right answer.

2. CALL TO ORDER/ACTION ITEMS-Mayor Bruce Densley

A. Invocation/Pledge of Allegiance

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

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B. Roll Call: Mayor Bruce Densley, Council Members Bill Adams, Jay Lee, Danyale Blackmore, Jean Krause. Town Clerk Monica Bowcutt.

Town Clerk, Monica Bowcutt, was not present. She was attending a training in Logan, Utah.

C. Declaration of Conflict of Interest

No conflicts declared.

3. OPEN FORUM, CONSENT AGENDA, PUBLIC HEARING

D. Open Forum: Limit 2 minutes per speaker at the microphone after starting your name.

* Adele Pincock asked that a quick summary be provided on the ordinances and resolutions that were on the agenda. She stated that the audience had paper copies, but no explanation of changes made. She was specifically concerned about Chapter 3. Ms. Pincock also asked where the money would come from to hire an independent consult to review Chapter 13.

* Lyman Everett stated that he had reviewed Chapter 13. He read a prepared statement, which has been included in the minutes.

* Monte Lutz thanked the Town for the maintenance on Smith's Mesa Road.

* Lori Rose reminded those present that the general plan survey had been put out. It had gone out through email, followed by mailing over 150 to households. She stated that the deadline had been extended to October 12. Mayor Densley stated that every effort had been made to maintain the integrity of the survey.

* Mark SaVee read a prepared statement, which has been included in the minutes.

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* Sean Amodt stated that the latest version of Chapter 13 went beyond standards and into restrictions. Government was about helping the community develop and move forward and it went beyond the scope of the governments job. Mr. Amodt stated that he was surprised to see Chapter 3 of VULU on the agenda because there had been no hearing. He felt that having a mediator instead of a Board of Adjustments stripped the jury-in-peers rights that was needed. He realized that more volunteers and time was needed. Mayor Densley reported that at the League of Cities and Towns there was a lot of discussion on the topic. Dave Church had stated that more communities had gone to the appeals authority because it eliminated the biases and the town got a party that was legally knowledgeable. Mr. Church felt it was the best way to go because it would save money when a board created more problems legally.

E. Mayor Updates and Comments.

Mayor Densley stated that it had been pointed out that he had been in a hurry to use the gavel at times. He explained that he did not gavel any one person down, but was trying to keep more than one person from talking at a time.

Mayor Densley addressed the complaints about the agenda not being out early enough. He agreed they were good comments. He stated that the agenda was always out as required by law and the delay was not intentional. He asked that all complaints be addressed to him, not to office staff who worked very hard.

The Mayor read a quote from Frank Zaffa: The mind is like a parachute, it only works when it is open.

Mayor Densley reported that road repairs had been completed on Smith's Mesa and

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Pocketville. He then reported that the fire impact fee study had been completed. The fire impact fee collection would be transferred from the County to the Fire District. The fee would be about \$354 per residence for new building. The Fire Board decided to go only 90% of what the study suggested be charged.

F. Consent Agenda:

1. Approval of Minutes
2. Approval of Accounts Payable
3. Approval of Payroll

Council Member Jay Lee asked if he could see the latest copy of the Bingham Snow bill for \$2,359. Mayor Densley stated that the document was available in the office. Council Member Lee then asked what the Utah Government Local Government Trust payment totaling \$1792 was for. Council Member Jean Krause replied that it was for employee insurance. Council Member Jay corrected his comment on page 7, line 3 of the August 2015 minutes.

Bill Adams moved to approve the consent agenda, with the change from Jay Lee. Jean Krause gave the second. No roll call vote was taken. The motion passed unanimously.

G. Public Hearing: Motion to close Public Meeting and Open Public Hearing:

2. Public Hearing regarding increase of Elected Officials monthly Compensation.

Jean Krause moved to close the public meeting and open a public hearing on elected officials compensation. Jay Lee gave the second. No roll call vote was taken. The motion passed unanimously.

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Mayor Densley stated that all pay increases for elected officials must have a public hearing. Planning and Zoning Chair and Commissioners did not require a public hearing. The Council had been receiving \$100 a month, while the Mayor had been receiving \$200. Mayor Densley asked that the Mayor's position be increased to \$400 a month compensation.

Adele Pincock stated that she did not remember the increase being talked about during the budget hearings. She asked where the money was going to come from. Mayor Densley replied that the increase had been built into the budget. He then stated that as of tonight it was the 167th scheduled meeting he had attended during the year. He named the committees that he served on.

Linda Collet suggested that if the stipend was raised to \$400 a month there would be all sorts of unqualified people wanting the job.

H. Motion to close Public Hearing and Open Public Meeting:

Jean Krause moved to go back into the public meeting. Bill Adams gave the second. No roll call vote was taken. The motion passed unanimously.

4. COUNCIL ISSUES

I. Possible approval of Resolution # 2015-092315-A revising Elected Officials Compensation.

Council Member Bill Adams stated that he supported Mayor Densley in the increase. He marveled at the Mayor's stamina and ability to get things done. Council Member Jay Lee asked how much compensation the Mayor received for his service on all the different boards. Mayor Densley replied that he received \$150 a month from the Fire District, while the

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mosquito abatement and solid waste board were both mileage to and from the meetings. He also stated that he had taken \$300-\$400 out of pocket to attend the Utah League of Cities and Towns conference during the last month.

Bill Adams moved to approve 2015-092315-A revising Elected Officials Compensation. Jean Krause gave the second. No roll call vote was taken. The motion passed unanimously.

J. Possible approval of Ordinance #2015-092315-1 Amending Chapter 3 of VULU.

Council Member Jay Lee asked if a public hearing was needed. Council Member Jean Krause answered that a hearing was held at September, 2015 the Planning and Zoning Meeting, but not one person had made a comment. She stated that Heath Snow, Town Attorney, was supposed to be present, but was not.

Adele Pincock asked what other changes, besides moving away from a Board of Adjustment to a third party, had been made in the Ordinance. She stated that it was brand new.

The local Boy Scouts were introduced by Mark Coombs.

Council Member Jay Lee stated that Beka Amodt had received Director's Choice Award and 4th Runner up in the Miss Dixie Pageant.

Mayor Densley explained that the land use issues would be less subjected to pressures and ex parte conversations. It would be easier and less time consuming to not train and re train community members, who would leave the town open to litigation.

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Heath Snow, Town Attorney, called, and joined the meeting via speaker phone. He explained that the Utah League of Cities and Towns was advocating the change to an appeal attorney. It had been his experience that small towns had a hard time keeping a Board of Adjustment staffed and then they had to retrain each time they were needed. He also explained that an attorney had to be hired to sit with the board during the meetings and help render a decision anyway. If a third party was hired, they could conduct an appeal in their office after listening to the presentations and then issue a decision. He felt it would be more efficient, plus make the process more independent and unbiased.

No comments were made by the public or Council on Chapter 3.

The Council then discussed item L (Discussion and possible rejection of all proposed changes to Chapter 13) and item M (Discussion and possible rescinding Resolution #2015-061715-D, stating the Ordinance #2015-061715-1 is pending) with Town Attorney Heath Snow. Mr. Snow stated that no action needed to be taken on item L. He questioned whether the town had any pending ordinance taking place based on last month's meeting. Council Member Krause explained that there had been four different versions of Chapter 13, with two of them still on the table. She stated that the real question was whether the town should keep the two that were on the table and also the pending ordinance resolution. Mr. Snow answered that the pending ordinance doctrine was based off of case law in Utah. He further explained that the town must have a good case to tell an applicant with reasonable certainty that there would be a new ordinance. He felt the town had passed a pending ordinance without reasonable certainty. It would not hold up in court because there were so many versions. Normally, he would not recommend revoking a pending ordinance resolution, but he could not be certain in this case because there were so many versions.

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Town Attorney, Heath Snow's call was terminated. The Council went back to discussing item number J.

Bill Adams moved to approve Ordinance #2015-092315-1 Amending Chapter 3 of VULU, regarding the appeal authority. Jean Krause gave the second. Roll call vote: Bill Adams-Aye, Danyale Blackmore-No, Jean Krause-Aye, Jay Lee-Abstain, and Mayor Bruce Densley-Aye. The motion passed 4-1, with one abstain.

K. Possible approval of Ordinance #2015-092315-2 Amending Chapter 4.15 of VULU.

Council Member Jay Lee stated that 4.15.1.B talking about view shed was just a little redundant. Council Member Bill Adams agreed, stating that this section was more about safety, not scenic. He suggested that the title should be Clear View of Intersecting Streets: See Section 4:14. Council Member Jean Krause then stated that she had made the change requested by Council Member Blackmore in section 4.15.1.D Fence Height dealing with the lowest grade level within one foot of either side. Planning and Zoning Member Lori Rose stated that by going to one foot it gave people more opportunity to cheat the system. (Putting the fence on a rock wall, for example.) The Council agreed to move the distance back to four feet. The Council then discussed 4.15.1.E.1 Livestock Fencing leaving the word 'may', not shall. Council Member Jay Lee discussed 4.15.1.e.2.a, stated that he felt it was redundant. It was explained that it made the distinction of pool covers and the six foot fence. Mayor Densley discussed 4.15.2.B.2 Pedestrian gates and trellises used as entryway features. He felt the paragraph should be eliminated. Lori Rose explained that the section was an attempt to allow people to be creative, instead of not allowing anything taller than four feet in in the front yard, which was what the ordinance currently stated. The idea was that when a

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rural atmosphere was the ideal, there should be nothing in the front yard in order to keep a more friendly/ neighborly feel. The dimensions were just trying to eliminate 8-10 foot fences in the front yard, which created a compound. Council Member Bill Adams and Mayor Densley stated they did not like telling people what they could not do in their front yard.

George Walsh stated that he had seen hedges that were 20 feet long and very high.

Mark Coombs stated that he understood the concern about the large fences. He stated that he had only seen 1 or 2 potential 'compounds' in town. He suggested the town not worry about it until it became a problem.

Council Member Bill Adams suggested that 4.15.2.B.2 read: Pedestrian gates and trellises may be used as entryway features.

Adele Pincock stated that the ordinance currently read that nothing over 4 feet could be in the front yard. The section was trying to offer an option to have something higher in the front yard. Council Member Danyale Blackmore stated that if the wall was back 25 feet, the person should be able to build as high as they wanted. The difference between fences and features was discussed.

The Council discussed 4.15.2.B.3, ranch and farm style entrance. Lori Rose explained that it was an attempt to give people an opportunity to be creative. Council Member Bill Adams and Mayor Densley stated they were fine deleting the entire section, along with other sections. Lori Rose stated she did not like the system that says everything goes until someone complains because it created havoc and chaos. Mayor Densley named several other sections that he was not happy with. Council Member Jean Krause stated the entire thing came up

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because of a problem about a swimming pool. If that was true, she felt the only change that needed to be made was the section on swimming pools.

Bill Adams moved to table the items and bring it back in a form that could be voted on and completed.

Jean Krause clarified with Lori Rose that the fencing ordinance came up because of a swimming pool. Lori Rose answered that livestock fences had also been brought up because people wanted to make sure they could have something higher than four feet for their animals.

Jay Lee gave the second. No roll call vote was taken. The motion passed unanimously.

L. Discussion and possible rejection of all proposed changes to Chapter 13.

Council Member Danyale Blackmore stated that all changes should be rejected based on what Heath Snow had said. She agreed with what Mr. Snow had said: that if they were not rejected it was left open and people coming in could go back to any one ordinance and use that as an argument against the town. Council Member Jay Lee stated that Kanab had the same exact ordinance that Virgin did and had taken care of all the questions through conditional uses. The ordinance set standards but the conditional uses took care of the conditions. Council Member Bill Adams stated that the suggestion to hire an independent arbiter, in order to come up with an ordinance that all could agree on was a good thing. He felt the attorney was afraid of the pending ordinance resolution because it appeared the town was using a delay tactic. If the town did not have an ordinance that was there ready to go, the town could be liable for delaying someone. If the Council had an ordinance that they could agree on within one month, he felt they should keep the pending resolution. If the Council did not have an

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ordinance that was agreed on, the pending ordinance resolution should be rescinded and the town should go back to the original Chapter 13, while continuing to work on amendments.

Lori Rose stated that the ordinance must come from a public hearing.

Linda Collet stated it would take longer than thirty days, even though she agreed.

Bill Adams moved to table items L and M and task the Mayor with contacting someone, BLU or otherwise, within the next few days. The company would then give a price and time line for completion, then the Mayor would do a telephone survey of the Council to approve the information and have the reviewed ordinance at the Town office 20 days from the agreement, with 10 days to review. Jean Krause gave the second.

Danyale Blackmore stated that Heath Snow had stated that if someone came in during this time, they could look at any of the things that were on the table and say 'that is what we thought you wanted'. She voiced concerned about leaving it so open.

Roll call vote: Bill Adams-Aye, Danyale Blackmore-No, Jean Krause-Aye, Jay Lee-No, and Mayor Bruce Densley-Aye. The motion passed 3-2.

M. Discussion and possible rescinding Resolution #2015-061715-D, stating that Ordinance #2015-061715-1 is Pending.

No discussion. See above motion.

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5. COUNCIL COMMENTS

- * Jay Lee left the meeting for medical reasons.

- * Bill Adams stated that he had heard several comments about the public wanting to have more information faster. He continued that the town only had a part time staff, who worked very hard, but had a limited capacity to fulfill all the many duties of the town. The job demanded more than they could possible give. The government was a republic, not a democracy. The Council had been voted in to do the work for you, the people. It was always the same people who attended the meetings and he expressed gratitude that the audience was so willing to know what was going on. He stated that some of them were stifling the Council's ability to do work. He stated that he was surprise the referendum turned out the way it did. He was astounded that lawsuit filed by the protagonist, which was meant to clear up a lot damage, did not do that. The damage was continuing and lingering. He felt property rights in Virgin were dead, which was wrong. People should have the authority and responsibility to be responsible in the community, but do what they wanted with their own property. He stated that he had the responsibility to live with his neighbors as best as he could. Council Member Adams told stories of a neighbor who had two big dogs. The town did have the money to hire the staff in order to get the agenda out ten days before the meetings. However, if people would like to raise taxes to hire more staff, that was a different issue. He stated he had moved here because it is a small town with small town taxes. He felt the town needed to be able to move forward.

- * Danyale Blackmore thanked the Old Church committee for continuing their effort. She stated the blocks looked great. She thanked everyone who participated in the community. She believed everyone tried to do the best they could. She felt everyone should appreciate each other and help each other as they moved forward.

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* Mayor Densley stated progress was viewed differently, so there would always be difference of opinion. He felt that communities either grow or stagnate. He felt that if issues could be discussed civilly, resolutions and answers would be found.

6. EXECUTIVE SESSION:

No executive session.

7. ADJOURNMENT:

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

The Meeting adjourned at 8:52 pm.

Monica Bowcutt

Town Clerk

Approved: _____