MINUTES

PUBLIC HEARING ON AMENDING THE FY 2021 BUDGET, PUBLIC HEARING ON VACATING THE CASTLE VALLEY DRIVE RIGHT OF WAY ON LOT 77 AND THE REGULAR TOWN COUNCIL MEETING

WEDNESDAY, JANUARY 20th, 2021 AT 6:30 P.M.

CASTLE VALLEY COMMUNITY CENTER - 2 CASTLE VALLEY DRIVE

Council Members Present: Mayor Duncan and Council Members: Gibson, Hill, Holland and O'Brien.
Absent: None
Others Present: Ron Drake, Colleen Thompson, Karen Nelson, Russ Cooper, Tom Wood, Donna Kramer, Ryan Anderson, George Holling, Chris McAnany and John Groo.
Clerk: Jocelyn Buck

Mayor Duncan called the Meeting to Order at 6:30 PM
Determination and Roll Call
Public Hearings
Amending the FY2021 Budget.
M Duncan opened the Public Hearing at 6:36PM.
No Public Comments.
CM Gibson motioned to close that Public Hearing, CM Hill seconded, motion passed unanimously.
Vacating the Castle Valley Drive Right of Way on Lot 77.
Chris McAnany -Attorney spoke on behalf of the petitioner Karen Kastos (Nelson) owner of Lot 77. This right of way dispute has been a long standing dispute the Council is familiar with. The Town has been provided with extensive documents showing the history. In a nutshell Castle Valley Drive as it adjoins Lots 77 is not in its plated location it is approx. 66 feet west of where the road was intended to be built. Ms. Kastos's property is crossed by this unbuilt part of the right of way. Over the years improvements have been built in that right of way including parts of her house, these improvements were made in good faith with the knowledge of Town Officials. We have filed a petition with the Town to vacate that portion of the right of way and to have that cloud on the land title removed, and in doing so we have had consultations with both the Town Officials and the Town's Attorney. The Utah Code legal standard (per LUDMA) is the Town needs to be satisfied that no one will be materially harmed by the vacation and it is not harmful to public interest. The as built portion of Castle Valley has been established by use for decades, even absent of any deed or dedication. In negotiations with the Town Officials and Attorney, the Town would be more favorably disposed towards vacating the right of way on Lot 77 if the Town could get a deed from the property owner whose land is burdened by the built portion of the right of way. Ms. Kastos has done that, we have that deed and are prepared to tender it to the Town for the vacation of the right of way. So in the end Ms. Kasto's land will no longer be burden by the unbuilt portion of the right of way and the Town will have a recorded deed for the built portion of the right of way. We are asking for your approval of the Ordinance tonight.
Karen Kastos (Nelson) At this time Chris has covered all the issues.
George Holling stated that they had a problem with that, not fundamentally but practically given the history of how the Town reacted in similar situations. The Petitioner built a house and did not take sufficient care to ensure it was not violating any easements. We had situation 8 years ago where we built a fence along Lazaris lane that was about a foot and a half into the road easement. We made a mistake and did not have it properly surveyed and the Town made us move the fence. Then couple years ago as we were building the fence along Castle Valley Drive we noticed that Bruce Keeler's fence

extended into the road easement at the corner. For the record that fence was constructed about two years after we did our fence on Castle Valley Drive and no one of the Town objected to Keeler's fence. We met with the Town Road Manager and requested to build our fence maintaining a consist easement along the Petitioner's property and Keeler's fence. We were told the Town would not allow it and the Town would vigorously enforce all Town easements whether they were in use or not. We object because of this inequality of treatment, the Attorney says we can give you another easement for current Castle Valley Drive, but the road has been there more than 10 years under law the Town has already established a legal right of way and would not be forced to move Castle Valley Drive. We believe that the Petitioner is at fault for the current situation, and we simply cannot agree that one party should be treated differently than another. The laws and regulations should be equally applied; we were denied the use of that unused portion of the road easement and can see no reason why you can justify the more drastic action on another property. There are other situations we have had; there is unequal treatment in the valley we are going to put a stop to, when errors continue to occur and develop patterns that smell of corruption that Town officials use their powers to retaliate against certain individuals that is criminal action. Simply put, if we could not build a fence then the Town should not vacate that easement to someone else.

No more Public Comments

CM Holland motioned to close the Public Hearing; CM O'Brien seconded motion passed unanimously.

Regular Town Meeting

M Duncan opened the Regular Meeting at 6:47PM

1. Open Public Comment

Donna Wood - Kramer thanked Susan Curtis for the work she has done on the PLUC Public Hearing.

2. Approval of Minutes: 12.16.2020 Regular Town Council Meeting

CM Gibson motioned to approve the Minute from December 16, 2020, CM Hill seconded, the motion passed unanimously.

3. Executive Reports:

*Water Agent and Water Committee Report – John Groo reported he has been working on submitting the annual Public Water Suppler report. This is challenging because of Castle Valley's unique situation.

*Roads Committee- M Duncan reported the Committee discussed goals for 2021 and the Committee becoming more involved in prioritizing road work and the use of materials. A priority for the road materials budget this year was our previous commitment to complete two cul-de-sacs every year. Work continues on moving utilities and other encumbrances from inside some cul-de-sacs. CM Holland asked if the costs of equipment repair gets to the point when it is time to replace that equipment. Discussion continued on replacing the mower and separating labor for routine equipment maintenance form repairs in the database. That way the actual labor costs of repairing equipment could be tracked. CM Gibson asked Groo to look into adding a category to the database for "man" hours. CM Hill stated that in the proposed budget there is $14,000.00 for road material she wanted to make sure none of it is used until Emery has finished digging up roads to put in their conduit.

*Planning & Land Use Commission-Colleen Thompson and M Duncan thanked all the Council for attending the long PLUC Public Hearing on swine.

*Community Renewable Energy Act-CM Gibson reported that the Attorneys for all the Communities are currently looking at the draft Governance Agreement. There will be an all Communities meeting 2-4PM on February 17th. The public can look on https://www.utah100communities.org for more information and the time line. There are five anchor Communities that are willing to go ahead with funding the entire project, then other Communities can sign up. December 2021 will be the deadline for joining/paying and being able to participate in the negotiations with Rocky Mountain Power. They forecast starting to buy assets in 2023.

*EMS District- Ed Weeks- no updates

*Solid Waste District- Diane Ackerman- no updates

*Fire District-M Duncan /Chief Drake- no updates

*Housing Task Force- M Duncan- minutes provided.
*County Economic Advisory Board-M Duncan- no updates.
*Treasurer's Report -CM Hill reported that we are in line with the amended budget Item 7.
4. Correspondence: Email from Sue Devall regarding snowplowing.
5. Administrative Matters & Procedures: Town letters- CM Holland spoke to Mary McGann with County regarding how the Commission decides when to respond to issues with letters. Basically if the Council feels there is an issue that requires "regional "support they can decide on as needed basis whether to get involved. M Duncan wanted to add a provision to Resolution 2020-1 that clarifies that the Council will automatically send comments and /or a letter if any issue involves our watershed in any way. Council agreed to that, requiring unanimous approval of any letter via email. That language needs to be added to the Resolution. CM Holland offered Castle Valley should have a voice regarding any issue that regionally could affect our environment and quality of life. He continued, Bears Ears letter may just be symbolic but it is important to support the work that has been done. Buck suggested refining the Resolution to narrow down what letters could directly relate to the values reflected in the Town's General Plan. Council agreed that the General Plan survey reflected the resident's values and those values are more appropriate for the Council to write letters on when representing the Town.
The Council approved a Book Box up at the Mailboxes. There are some Volunteers that will build the box. Signs by the mailboxes, a resident was concerned that too many signs up at the mailboxes might detract from the fire department signs. Council discussed at length the meaning of the "Caution falling Sky" sign. Council did not want to proceed with a sign policy at this time.

NEW BUSINESS

6. Discussion and Possible Action re: Ordinance 2021-1 Vacating the Castle Valley Drive Right of Way on Lot 77.
Council discussed some of Hollings comments and agreed that property owners should survey their properties before making plans adding there also have been several other cases in the Valley where the Town has made property owners remove things out of the road easements. Also the State code vacation process is available to all residents that want to submit a petition. The Town has been working on several of the large ongoing problems such as the lack of easements and road misalignments. Council agreed this Castle Valley Drive problem at Lots 77and 76 has existed for many years and should be resolved. Council extended their thanks to Patric O'Kelley for his part in resolving this problem.
CM Hill motioned to approve Ordinance 2021-1 an Ordinance vacating a portion of the unbuilt road right of way for Castle Valley Drive and authorizing the Mayor to sign the quick claim deed conveying the same in exchange for receipt of a deed for the built road right of way adjacent to Lots 76-77.CM O 'Brien seconded motion passed unanimously.
Chris McAnany and Karen Kastos thanked the Town.
7. Discussion and Possible Action re: Resolution 2021-1 Approval of the FY2021 Amended Budget.
CM Hill reported our sales tax income looks better than expected with COVID and will be amended to $60,000 which is what it was last year. Additional changes made to this amended budget are $3000 for the Spring Clean-up and $250 for Dark Sky Program Membership. There was already $14,000 for road materials in addition to the $30,000 set aside for Castle Valley Drive project capital fund. The General Fund Balance $32,000 from surplus last year will now go into capitol funds, due to potential COVID related 2021 revenue deficits we did not put this fund balance into our Capital Fund last year. Other change, the Training budget was increased to $1000 and the Town lot maintenance was increased by $750.
Buck will put it out to the Town to see if there is interest in holding the Spring Clean-up, being we just had a Clean-up in the Fall that did not fill all the containers. And when the budget is amended in May we will potentially allocate funds to sign up for the Community Renewable Energy Program.
CM Gibson motioned to approve the changes to the amended budget as presented; CM O'Brien seconded motion passed unanimously
8. Discussion and Possible Action re: Approval of Letter to Restore Bears Ears.

M Duncan asked to have the letter from the Town Council and omit the reference of the Town residents. Council had some changes and edits CM Holland will fix and send out. The final draft of letter will be approved by the Council via email.

9. Discussion and Possible Action re: Road Department Standard Operation Procedures.-not ready from the Roads Committee.

10. Discussion and Possible Action re: Approval of funds for Big Tree maintenance.

Council agreed Atlas can evaluate the Tree when they are in Town and give the Council those recommendations. Then Council will decide how much maintenance is needed.

11. Discussion and Possible Action re: Approval to apply for Dark Sky Designation.

M Duncan stated that there was a lot of support for pursuing this designation in the General Plan Survey. She wants to use the Annual Town letter mailing to promote the Dark Sky Designation requirements as well as the corresponding new Lighting Ordinance. Council agreed this designation will help support the Town's Lighting Ordinance.

CM Holland motioned to approve the $250 application for the Dark Sky Designation application, CM O'Brien seconded, motion passed unanimously.

UNFINISHED BUSINESS-

12. Discussion and Possible Action re: Complaint Resolution process (tabled).

CM Hill motioned to unable Item 12, CM O'Brien seconded, motion passed unanimously.

CM Hill recommended cutting the time line days down to 4 days for the Clerk to open a file and notify the Mayor and 4 days for the Mayor to appoint the Complaint Resolution Team (CRT). Then 7 days to do the first interview with the Complainant. Council discussed changing the language so the Complainant has to be available within that 7 days or the Complaint can/will be dropped. Contact with the Defendant should remain at 14 days. CM Gibson had several suggestions for changes and/or omissions to the Ordinance. She questioned the legality of the CRT entering a defendant's property to do inspections. Council agreed the time time line needed to be shortened; there was a lengthy discussion on changes. It was decided for the Council to look at CM Gibson's Draft copy and be prepared to add their suggestions/comments next month. CM Holland asked if we should include consideration of anonymous complaints. It could be left to the discretion of the Complaint Resolution Team to let the Complainant remain anonymous. Buck explained a formal Complaint process may end up with prosecution so it cannot be generated by an anonymous complaint. A lot of unofficial anonymous complaints are first handled by the Mayor and/ Town Clerk, beyond that there needs to be an Official Complaint. Buck warned that if we give people the option to be anonymous, then they will all choose to be anonymous.

CM Hill motioned to re-table Item 12, CM Holland seconded, motion passed unanimously.

13. Closed Meeting (not necessary).

14. Payment of the bills.

CM Gibson motioned to pay the bills, CM Holland seconded, motion passed unanimously.

ADJOURNMENT

CM Hill motioned to Adjourn; CM O'Brien seconded motion passed unanimously.

M Duncan adjourned the Meeting at 8:58PM

Approved:

Jazmine Duncan, Mayor
Date: 02/18/2021

Attested:

Jocelyn Buck, Town Clerk
Date:

OFFICIAL COPY
CV Recorder JB