

DRAFT Minutes
Regular Meeting and Public Hearing
Town Council, Town of Castle Valley
Wednesday December 20, 2006, 6:30 PM, Community Center

Commissioners Present: Ranna Bieschke, Alice Drogin, Jim Lindheim, Damian Bollermann

Commissioners Absent: Valli Smouse

Temporary Clerk: HL Weber

Public Present: Mark Webster, Jeff Johnston, Jeff Anderson, Annie Goodenough, Ed Derdarian, Scott Brackett, Darr Hatch, Vickie Kress, Ray Radley, Ron Drake, Sherri Simmons, Marilyn Bidinger, Marie Hawkins, Rebecca Martin, John Buchanan, Richard Williams, Mary O'Brian, O'B, Aaron Davis, Alison Kennedy, Greg Sayers, Jim Tharp, and Joan Sangree.

Call to Order. Damian called meeting to order at 6:33 PM.

Damian said he thought many people were present to talk about the nuisance ordinance. Alice moved to change order of agenda items and go to item 18. No one seconded the motion. Jim suggested as an alternative the Council go to Open Public Comment, item 1, as planned, and let members of the public discuss whatever they wish.

1. Open Public Comment

Greg comment on the nuisance ordinance is that the town already has problems enforcing ordinances, and creating another one doesn't help this. He asked how much money the town wants to spend on this kind of thing.

Jeff Johnston commented that he saw a draft nuisance ordinance which contained 37 new laws and described that as obsessive. His concern is that in having the law, the town opens itself to getting into a lawsuit. He asked how the council is to decide what is a "good enough fence", "too much smoke", etc. He noted the penalties include fines and also jail time, and wondered how the town went from addressing too many cars in one resident's lot to 37 new laws.

Damian offered some background. A lot of people in the town have been concerned with too many junk cars. The Council put together a program to volunteer and help take out old cars. The worked well. This ordinance is to be used if other approaches don't work. Damian said he wants everyone to see how successful car removal program was, and this success might lead to a re-appraisal to the town's situation.

Others echoed Jeff Johnston comment, asking "how did this go from extra cars to this whole thing?"

Damian offered some history. He said the town received advice from an attorney that given the town's concerns, they would need something like a nuisance ordinance in order to do what you want, and that the attorney offered this document as an example.

Alice clarified that the purpose tonight is to look at the ordinance and decide which pieces might want to include, and which they might not want to include.

Ed Derdarian asked if there was to be a vote tonight or was there going to be a public hearing first.

Damian said he didn't think it was ready to vote on, and that there probably would be a public hearing on it.

Jim explained that people have been telling the Mayor and Town Council that "this is a problem, you have to do something". In response to this, the Council established a complaint resolution process. If the complaint resolution process fails, then a complaint cannot be taken to the judiciary unless there is an ordinance which stipulates kinds of activities which violate the peace and quiet of Castle Valley. In consultation with lawyers, under Utah law, the best thing to do is to have a nuisance ordinance in place. An ordinance gives the Town authority to do something like take the car off the lot, and send the owner a bill for that. Jim agreed that as observed by others in tonight's meeting, there are plenty of things in the example ordinance that the Town would probably not opt to include. He also explained that neither the development of a complaint resolution process nor a nuisance were initiated by the Town, rather, they are made in response to complaints made by the constituency and how-to advice received from attorneys.

More comments were made, as follows. Greg Halliday opined that CV residents have to figure out how to live with each other, that the more people who move here, the more they can rub each other the wrong way, and that this necessitated codes of conduct.

Jeff Johnston added that he thought the example ordinance seemed dangerous, that making rules about the number of cars allowed on a rule is an objective quality, whereas many items in the ordinance policy were in the area of subjective judgment.

Darr Hatch added that the document didn't seem to have common sense.

Damian read two letters, one from Michael Peck (chairman from PLUC), and one from Jake Burnett, also expressing concerns about a nuisance ordinance.

Damian thanked everyone for their input, and said that without public input, his and the council's work can feel like it's being done in a vacuum.

Marilyn said if people were finished discussing the nuisance ordinance, she would like to talk about the subject of a salary for the mayor. Others objected, asked that the public comment continue, and the agenda be followed as written unless there was a compelling reason for doing otherwise.

John Buchanan said he wanted to get an update about flood in October. He explained he lives on Pace, and has been there for three-and-a-half years. He estimated conservatively that damage to his property from recent floods have been around \$5,000. He requested to hear what's happened in the last two months, and after hearing that, give some additional comments.

Damian explained that Jim has put together funding requests to County. One was a request to CIB for \$35,000 to have engineering firm to update implementation figures from a previous survey. He said that once an update on implementation figures is received, the town would then seek money to implement what's in the study. Having said, he added that full implementation might not help John, given his location, and that some supplemental things might be required to help his situation.

John clarified he was not seeking resolution for his personal situation alone. He added that as people build roads, houses and driveways, this changes the flood situation. He read from a document about some measures that need to be taken. He warned that the Town will be liable for future floods, and asked why wasn't maintenance performed? He asked for monthly updates on this issue.

Damian said that Valli Smouse is looking for people to be on the road committee, and that perhaps John could join and be of guidance and help to the town in seeking solutions to the flood problems.

Jim reported that the town does have some funds in the budget, and that what is needed is a plan. He said that we need to continue maintenance work and spend more money on roads, and that a roads committee can develop plans as to how best to spend money on roads and plan for the future.

Jeff Johnston said he would volunteer for the roads commission, and asked whether there was an increase in the roads budget for the upcoming fiscal year.

Damian said the Council increased the budget for road improvements, knowing there was a lot of work to do. He also asked whether it was appropriate to do a basketball court, given the roads situation.

Jim said the town has money to do both, that roads have suffered from a failure of organization, not funds.

Vickie Kress explained there used to be a road commission, and the difficulty they faced was a lack of authority to do anything, so advises giving the new commission some authority, albeit under supervision from the town.

Ray stressed that if you correct a problem on a single property or area, it is passed on to another property or area, that what is needed is an overall solution.

Damian added that when you deal with drainage, you make decisions that affect people.

John asked that letters he has sent earlier be entered into the record. He gave them to the clerk.

Rebecca said that as a citizen, she wants to thank the council for hard work and encouraged the council to focus on priorities for the town. She expressed concern that some issues raised about

her job may be re-inventing the wheel or micromanagement. Since the passing of the personnel policy manual, she had been told to re-write her hours, and explained that her average workweek is sometimes above 40 hours a week and qualifies as a full time job. She said she is doing the best she can and did not want to later hear of negative commentary about her honesty.

Jim Lindheim said there's been some kind of misunderstanding. He said he would never suggest that Rebecca is dishonest. He acknowledged that there's been some disagreement about various things, but never Rebecca's honesty. He apologized for any contribution he made to that misunderstanding, and Rebecca did the same.

2. Public Hearing: Proposed Ordinance to Provide Compensation for the Castle Valley Mayor.

Damian started the discussion by saying it's been a hard year and he's put a lot of time into town business, and that getting some money for it would be a gesture of thanks and appreciation.

Marilyn said she thought it would be helpful to have a benchmark. Alpine, Utah, is a city that has grown a lot commercially, and has about 9000 people. Their mayor makes \$9,000. Marilyn says she wanted to understand the development of how salaries are issued to town council members and mayors. Council person might reach \$750 per month. The mayor's salary works out to be \$1 per person. She concluded by saying "we are a town in its infancy, how we are going to balance compensation is a difficulty question."

Jeff said that he supports the Mayor getting compensated \$500 a month, and that it makes it possible for people of different means to still be able to run for office for reasons of money. He added that he thinks Damian is deserving.

Greg Halliday seconded what Jeff said with the proviso that the town doesn't have a commercial tax base, and that compensation must be paid for with what the town does have.

Aaron said that that compensation includes being a road officer. That means paying the mayor to be road supervisor will only hold as long as Damian is mayor, and that that seems odd. He said it makes more sense to have road supervisor be a separate position. He added that the next step would be council people be compensated.

Damian said he would like that to be a temporary thing, and that he doesn't want to be mayor and road supervisor for the next three years.

Aaron added that this solution makes sense as a temporary measure only.

Jim Lindheim said he thought this was only a temporary measure as well.

Marie said when she first heard this she was concerned about blending politics and money.

Damian clarified that he cannot be both an employee of the town and be a mayor.

Darr said he had concern similar to Aaron's, and that mayor and road supervisor should be separate things.

Damian said it would be easy to insert some language that stipulates this as temporary.

Mark offered his agreement.

Damian said the Road Supervisor has been paid \$4000 per year, but when we hire somebody permanently, the price is going to be higher.

Damian said we can write it such that part of the duties of the mayor is being road supervisor.

Approval of Minutes

3. Approval of Minutes: TC Re-Scheduled Regular Meeting, November 16, 2006.

Jim moved to approve, with a second from Alice. Ranna commented that the minutes are too lengthy, and contain unnecessary comments. Ranna said she would like to meet with Rebecca and talk about that but offered no changes to the minutes. The motion approved with all ayes.

4. Approval of Minutes: TC Special Meeting, November 28, 2006.

Jim moved to approve the minutes, with a second from Ranna. Jim added that these minutes were much more in line with what we were looking for. The motion was approved with ayes and one abstain from Ranna, who wasn't present for the entire meeting.

5. Reports

• Planning Commission

Vickie said there were three building permits and that there's been a request to Rebecca to ask Leta to give more information about the projects.

Damian said for lot 3, they were concerned about the single wide that was there. It is agreed that within 60 days of the CO, it will be gone.

Vickie will report on conditional use permits, with a one page summary. Rebecca said that 3/4s of them have already been received back.

Vickie added that PLUC will continue to meet the 1st Wednesday of every month, but at 6:30 instead of 7. She said they have a whole bunch of questions with consultant. Jim asked when his response was expected. No one knew for sure, but said they hope to have it by February.

• Water Department

Scott reported that he turned in a written report and Damian asked him to summarize it. Scott replied that 76 lots responded, got maps back on 21, 18 of those were re-reviewed. This part of the process is finished for now, and there were no major disputes between land owners and water

rights people, maybe just one to make sure what they were previously compared to what was recently decided.

Elections to town water rights were signed. Scott said now we move on to the next step, and that there should be something to send out to re-reviewed lots within next few days, and that this information will come to the town around February. He was not sure when adjudication will happen, probably in spring sometime, and that as soon as that happens, the town will mail out amendments to water permit agreements or new ones anytime from next week to whenever the court takes action.

Damian reported working with water rights to assess current uses. The revised maps have been accepted and that the town is not planning to challenge any claims.

Scott said there are a large number of lots, twice as many as expected, with people getting more water rights than they had previously. Almost everyone is getting more than they had before.

Jim commented that the town's water rights are about 525 acre feet.

Jeff said the town originally had almost 2000 feet, and that the town has lost about 1000 acre feet. Damian said the town was heading towards exhausting this avenue.

Jim thanked Damian and Scott for all their hard work and diligence.

- **Roads Department**

Damian reported there has been a lot of freezing, though there's been a chance to fill in some holes. He added that when the thaw comes, then the town can lay gravel. He also said there's a chance to get a dinosaur loader from BLM.

Greg reported that he saw some pictures of Colorado River floods, and some were really significant. He described the rains in October as a wake up call, and predicted that one of these days the town is going to get some really serious rains and if it doesn't take some positive steps now, we may be in trouble.

- **Building Department**

Jim repeated to Vickie that everyone wants more specifics in the building permit report.

New Business

6. Discussion & possible action re: Proposal for Mayoral Compensation.

Damian expressed his embarrassment about being the first one to be paid to be mayor. Jim explained he has been pushing for this and he agrees with a lot of comments from public. He explained that this job takes a lot of time, and that while the town can't offer lots of money, its important that someone who doesn't have a lot of money and is taking time away from their job,

can afford to do so. He said he thinks its important to do and that he did not want to wait another 3 years before a new mayor was in place to do it. Alice agreed and said she has watched Damian put in lots of extra time.

It was agreed that to there should be stipulation of what money is going to mayoral duties and what amount is for road supervisor. It was decided that \$500 would go to mayoral duties with additional \$350 for Damian supervising road department. The ordinance should become effective January 1, 2007.

Jim moved to pass the ordinance as amended, with a second from Alice. Damian asked for discussion and Ranna said mayors in general and Damian specifically put in a lot of work and a lot of time and its' hard for someone who has to make money to earn their living, and concluded that compensation is a good thing. Jim added that the town can afford this to do this, budget-wise, that it will not be a strain on the budget and will be well worth the money.

The motion was passed with all ayes.

7. Discussion & possible action re: Conditional Use Permits Annual Review (Rebecca/PLUC).

Damian said the town doesn't necessarily have to pass this, that it's important if people talk to you about conditional uses. He explained that the only way a conditional use cannot be renewed is if the terms of use are being violated. At issue is whether the permittees are in compliance with the terms that were agreed to with the original issuance. He felt no action was necessary.

Rebecca reported that there were no requests for changes, and no complaints. She explained that the due date is Friday and that three quarters are already in. She said people understand if they don't get it in, the permit will be automatically cancelled that that it's on the agenda every December.

8. Discussion & possible action re: Clerk Job Description (Valli, Damian).

Damian said Valli and I met with Rebecca on this, and that they probably needed one more meeting. He said that the clerk's position has been wrestled with for awhile. It takes a lot of work to define the position, but that it should be ready next month.

Jim said once the definition is made, decisions have to be made as to whether the position is split and how, if it's a full-time job, etc. He added that then we would write an ordinance about it and get that passed. He said he thought it would be good to do this as soon as possible once Valli is back in town.

9. Discussion & possible action re: Proposed Donation to Fireworks (Damian).

Damian reported that Bill Riggs and Rick Fuller want to know if the town could make a donation for the fireworks show which costs between \$2500 and \$3500. Damian thought it would be nice if town donated \$500 for the show. Damian asked for comments. Alice asked can we afford it?

Jim said yes, the town can afford it. Jeff asked whether the town hasn't contributed to this? He was told no. Damian said the organizer wanted no strings, just some money to say thank you and keep up the good show. Jim moved to donate \$500, with a second from Ranna. The motion was approved with all ayes.

10. Discussion & possible action re: Watershed Protection (Alice).

Alice reported that the Water Advisory Committee (WAC) met, and that Sue Bellagamba and Geoff Freethey looked at our water ordinance, which is about ten years old. She said that we have since acquired new information about ways to protect our water, including EPA sole source aquifer designation. Given that we have new tools and some new challenges, the WAC decided it would be in best interest of the community to re-work the water protection ordinance and are forging ahead with that. She said there was some helpful work with PLUC to incorporate a watershed protection plan and incorporate it into General Plan. She said any document that mentions water should refer to the watershed protection plan.

She added that the Water Resources Development Act was part of lame duck congress and wasn't passed. If it had passed, Grand County would have received \$2 million to study water, with a focus on Spanish Valley. Since the act was not passed, people will try to revive it and may have a better chance passing next year. She said WAC may explore trying to be included in that. She added that we still don't know how much water we have, and that the more information we have, the better position we will be in.

Damian asked how would we go about doing that? Moab City is also interested in it.

Alice said she was not really sure, that WAC is just looking at proposals and that she will give a report later when she knows more.

Alice said one of the things they've been doing is looking at other communities' watershed protection ordinance, e.g., Grand Junction's. She explained that CV is fairly unique because everybody has their own well.

Jim asked her to look closely about what to do if someone is in violation of an ordinance, asking how are these enforced?

Damian stressed the source is the important thing to protect, and that for CV, that means the forest service lands. He asked how does the town protect that, how to remove cows, how far up the mountain can we go and what can we do about it.

Alice said the EPA gives us a tool to work with federal agencies.

Damian said the town could have a toxic waste cleanup day and offer people a place to bring their barrels.

John said the geological report Alice referred to is not a scientifically credible document. He said he's shared some of his comments with the town, and asked that they take the report's conclusion with a grain of salt.

Jim said we need a workshop on this, adding that he has no technical expertise and it would be good to invite John to give the council some education in this area, when John is in town.

11. Discussion & possible action re: Government Records Access and Management Act (GRAMA) (Jim).

Jim gave a copy of GRAMA to everyone and thanked Rebecca for downloading it. He explained that what towns normally do is adopt what their state issue. Jim read out some wording other towns have used to adopt the state's. Jim suggested discussing any questions people have and then do something to adopt Utah's guide.

He explained that what the council is looking for is which documents should not be made public, for reasons of protecting privacy and security, and that there has to be a good reason for non-disclosure. The bias is in the direction of making things available to the public.

Jim L. suggests a resolution to adopt be put on the next agenda, adding that towns all over the state have adopted this.

12. Discussion & possible action re: Protocols for Public Postings (Jim).

Jim said it would be useful for Rebecca work up a matrix for what needs to notified, how and where, e.g., in newspaper, on town's website or post board, etc. Rebecca replied that there already is one, and that the town can't add anything or change anything, that we just need to know and do what is required.

13. Discussion & possible action re: Town Water Rights (Damian).

Damian said that he covered this topic under reports, adding that Valli is back on January 10th, and then they will probably have a closed meeting with the attorney because it pertains to adjudication. He explained if you make it public, the problem is the time needed to bring everyone up to speed on the information .

Jim says it seems like we have some stuff we need to discuss with attorney first. Damian replied that should happen within the month or so, that it may be done in an executive session and then meet on the phone. Jim asked what do you think about having another attorney. Damian replied that Jensen was one person under consideration, as was Mike Quailie. Mike doesn't want to be attorney for the town. He is happy to give feedback as a public service and not be involved in anything more official. He said that he had good things to say about Jerry Bidinger, and that all attorneys he has spoken to have said the town is going in the right direction, and that no one has

said you're going down the wrong road. He added that we might want to involve some other people who are already working with us, such as Sue Bellagamba.

14. Discussion & possible action re: Road Supervisor Position (Damian).

Damian suggested incorporating some of the suggestions we heard earlier, and put a limit of six months on it.

Alice asked about putting the job out to bid, post the job, and give yourself some time to fill the position. Ranna agreed, and Jim asked whether there's a downside to this. He added the job description is in good shape. Damian said for the job to be done well, the council might want to post \$6000 a year. Everyone agreed.

15. Discussion & possible action re: Cemetery Maintenance Project (Damian).

Damian reported on his talk with Judy Carmichael. It was agreed that the county will give Castle Valley \$1000 this year, and \$600 for the next years. Damian wrote up a memorandum of understanding and in it is the stipulation that the agreement will be evaluated every year and that at any time either party can bail out if they're unhappy. He said it will give the town another use for its municipal water, and that there will have to be a small domestic filing for that lot. Damian will bring the memorandum in next month and next spring will start doing the work there.

It was agreed to put item on next month's agenda. Damian repeated that Grand County will pay the town to maintain the cemetery and we can do it how we want, with no herbicides and low water use.

Old Business

16. Discussion & possible action re: Appointment to Planning & Land Use Commission (Damian).

Damian asked that this be discussed next month.

17. Discussion & possible action re: Landscaping Capital Expenditures (Greg).

Greg put together list capital expenditures, mostly tools, lawnmower, ladder, edger, and flagpole. Council members expressed reservations about the flagpole and asked about the blinds.

Greg explained that the blinds will be the same as what we have in small meeting room, and they are \$185 each, for a total of \$555.

There was consensus about the costs, with a total of approximately \$1299. Someone asked about Lewis, the window cleaner. The motion was made to approve expenditures of between \$1,700 and \$1,900, not including an edger or a flagpole. Jim moved to approve the motion, with a second from Ranna. There was no further discussion and the motion was approved with all ayes.

18. Discussion & possible action re: Proposed Nuisance Ordinance (Jim, Ranna).

Jim agreed that some stuff in the ordinance isn't appropriate for CV, but he reminded everyone that if the town has to go to court, if the specific nuisance is listed, it will be in a better situation than if it is more general.

Everyone agreed to take out drug houses, gambling, gangs, and prostitution take out. Damian asked about item 11, refuse, and asked what about a compost pile?

Damian noted that the town just passed conflict resolution process and haven't tried it yet. He said why don't we just use the conflict resolution process first for next six months and see if that works.

Another suggestion was made to take everything out and just put in what people think is important. The nuisances brought up were junk, fumes, and fire hazard. Someone expressed concern that the nuisance ordinance could be abused. Alice replied that the town needs some kind of protection to avoid a situation that allows someone to harass someone else just because they don't like them.

Jim reminded everyone that six month ago people were screaming at the council that it had to do something and that's why the council's been involved in this.

Damian said he didn't see a hurry about this and was in favor of having public hearing on this.

Damian said we can always add something to the ordinance. These things take time.

The Council agreed to make a list of which ones we want. They agreed to keep 8, 9, and 14, fire hazard, noxious emanations, accumulation of junk; to keep 27 c, d, e, and f; to keep 23 hazardous conditions; 31; 29; 32; 33; and to consolidate 37, 38, and 39.

Joan said most horse owners do our best to spread manure and not spread flies, so the ordinance should state exceptional, not a usual amount. She said these provisions could get rid of agriculture.

Aaron said it would be better if it was worded that this is complaint-driven, not that the town is being proactive in pursuing these things. And that complaint resolution comes first and only if that fails, then use this.

Everyone agreed that in 36 it should say how many vehicles is too many.

Jim volunteered to put together a draft, circulate it, then meet on it and eventually take it to a public hearing.

Ranna said she didn't feel right to let Jake's letter be read without comment, that she thought the comments about Jim were inappropriate. Alice agreed.

19. Discussion & possible action re: Basketball Court Construction (Ranna).

Ranna said she was in the process of procuring bids, and will keep the council apprised.

20. Discussion & possible action re: Setting Town Council Meeting Calendar for 2007 (Damian).

Damian said the town council would meet as it usually does, the 3rd Wednesday of the month, at 5:30 pm. In January and February, but at 6:30 in other months.

21. Communications to the Town

Taken care of earlier

22. Treasurer's Report.

Jim said the Town Council got a Christmas card from Barbara Hicks. He reported that the town received a check for \$31,300 from the county from property taxes, so revenues are looking good. He said sales tax is running higher than budgeted, as are Class C roads. He said expenses are also looking good, that a few things look high because we paid full amount, but everything is going fine. Total expenses are under budget.

23. Payment of Bills.

Ranna moved to pay bills as presented, with a second from Jim. The motion was approved with all ayes.

24. Executive Session. (if needed)

Damian reported that Alice and he talked about water issues. Alice said it seems like we've hashed through what we might need to.

Jim made a list to answer the end-of-the-year question, have we done anything? He listed moving 100 cars, water adjudication, employment policy worked on, mayoral compensation, landscaping done, hired someone to take care of building, got through resignations, got cemetery maintenance worked out, revitalized farmers market, and worked on general plan.

Adjournment.

Jim moved to adjourn with a second from Ranna, and an approval of all ayes at 10:03 PM.

APPROVED _____
Damian Bollermann, Mayor

ATTEST _____
Rebecca Martin, Clerk