

FINAL MINUTES

VIRGIN TOWN COUNCIL MEETING

WEDNESDAY, June 28, 2017

6:30 pm-Work Meeting

7:00 pm Regular Meeting

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

Present:

Council Members: Mayor, Bruce Densley
Jean Krause
Jay Lee
Matthew Spendlove
Dan Snyder

Others: Monica Bowcutt, Town Clerk
Darcey Spendlove
John Ely
Mark SaVee
Linda Collett
Wanda Leverett
Chuck Matsler
Summer Stout
Serenity Stout
two unknown signatures
Lori Rose
Steve Masefield
Cindy Escude
Bill Swenson
Sean Amodt
Carolyn Matsler
Paydon Stout
Kevin Stout
Heath Snow, Town Attorney

A. WORK MEETING/Non Action Items:

1. Discussion of Dalton Wash Fire Insurance Claim

Mayor Densley explained that there had been a man-caused fire on Coal Pits a few weeks ago, which had burned part of the Virgin Town property. He was worried that the burned section would affect the sale price when the property was put on the market. He asked Council input on billing the person who started the fire. He further explained that the other entities would also be charging this person. No decision was made by the Council.

2. Art Exhibit September 16 to November 4, 2017

Council Member Jean Krause stated she had been working with a non profit group to hold an art exhibit about the Smith's Mesa Test Sight. The exhibit would be held in the Old Church and be open from September 16 to November 4. The Square would still be available for rent as needed.

3. Discussion of Heritage Town Square Rock Sign

Mayor Densley stated that it had been suggested by the Old Church Committee that a rock sign be placed at the entrance to the building. He asked the Council's opinion on the sign, as well as the type of lettering or engraving. The cost ranged between \$1,100 and \$800. No final decision was made.

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4. Discussion of the FEMA Flood Plan and unstudied areas

Town Clerk, Monica Bowcutt, stated that Rod Mills, Town Engineer, had asked that the Council table discussion of the FEMA Flood Plan and unstudied areas because he was unable to attend the meeting.

5. Review of Ordinance Prohibiting camping on Public Lands within Town

Boundaries

Mayor Densley stated that more and more people were camping on BLM land within town limits. He asked the Council's opinion on having the Planning and Zoning Commission draft an ordinance outlawing camping in town limits, except in certain areas. He elaborated that the BLM would like the town to put in a campground near the BMX track, but because of the outcome of the referendum election, that was now impossible.

Lori Rose stated that she had always been told that the town did not have jurisdiction over federal lands, even in town limits. Mayor Densley stated that Brian Tritle from the BLM had told him differently.

The Council agreed to have the P & Z draft an ordinance.

6. Discussion of SR9 Drainage Issue

Mayor Densley stated the there had been a drainage issue across the highway from Desert Gardens for some time, which included culverts on John Ely's property. Mr. Ely had worked with his engineer and UDOT to come up with a solution. The Council reviewed the engineer drawings and the cost of the plan, which was about \$4,000. The Council agreed to submit the proposal to the state and proceed with fixing the issue.

7. Park Pavilion

The Mayor stated the he was 'eating crow' and taking back his assumptions of volunteers fixing the patio under the town park pavilion. He said they were doing a great job and the repaired rock looked great. He was glad that the rocks could be saved and the history be retained. The Council agreed to wait until the repairs were complete before it was decided to seal the rocks or not.

* Mayor Densley stated that the proceeds from the 4th of July would be used as the Town Council directed, not for the pavilion, as some had been told.

* Dan Snyder stated that the state had put fire restrictions into place, as had the county. He stated that the Hurricane Valley Fire District had also imposed restrictions. The District would

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be contacted, so the regulations could be clarified for Virgin Town limits.

B. REGULAR MEETING/Action Items:

1. CALL TO ORDER- Mayor, Bruce Densley

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

2. Invocation/Pledge of Allegiance

Jay Lee gave the invocation. Bruce Densley led the Pledge of Allegiance.

3. Declaration of Conflict of Interest

No conflicts were declared.

4. Open Forum: Limit 3 minutes per speaker.

* Cindy Escude stated she had several issues to discuss. First, she felt that two significant issues had been worked on over the last few years. Many people, many hours, a lot of money, time and public hearings had been held on the two referendums dealing with a proposed campground and zoning. Another issue was short term rentals being allowed in town. This issue had gone to court, with a lot of money being spent. She felt there should be a moratorium placed on these issues before a new ordinance was raised on the subject. She felt it was affecting the town. Ms. Escude stated that she supported the SR9 drainage solution. She then explained that she had raised the 'camping on BLM land' issue to the town last fall because she was concerned about the potential damage they were causing to the river, the land, and the night sky, among other issues. At that time she was told that the campers were allowed to stay for a period of two weeks. Ms. Escude felt that she had been treated unfairly and roughly during the work meeting.

* Steve Masefield stated that as a sponsor of the referendum, he felt it was extremely unlikely that the outcome of the vote would be changed before the July 11 election canvas deadline. He did not feel that enough ballots would arrive to overturn the results. The sponsors had said they are not against growth or one or two more campgrounds in the town. They felt this feeling was in line with the official town survey, which the Town Council chose to ignore. At almost every meeting when the ordinance was discussed, time and time again, the location was requested that complied with the results of the survey and the General Plan. The sponsors felt the ordinance chose to ignore it. The Town Attorney had even stated that it was highly unusual to take this approach and now by referendum, the town had rejected it. The referendum had always been about location, location, location. If the Council chose to revisit the issue of camp zoning, he asked that they specify the location to comply with the town survey results. He felt most people would be happier and it was unlikely it would be challenged by a referendum. Most people wanted a very specific camp zone that was defined

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by a map and complied with the wishes of this community, which was located close to Kolob Terrace Road or continuous with the tourist area and the Highway Resort zone. He continued that it was fair to say that no one wanted to see another referendum with costly special elections, which was arduous and created conflicts and wasted thousands of dollars. After two referendums, he urged the town to seek how they could adequately bridge the divisions that were growing and to find compromise and assure the residents. He then pointed out that two of the referendum sponsors, while on Planning and Zoning, were in support of Stu Ferber and his development because it was in the right location.

* Monte Lutz, replying to Ms. Escude, stated that he was fully aware when he entered into a settlement about short term leasing with the town, that there were no guarantees. He was not worried about competition.

* Wanda Leverett stated that when camping on BLM land was discussed, Sheep Bridge Road was most often referenced, however, a lot of camping was taking place west of town, near the diversion dam road. She explained that tents, vans, trailers, and motor homes all camped very close to her private property. Ms. Leverett had been in contact with the BLM, who had asked campers to leave. This had not worked because they had just relocated to another spot. People seemed to be living on the BLM. She was primarily concerned about the camp fires and suggested signage at key access points. She was in support of an ordinance.

* Lori Rose stated that there had been a movement for people to donate old quilts to be hung in the Old Church to help with the acoustics. She also reported sending a letter regarding the accessory structure ordinance to be discussed later on the agenda. She read the letter, which explained the history behind the amendments and the reasons behind the wording, etc.

* John Ely stated that UDOT did not have any problem with the plan to fix the drainage issue, however, the town must be the one to submit the plan. He asked that the plan be submitted promptly because it had taken him ten months to get a response from UDOT. He also stated that several issues would be resolved after the plan was put into action. Mr. Ely then stated that he believed Mayor Densley had mentioned two times about a kiosk on Sheep Bridge Road. He felt a kiosk there would not be seen by people camping at the west end of Town.

* Bill Swenson thanked Chris Holm for the sign to stop people from inadvertently turning into Desert Gardens. He asked that everyone follow the fire restrictions which were issued on June 21. He asked that the town join with BLM and/or the County to place some fire restrictions signs on Sheep Bridge Road and Smith's Mesa Road because tourists had no idea that restrictions were in place. He volunteered to help get those signs in place if needed. He

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stated that he was here to be a part of the community and had hesitated being a part of the second go round, but was proud be a part of it. They wished to be workable with the Town Council and were not against campgrounds.

5. Mayor Comments & Updates

* Mayor Densley stated that he understood the concerns about all the camping, after all, he had woken up to a tent in his backyard. He was planning to set up a kiosk across Sheep's Bridge explaining where camping was allowed and where it wasn't. He had received some mixed signals from the BLM, but the camping was a problem he wanted to address. He stated that there were several parcels of private land located near the diversion dam road that perhaps people were using to camp on.

* The Mayor reported the results of the referendum, stating that only 22 votes separated the results. The referendum passed, meaning the new camping zone would not be implemented. He felt there was not enough votes still out to change the outcome of the election.

* Mayor Densley stated that Stuart Ferber had expressed interest in building a gas station across from his hotel. He was close to submitting a concept plan.

6. CONSENT AGENDA: Items:

a. May 17, 2017 and June 20, 2017 Draft Minutes; May Checks & Invoices

Monica Bowcutt, Town Clerk, stated that the May 17, 2017 regular meeting draft minutes had not been sent out for Council review. The Council agreed to table them.

Jean Krause moved to approve the June 20, 2017 draft minutes and the May Checks and Invoices.

Matt Spendlove gave the second. No roll call vote was taken. The motion passed unanimously.

7. Eagle Scout Projects

Mayor Densley asked the Council on ideas for potential Eagle Projects. Several were discussed, including a cement pad for the new town sign, the pavilion, and a couple different projects for the stage. Mayor Densley asked Sean Amoldt to give his complete list to the office staff.

8. K & K Family Land Division

The K & K family asked for Council approval for a land division by presenting a letter of intent. Chuck Matsler and Kevin Stout stated that they were wanting to divide two acres off from the rest of the parcel, which was a total of forty three acres. The two acres was located near

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Buffalo Trails restaurant. The rest of the parcel was bordering Mesa Road, so it was separated by several miles. Their plan was to divide the two acres off and then separate it into two different lots.

Heath Snow, Town Attorney, explained that in the subdivision ordinance, there was a definition of when the subdivision ordinance applied and exceptions to it. One exception was a division or partition of land by deed or other instrument where the land use authority (the Town Council) expressly approved in writing the division in anticipation of further land use approvals on the parcel(s). The Council could write a letter granting a partition by deed, followed by a division of land in the future, which was appropriate and did not require any special utilities or access roads, etc. He further explained that this letter would be recorded with the deed that partitioned it, so no questions would be asked in the future.

Council Member Jean Krause stated that the last time this was done she was under the impression that Mr. Snow felt the loophole could be closed. Town Clerk, Monica Bowcutt, explained that the last time K & K family came in, it was a completely different issue and request.

Heath Snow responded that it was not a loophole and many municipalities allowed simple land partitions. When the lots were split, the town would require that all improvements be made and all ordinances be followed. He also stated that it would be appropriate to add a condition of 1 year time frame, although, it would be hard to enforce. Jean Krause asked why allow the partition and attach a condition if it could not be enforced or tracked. Mayor Densley stated he did not see a down side to approval. Attorney Snow stated that most of the simple divisions were done with agriculture land and could be considered a little loose. He suggested adding a small clause to the ordinance requiring that the land use approvals must be approved within one year and the deed dividing it could not be recorded until the subsequent land use approval was given.

Jay Lee stated that the ground was already partitioned by distance and isolated, although, it had the same tax id number.

Attorney, Heath Snow, stated that the motion should be: to approve the applicant's request and find that it was a partition of land and the Mayor was authorized to issue a letter authorizing it.

Jay Lee so-motioned what Heath Snow stated. Dan Snyder gave the second. No roll call vote

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was taken. The motion passed unanimously.

9. Discussion of an Ordinance Prohibiting Camping on Public Lands within Town Boundaries

Mayor Bruce Densley stated that camping inside town limits was already not allowed. Attorney Heath Snow stated that even though camping was illegal in every part of town, it was a little hard to find in the ordinances. He felt adopting a specific ordinance for no camping on BLM lands would make it much easier to find and enforce. This would give the town and police a specific ordinance to refer to. He wished to add a section to the supplemental and qualifying regulations chapter addressing the issue. Mayor Densley asked Attorney Snow to draft the ordinance to be added to Chapter 4, which would then go to the P & Z for review.

The Council gave permission for the Mayor to authorize the purchase of signs as needed because it was an executive function.

10. Review with possible approval of the SR9 Drainage Issue

The Council reviewed the map of the SR9 drainage issue. Mayor Densley reported that it would cost around \$4,000 to purchase the pipe and Chris Holm would be doing the work with town equipment. Attorney Snow stated that if the expenditures were under \$15,000, the bidding process was not needed. He also suggested that the town engineer review the map.

Jay Lee moved to approve the SR9 drainage issue and not spend above \$5,000.

John Ely explained that the study had been done of all drainage from the Mesa and had included 100 year flood, core of engineers, and everything else that was needed.

Jay Lee moved to approve the SR9 drainage issue, but not to exceed \$7,000. Matt Spendlove gave the second. Roll call vote: Jean Krause-Aye; Jay Lee-Aye; Dan Snyder-Aye; Matt Spendlove-Aye and Mayor Bruce Densley-Aye. The motion was unanimously approved.

11. Review with possible approval of additional UDOT signs

Mayor Densley asked Council approval to ask UDOT for signs directing people farther up SR9 to the new Kolob Road. He requested that the BMX people be asked to use the new road and that the trucking companies also be contacted. Google seemed to also be a major part of the

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problem. Jean Krause stated she would see if her husband could get somewhere with his Google contacts. Jay Lee suggested that a letter be sent to UDOT from the Town Council. Mayor Densley stated that the Police would begin patrolling the road on weekends. The Council agreed that signs needed to be placed.

12. Review and possible approval of Resolution #R2107-062817-1 Personnel Manual

Jean Krause explained that it was a resolution amending the language talking about retirement. The town was in the process a setting up a simple IRA, so the manual needed to match the new retirement funds. She wanted the retirement paln to begin July 1. The term 'regular' was discussed as opposed to the words 'full time'. Jean Krause stated that Mistie Baird would qualify, but she was not full time. 'Regular' was defined in the document.

It was also brought up that other employees would not qualify because they were not working enough hours. The number of hours that employees worked qualifying them for the funds was discussed in detail. Employees were not required to enroll and could enroll after working for 5 consecutive months. The number of hours worked was discussed and calculated.

Jean Krause moved to table item 12, Resolution #R2107-062817-1 Personnel Manual until next month. Dan Snyder gave the second. No roll call vote. The motion passed unanimously.

Mayor Densley stated a full quorum was present.

13. Review of proposed Ordinance 2017-Accessory Buildings Amendments

Attorney Snow reviewed the history of why the amendments needed to be made, mostly to define set back, yard, side yard, rear yard and front yard. He stated that it was a clean up amendment, but allowed structures to be built in side yards, as long as they were not within the set backs.

The Council discussed legal non conforming lots and structures. It was explained that some were not conforming because new regulations had been imposed by the town. Should these homes be allowed to add on in the back or side was discussed. Jean Krause stated her issue was that none of those items had been discussed by the Planning and Zoning nor been through a public hearing. The Council ultimately decided that this was not the place to make the changes. The issue at hand was only definitions of the different yards. It was decided that

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an ordinance to allow expansion of legal non conforming structures was needed.

Attorney Snow stated that front set backs need to be sacred and nothing should be allowed in them. Jean Krause stated she liked the way it was written and felt it was very well done. She did not want any changes to be made.

Sean Amodt asked for the Council to clarify why the exceptions were being taken out. Jean Krause stated that the exceptions were being taken out of the ordinance because there were no more exceptions. Everything was now allowed. He also asked why the side set back was being changed to 10 feet. Jean Krause stated that she did not know, but Lori Rose would know.

Jay Lee asked if there was a definition of car port and garage included. Attorney Snow read the definitions from the ordinance.

Jean Krause moved to approve Ordinance #2017-1 an ordinance amending VULU to modify restrictions on location of accessory buildings in residential districts; to separate and clarify definitions of set backs of yards and to apply these two terms constantly throughout the land use ordinance. Dan Snyder gave the second. No roll call vote. Jay Lee abstained. The motion passed 4-1.

14. Park Pavilion

Mayor Densley stated that the rock under the park pavilion looked great. Cement would be poured to protect the rock edges. Jay Lee reported that the volunteers wanted to use the big rock near the restroom (which would be removed) to replace several small ones in the back.

15. Council Comments:

Dan Snyder asked for an update on the mobile home park and Kevin Kerlin. Monica Bowcutt, Town Clerk, reported that Mr. Kerlin was waiting for a development agreement. Attorney Snow stated he could forward Mr. Kerlin a draft agreement to begin the process. Mayor Densley asked that the item be put on the July work meeting agenda.

Fire restrictions were discussed. Dan Snyder volunteered to check with the Fire District. Attorney Snow asked Monica Bowcutt to find the latest version of fire restrictions and use them to post as needed.

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4th of July celebration and location was discussed in detail. All festivities would be held at Heritage Town Square. Cindy Escude asked if a flier would be going out about the 4th of July. Monica Bowcutt answered yes.

C. ADJOURN PUBLIC MEETING:

Approve Motion to Adjourn Public Meeting

Mayor Densley adjourned the public meeting.

The Meeting adjourned at 8:38 pm.

Monica Bowcutt
Town Clerk

Approved:_____