

**MINUTES**  
**TOWN COUNCIL REGULAR MEETING**  
**WEDNESDAY, JANUARY 16, 2013 - 6:30 P.M.**  
CASTLE VALLEY COMMUNITY CENTER  
2 CASTLE VALLEY DRIVE

**Council Members Present:** Mayor Erley, Council Members Hill and Duncan

**Council Members Absent:** Council Members Drogin and Williams

**Others Present:** Ron Drake, Greg Halliday, MaryBeth Fitzburgh, Leta Vaughn, Jeff Johnston

**Recorder:** Alison Fuller

**CALL TO ORDER**

Mayor Erley called the meeting to order at 6:31p.m.

1. Open Public Comment

Ron Drake reported that there is going to be a 1<sup>st</sup> responder course for residents of Castle Valley. Official dates have not been set but he will have the details in the Castle Valley Comments. He also reported that Grand County EMS is planning on furnishing a non-transport ambulance in Castle Valley for emergencies.

Mayor Erley asked where the ambulance would be stored?

Drake responded that it would be stored at Day Star Academy.

PLUC Chair Fitzburgh asked if there were E.M.T.'s in the valley?

Drake replied that there was a girl over at Day Star and a Doctor, as well as some registered nurses and some out-dated paramedics and other medical personnel in the valley.

2. Approval of Minutes

\* Regular Town Council Meeting December 12, 2012

*Council Member Hill moved to approve the minutes as presented, Council Member Duncan seconded, the Motion passed unanimously.*

3. Executive Reports

\* Road Committee

Mayor Erley thanked Roads Manager Halliday for plowing the roads during the holidays and stated a job well done.

Council Member Hill noted that she saw him plowing early Christmas morning, and thanked him as well.

Council Member Duncan asked if Roads Manager Halliday had needed to remove road kill deer in the past?

Roads Manager Halliday stated it was the second deer he had removed.

Council Member Duncan asked if it was the town's responsibility?

Roads Manager Halliday stated that it was not and he had called the sheriff but no one came out to handle it, so he removed it himself, but the town is not responsible.

Mayor Erley stated that the town and county will not be plowing for an inch or less of snow due to the damage it would cause the roads.

Council Member Hill asked if the Town could spread sand?

Roads Manager Halliday stated he does not have the proper equipment to do so, but if folks are having problems getting up grades to contact him and he will do what he can.

Roads Chair Johnston asked when the county invoices the town for road care?

Town Clerk Fuller stated last year the bill came in March.

Council Member Duncan inquired about the school bus being stored in the Road Shed.

Roads Manager Halliday reported that it was working fine and the school had been through a series of problems with their buses this year due to the severe cold and bad diesel.

Council Member Duncan inquired about benches for the road department.

Roads Manager Halliday stated that those would be for working inside the Road shed.

Roads Manager Halliday reported that the crack and seal trailer is complete and everything is ready to go as soon as the tar arrives. He also stated that the extra shed should be kept for storage, namely for pallets of tar and gasoline. He stated this would contain possible fire danger and keep it away from the new buildings.

Roads Chair Johnston stated that there are new responsibilities inside the road department related to maintaining Castle Valley Drive and there will be new expenses that the town has not had to deal with in the past.

Council Member Hill stated that the council had been setting aside as much money as they could for the roads department and had already allocated more funds to the road department and the Council will have to see what is realistic for the budget.

Mayor Erley stated the weather each year will dictate how much the road will be damaged. The Town had considered closing the road to heavy vehicles when it is most vulnerable to help extend its life, but that would make the town ineligible for Class B & C Road funds. He stated that the Road Department wants the Council to perhaps put a line item in the budget for maintaining Castle Valley Drive to insure that there is enough in the budget for it.

Council Member Hill stated that the road budget did increase when the Town took responsibility for Castle Valley Drive. She stated that the question still remains if the funds given for taking care of Castle Valley Drive is enough to maintain it.

Mayor Erley stated that those choices were made previous to the current council and it is what it is. He stated that the Town is still in the process of figuring out what it really takes to maintain the road.

Roads Chair Johnston expressed that the Road Department does spend a lot of time trying to find an economic solution to the problems the Road Department faces.

Council Member Hill acknowledged the Roads Departments efforts and stated that the Road Department's requests are deserving and reasonable but may not fit completely into the Town's budget.

Roads Chair Johnston stated that some problems could cause more expense if they are not dealt with. He also stated that the Town should save about 50% by doing the tarring themselves.

\* PLUC

Council Member Hill asked how the last Planning and Land Use Meeting went and what the general feeling was regarding what is an appropriate Home and Premise Occupation?

PLUC Chair Fitzburgh stated that there didn't seem to be a majority and that the feelings were fairly split. She did not feel like the audience represented the feelings of the whole community and wants to publish the next meeting in Ron Drake's column and try to reach a larger audience.

Council Member Duncan stated that it seemed like the word "commercial" detoured people from wanting that type of home occupation.

PLUC Chair Fitzburgh stated that neighboring community members present at the meeting were against auto repair garages as home occupations because it seemed like a commercial/industrial use to them.

Council Member Duncan stated that there would be a certain number of people who would not like that type of home occupation either way.

Mayor Erley stated that non-neighboring citizens also expressed their concerns for that type of home occupation. He also commended PLUC Chair Fitzburgh on a well run meeting.

Council Member Hill congratulated PLUC Chair Fitzburgh on her new appointment as PLUC Chair. She asked if the Public Hearing for the Home Occupation issue would be in March?

PLUC Chair Fitzburgh replied that it was, and that she could not find any provisions in state law to extend the six month consideration period for amendments.

\* Treasurer's Quarterly Report

Mayor Erley stated that the Town was over in utilities.

Council Member Hill stated that the power bill was high, even with the Town's solar power.

Town Clerk Fuller stated she thought there was flat meter fee.

There was discussion surrounding the different fees for all the separate power meters on the Town Lot and what each of them costs. The council wanted to find out what the real cost was for the separate meters.

Mayor Erley stated that the money saved from not switching the Town's heat will go toward the road tar.

4. Correspondence

**NEW BUSINESS**

5. Discussion and Possible Action re: Amending the Town's Employment policy.

Council Member Hill asked if we needed to amend the language in the employment policy to reflect current I.R.S reimbursement rate?

Mayor Erley replied that is correct.

*Council Member Hill moved to change the employment policy to read, "Mileage reimbursement of personal vehicles for Town travel, both in-Grand County and out-of-Grand County, is paid at the current I.R.S. rate." Council Member Duncan seconded, the Motion passed unanimously.*

6. Discussion and Possible Action re: Hiring a new Water Rights Agent

Mayor Erley stated that he had received a letter of interest from Michael Peck and talked to John Groo, who also expressed interest in the position and turned in a letter of interest. He stated that he interviewed Peck and let him know that Groo was interested and he felt that he would be the best fit for the job. He stated that Peck respected his decision and turned in a letter of withdrawal. Mayor Erley informed the Council that it was within his power to appoint Groo as the Town's new Water Agent but would like the Council's approval to grant Groo's request of a \$1.50 an hour pay increase (\$17.50) along with a mileage reimbursement package. He stated that with Groo's other work in Grand County, trips could be coordinated in order to minimize travel expenses.

Council Member Hill stated that with Groo's understanding of the Town's Database he will save the Town money and the \$1.50 will balance itself out.

Mayor Erley stated that the relationship Groo has with the State Engineer's Office is invaluable as well as his knowledge of the Town's water rights situation and system. He stated that on Groo's own dollar he came and met with the old Water Rights Agent and the State Engineer to work with them on the database.

Mayor Erley stated that there would need to be a Motion to approve the pay increase and mileage compensation package. He stated that the Town did not need to approve the pay increase and mileage reimbursement Groo had requested.

Council Member Duncan asked if there was anyone else that showed interest in this job?

Mayor Erley replied there was not.

*Council Member Hill moved to approve the 1.50 pay raise and compensation package for the new Water Rights Agent.*

Council Member Duncan asked what the Water Rights Agent could accomplish in one hour?

Mayor Erley explained the duties of the Water Rights Agent such as executing the application process for a well start card and updating Water User Affirmations. He stated that after Groo left the first time a lot of knowledge was lost and Groo wanted to reintroduce his knowledge and institutionalize the information so it is not lost again. He stated that Mr. Mengel, himself and Groo are all committed to that. He also stated that the Town is a Public Water Provider and as such not providing a water source for the community makes Castle Valley very unique. He stated that Groo understands the Town's complex water

situation and the steps needed to protect Castle Valley's water rights and water.

Council Member Duncan asked what the wage was for Ron Mengel?

Mayor Erley replied \$16.00 an hour which he felt should have been raised but Mengel responded that his work for the town was more similar to charity since it was so far below is normal wage.

Council Member Duncan asked if Groo was any more or less qualified compared to our last Water Agent?

Mayor Erley replied that going into the job Groo is more qualified, but Mengel had done an outstanding job and both individuals are worth more like \$50-100 an hour and have seemed to have subsidized their work for the Town.

Council Member Duncan asked if the water issues for the town were mostly resolved and in order?

Mayor Erley replied that they were and it's likely that Groo will step down when all of the items are in order for the town, and the job will be simplified and the original pay wage will be suitable for the job.

*Council Member Duncan seconded, the Motion passed unanimously.*

#### 7. Discussion and Possible Action re: Purchase of an easement from SITLA for monitoring well up-valley from the Daystar irrigation pond.

Mayor Erley explained that the original reason the town drilled the well was for information but since then the well had gone dry.

Council Member Duncan asked why the Town would want a dry well?

Mayor Erley agreed with Council Member Duncan's comment.

Council Member Hill verified the cost, and questioned what the town would want with the well?

PLUC Chair Fitzburgh asked if it was possible to drill deeper and use that well as the Town's municipal well?

Mayor Erley replied it is not a good site for water due to it's dry location in the valley. He asked Town Clerk Fuller to inform SITLA that the Town is not interested in the well easement.

#### 8. Discussion and Possible Action re: Amending language on complaint resolution ordinance in relationship to fees and penalties.

Council Member Hill stated that it was vague in describing whether or not it would be a class B or C misdemeanor.

PLUC Chair Fitzburgh stated that if it is not a land use ordinance it seemed clear that it would be a class B misdemeanor, and in Christina Sloan's opinion, state code 10-3-703 gives the Town the authority to punish all ordinance violations as a Class B misdemeanor..

Mayor Erley stated the he was not planning on making a decision tonight and wanted to use language that will mimic what the PLUC comes up with for the language in 85-3 so the language is consistent. He stated that he felt that the whole Council should be present for this decision as well, however he wanted the issue on the table so everyone is thinking and working on this together.

PLUC Chair Fitzburgh stated that the new memo that the Town received from Christina Sloan today stated that non-land use ordinances could be treated differently than land use ordinance.

Mayor Erley asked if the Council wanted to get a fee sheet in place for fees, fines and penalties including but not limited to ordinance violations that would be reviewed annually to maintain accuracy and stay current with the costs associated with providing those services. He stated that he thought it would be good to institutionalize a fee schedule that was very clear and try to get institutionalized consistency out of the government.

Council Member Duncan stated that a fee schedule seemed to be a straight forward approach.

PLUC Chair Fitzburgh stated that even with fees, in the end Sloan made it clear that it would probably come down to a settlement. Sloan explained that there was a difference between a civil and criminal suit and stated in her memo that if the Town sues to collect accumulated fees for each day of violation, it could do so in one civil lawsuit.

PLUC Chair Fitzburgh also stated that she did not believe that a one-time fee would have enough teeth to enforce an ordinance.

Council Member Duncan commented that the Town would need to be sure the pursuit was worth it economically.

PLUC Chair Fitzburgh replied that according to Sloan the costs could be lumped together.

PLUC Chair Fitzburgh stated that it sounded like the Complaint Resolution Ordinance is already all set to go.

Council Member Hill stated she liked Sloan's comment to "always require the written notice"

There was discussion surrounding the language regarding a phone call requirement to a citizen out of compliance with the ordinances.

Mayor Erley liked the "mandatory written notice" in the language.

*Council Member Duncan moved to Table Agenda Item 8, Council Member Hill seconded, the Motion passed unanimously.*

9. Discussion and Possible Action re: The 2012 Exit Poll results.

Mayor Erley read the resolution on the Exit Poll ballot and stated that 84% were in favor and 15% were against.

Council Member Duncan stated that the poll was not set up in order to know if people were even registered voters.

Mayor Erley read a letter from a citizen regarding his concerns regarding the exit poll and how it was managed and commended Colorado's language on this issue.

Mayor Erley agreed with a lot of what the citizen had to say.

Mayor Erley read Amendment 65 to Colorado's constitution regarding what Colorado did to address the issue of political funding.

Council Member Hill asked what the Council was planning on doing with the Poll in the first place?

Mayor Erley stated that the Council was planning on passing a resolution as a Town to inform Utah's representatives of our Town's stance on this issue.

Mayor Erley stated that we are still waiting to hear from the community through the General Plan Survey to see where the community stands on Town government partaking in national issues.

PLUC Chair Fitzburgh stated that what Colorado did is a state issue. She stated that the Town could pass a resolution to express our Towns ideals on this issue.

*Council Member Hill moved to Table Item 9, Council Member Duncan seconded, the Motion passed unanimously.*

10. Discussion and Possible Action re: Changing the locks for the Town Hall.

Mayor Erley explained that there is not a list or log for the town keys and the locks have been the same since the town building was built.

Town Clerk Fuller explained that there are 6 different locks that could be re-keyed and she has been trying to get a hold of local locksmiths to obtain an estimate.

Council Member Hill stated that if we don't know who has the keys to the building we should change the locks.

Mayor Erley asked if the estimate comes in below his spending limit would the Council approve the locks to be changed.

*Council Member Hill moved to re-key the locks for the town building, Council Member Duncan seconded, the Motion passed unanimously.*

11. Discussion and Possible Action re: Approval of fees for legal services with Christina Sloan.

Mayor Erley stated that he had been working with a local lawyer, Christina Sloan who had sent a cease and desist letter to the owner of an illegal Bed & Breakfast on Buchanan. Council Member Duncan asked if we had heard anything since the letter was sent.

Mayor Erley replied that he had not, and that basically he was looking for approval of more spending on this issue when it is time to move forward.

Council Member Hill asked if the council should wait until the language is amended to recoup costs?

Mayor Erley replied that the process would not move so fast and the language should be amended before going forward.

Council Member Duncan asked if the Town had looked into any other professional services to compare prices.

Mayor Erley replied that he had not, he stated that he trusted Sloan and she seemed very efficient with her time and services. She had also come recommended by several people. He stated that previously the town had been using legal services in Salt Lake due to their knowledge of the Town's unique water rights issues. However, it now seemed like it made more sense, for some matters to use a local lawyer.

Council Member Duncan asked if she seemed qualified for this kind of situation.

Mayor Erley stated it had seemed so, but the town could do a deeper look into this.

Council Member Hill stated that Sloan had written a letter stating she was not qualified for a certain issue and would she not do the same with this issue?

Council Member Duncan replied that people will do a lot for \$200 an hour.

Mayor Erley stated that the town of Moab has a legal fee blueprint that the Town could follow for daily fees, and adopting something that is already in place elsewhere made sense.

Council Member Hill asked how much Mr. Kinghorn charged the town for his legal services.

Mayor Erley replied somewhere around \$160-200 an hour.

Council Member Duncan expressed that she would like to be sure that Sloan is qualified for the Town's issues and needs.

Town Clerk Fuller stated that Sloan specialized in real property, land use and water law.

Mayor Erley stated that he would be fine if this issue was tabled for a month for the Town to decide and become more comfortable with Sloan representing the Town and get more of the Council to help with the decision. He felt that he may not need more money in the next month and that other questions could wait.

Council Member Duncan asked if we needed to keep Sloan on hold?

Mayor Erley replied no, nothing needed to happen, the Town simply could not bring any more questions to Sloan without more funds. He stated that he felt the community wanted the Town to address these issues with force to prevent more of these problems from arising.

There was discussion surrounding the 30 day inspection and what the town would do following it.

*Council Member Hill moved to Table Item 11, Council Member Duncan seconded,*

Further discussion

Drake stated that if the B & B is not paying transient tax their problems could be with the I.R.S.

Mayor Erley stated that there are a number of bigger agencies that could pose a problem for the Bed & Breakfast, but if they dealt with those agencies the issue would still be the Town's.

Roads Chair Johnston asked if the B & B circumnavigated a CUP with the town and if that was an issue.

Council Member Hill stated that a CUP is not needed for rentals, and that this is an illegal business and it would not be issued a CUP either way.

Council Member Hill stated that nightly rentals in Moab are not required to get business license, only tax payment ID numbers and charge the transient room tax.

Roads Chair Johnston asked if there was a written public complaint and if they needed more?

Mayor Erley stated that a public complaint would trigger the Complaint Resolution process which the Town had already executed completely. However, the property owner has been out of compliance since, thus the town hired a lawyer. He stated that there are a number of problems this issue creates for the neighbors, the roads and the valley in general.

Roads Chair Johnston thanked the council for moving forward with this issue.

After discussion, *the Motion passed unanimously.*

12. Discussion and Possible Action re: Collection of fees when ordinances have been broken.

Mayor Erley stated he liked a fee schedule like the City of Moab has in place and would like to see one for the Town's licenses, permits, and penalties, etc.

PLUC Chair Fitzburgh stated that a fee sheet would be done by resolution and that the PLUC has a Fee Sheet already and the Town could just add to it.

Mayor Erley stated that the Fee Sheet would be good to review annually and stay current with the Town's costs.

Council Member Hill stated that the Fee Sheet would give the Town a better idea of expenses and help with budgeting.

The Council decided to add to the Fee Sheet that is already in place.

13. Discussion and Possible Action re: Fire District easement across Lot 194

Council Member Hill asked if there was a culvert that needed to be replaced on Schafer?

Mayor Erley replied no, that the reference was to the culvert under Castle Valley Drive if it was ever destroyed.

Mayor Erley explained that he had spoken with Sloan concerning the easement across 194 who stated that the access would only cover the Fire District and serve as an emergency access but that a prolonged closure due to repair of the culvert at Castle Creek and Castle Valley Drive would not qualify as an emergency.

Council Member Duncan asked what is an emergency access?

Council Member Hill pointed out that there is language allowing the Town access.

Mayor Erley stated that if replacing the culvert took more than 2 weeks it wouldn't constitute an emergency and the access for this purpose could be denied.

Discussion surrounding the emergency access, due to the one access in and out of the valley.

Mayor Erley explained that the culvert at Castle Valley Drive is undersized and there should be 2, ten foot culverts instead of one. The threat of the culvert washing out is real.

Mayor Erley stated that Sloan defined an emergency as "in the immediate", and if the Town took 2 months to replace the culvert the access would not be granted due to the fact that 2 months does not legally fit into emergency status. He stated that there were estimates of 2 weeks for the culvert to be repaired and the Town needs to figure out how long it would take to replace the culvert under Castle Valley Drive. Sloan stated that if a new property owner bought lot 194 and did not like the easement the "emergency" definition could pose a threat to the Town's access.

Mayor Erley stated that he had spoken with lot owner 194 who gave the town permission to use the emergency access if the culvert washed out, however the language implies emergency as only in the immediate.

Council Member Duncan asked if we were planning on replacing the culvert before if it was destroyed by a natural disaster.

Mayor Erley stated that they are planning on building the road on Schafer and figuring out how long it would take to replace the culvert under Castle Valley Drive. He stated that this will also play into the Town's emergency mitigation plan.

Drake stated that in the past the culvert came in pieces that they had to construct and he wasn't sure if the Town would be able to find a culvert 10 feet wide.

Roads Chair Johnston mentioned 10' culverts are manufacture in Denver and distributed out of Grand Junction. He went on to ask if putting two 8 foot culverts together would be a good option.

*Council Member Hill moved to Table item 13, Council Member Duncan seconded, the Motion passed unanimously.*

### **UNFINISHED BUSINESS**

14. Discussion and Possible Action re: Castle Valley's Emergency Mitigation plan [Tabled]

15. Payment of Bills

Council Member Hill inquired about hiring outside labor for town work.

Roads Chair Johnston stated that his company was hired to do a job and his costs and laborers were his own.

He also stated in the future if he could not hire his own laborers he may not take the job.

Council Member Duncan asked if he had workers comp. for his employees?

Roads Chair Johnston stated that he does.

Council Member Hill stated it would be preferable to hire the Town's labor in the future.

Mayor Erley inquired about accounts payable to Town Clerk Fuller.

Town Clerk Fuller stated that the expenses were for the trip to Grand Junction, Moab, and reimbursement for heaters.

Mayor Erley stated that Town Clerk Fuller found 3 used fire proof filing cabinets for \$325 and went to get them in Grand Junction in her small truck, she did the town a service as well as saved the town a lot of money. He stated that new fire proof filing cabinets are at least \$1000 each new.

Council Member Hill stated that the Town got a great deal!

*Council Member Duncan moved to pay the bills, Council Member Hill seconded the Motion passed unanimously.*

16. Closed Meeting

*Council Member Hill moved to adjourn, Council Member Duncan seconded, the Motion passed unanimously.*

Mayor Erley adjourned the meeting at 8:34p.m.

**ADJOURNMENT**

**Approved:** \_\_\_\_\_ **Attested:** \_\_\_\_\_  
David Erley, Mayor Alison Fuller, Town Clerk