

**MINUTES**  
**PUBLIC HEARING ON THE VARIANCE APPLICATION FOR LOT 260.1 AND THE**  
**REGULAR TOWN COUNCIL MEETING**  
**WEDNESDAY, JULY 20<sup>th</sup>, 2022 AT 6:30 P.M.**

**CASTLE VALLEY COMMUNITY CENTER - 2 CASTLE VALLEY DRIVE**

**Due to concerns regarding the potential spread of COVID-19 this meeting was held electronically by Zoom.**

Council Members Present: Mayor Duncan and Council Members: Gibson, Hill and O'Brien

Absent: CM Harry Holland

Others Present: Ron Drake, Colleen Thompson, Joel Anderson, Anna Banasova, Peter Mlynaric, Ryan Anderson, Bryan Torgerson, John Groo, Zacharia Levine, Duncan Fuchise, Julie Baird, Laurie Simonson, Jason Matz, Laura Cameron, Merrill Brady, Peggy and Norman Llewelyn, Dan Vink, Ed Weeks, Andrew Hodge, David Smith

Clerk: Jocelyn Buck

M Duncan called the Meeting to Order at 6:30 PM and delivered the Electronic Meeting Determination Buck called role.

**PUBLIC HEARING**

Public Hearing on Variance Application for Lot 260.1.-Variance Officer Zacharia Levine

Levine introduced the objectives of the Public Hearing process regarding this Variance Application.

Public Comment:

Ryan Anderson (PLUC Chair) asked Levine if he had read the Planning and Land Use Commission's recommendation and Levine confirmed he had.

Colleen Thompson (PLUC Member) clarified that legally the Lot is listed as Lot 259 B with the Grand County Recorder's Office and not Lot 260.1.

CM Gibson reiterated her concern from the discussion at the June 20<sup>th</sup> Town Council Meeting, what is going to be the legal precedent on what is an unreasonable hardship and she would like a clear finding of fact on what it constitutes so in the future we have some standard of what is a self-imposed hardship and what is an economic hardship.

Joel Anderson (project Designer) asked if the additional exhibits/drawings sent in today were included in this Variance request. Levine asked if they constitute any change in the proposal or a change in information already provided or if they just provide additional visual information to substantiate the application. Anderson responded the latter. Buck stated those documents were received and were forwarded to Levine and the Council. Anderson explained that the County parcel map shows how different their lot is compared to all others. Also included is a satellite image showing the changes in terrain as you go up from the Valley floor and it also shows their alternate building site about 800 feet from the currently proposed building site. Together these exhibits show how different their lot is compared to all others.

Anna Banasova (Applicant) addressed CM Gibson's concerns about possible precedents in that whoever would have to have the exact same challenging situation on their lot, she has checked all the lots in Castle Valley and she did not find any lot as choked up as her challenging lot so she believes this would not create a precedent.

Ryan Anderson asked to have new documents put up on screen share. After some technical difficulties Levine showed the two documents (SP3 and SP4), Anderson explained one showed the unique parcel shape compared to other lots and another showed the satellite image of the terrain changes as well as the alternate building site.

CM Gibson clarified that her concern was with setting any precedents not just specific to lots along the rim.

Ryan Anderson had clarified that the circle on the second map was the alternate building site.

Thompson asked Levine what the Ordinance means by a self-imposed hardship such as in this case if you knew what the lot was like when you bought it is that self-imposed or not and, for instance, if a person asking for Variance could do a different sized house but don't want to is that self-imposed? As a

member of the PLUC she asked to have this interpretation clarified and to be considered in the Variance final decision. Levine stated he will definitely address those conditions. The decision review will have a narrow focus following the Town and State code Variance requirements. The issue of a person buying a lot and then finding out their plans do not work does not have much bearing on the analysis. It comes down to does the Variance request presented satisfy the conditions in the Town and State code. Ryan Anderson (as a resident) Stated having seen the aerial shot of the proposed and the alternative sites, walked the property twice and heard the discussions in the Planning Commission and Town Council Meeting he is still in favor of the Variance as it was proposed originally. Levine asked for any further comments and then closed the Public Hearing. He will provide a written decision soon.

### **Regular Town Meeting**

M Duncan opened the Regular Town Council Meeting at 7:00PM

#### **1. Open Public Comment**

Dan Vink (Rocky Mountain Power) explained the blinking blue lights are units that provide meter data. They were installed upside-down and he will have them fixed. There were concerns that the lights may still be visible right side up. With all the helicopter traffic lately Chief Drake asked if RMP was still going to install orange marker balls on the power lines near the landing area by Station 1. Vink added that to his work list, also so far this year RMP has not needed to start up the portable generator on Pace Hill. There are plans for a new substation north of the Porcupine Ranch Rd in Castleton. This will meet the future needs of Castle Valley and hopefully it will be in place by 2024.

**2. Approval of Minutes: Special Town Council Meeting May 24, 2022 and Regular Town Council Meeting June 15, 2022.**

CM Hill motioned to approve the minutes from the Special Town Council Meeting May 24, 2022 as presented, CM O'Brien seconded, motion passed unanimously.

CM Hill motioned to approve the minutes from the Regular Town Council Meeting June 15, 2022 as presented, CM O'Brien seconded, motion passed unanimously.

#### **3. Executive Reports:**

\* SITLA Lease update -Bryan Torgerson

Torgersen explained this parcel was included in the 2009 Recreational Lands exchange Act with the BLM but due to some parcel evaluation issues some of the lands had to come off the table and this parcel was one of them. Recently SITLA has received application for a residential lease. They are in the process of advertising that lease and that will run for a couple of months until the end of September; they are expecting a few bidders on this parcel. Torgerson verified SITLA had received the Town's letter. After the bidding is closed and the winner is selected the letter with the Town's concerns will be passed on to the winner. Sale vs Lease? Bids could come in for a lease or a sale for a residential or a commercial use such as for Glamping or maybe even for a conservation purpose especially as this parcel was initially part of that Recreational Land Exchange. SITLA sifts through the bids and selects the one that brings in the most money. M Duncan asked if there were other standards bids have to meet such as taking into consideration the compatibility with the area; the SITLA website leads us to believe that. Torgersen stated most things can be worked out with proper planning and engineering they do not know the extent of the project at this point. CM O'Brien verified there are no water rights going with this parcel just the land. Ryan Anderson explained he was involved in the original land exchange and was surprised this parcel was left off and wanted more information on how that happened. Torgerson explained the exchange is land value to land value so after both parties had land appraisals, they make a value based exchange. There are Tier 1 properties most valuable to both agencies, Tier 2 next most valuable and Tier 3 properties are more likely to be part of an exchange or public option. This property is a Tier 3 but had added value and it was in SITLA's best interest to keep it. Anderson explained this parcel sits in the Town's watershed and we are close to being at the limit of water rights that can be accommodated. So, he encouraged SITLA to look at other ways of exchanging that land as it is invaluable to Valley residents. And to suggest we go out and find a conservation buyer to protect our watershed is beyond what we should have to do. An-

derson opposes this lease and encouraged SITLA to pull the opportunity of this lease. Torgerson stated the water rights issue will be a hurdle the winners of the bid will have to resolve. As SITLA has received an application they have to follow their process.

CM Gibson asked how long a residential lease lasts. Torgerson stated it is generally a 30-year lease and it depends on the condition and development on the land if the lease is extended or if SITLA decides have the lessee complete the reclamation of the land or if SITLA takes back the property with any development. Anderson added considering were we are in our 22 year drought this land has value beyond money and a sale for property development is of short term value to the Trust stakeholders considering the long term value this land holds. Anderson continued he is the Vice President of the Utah Retired Teachers Union and he will be speaking at the next SITLA meeting regarding his opposition to this lease. Torgerson continued SITLA by law and statute is not subject to local municipal planning and zoning regulations, but SITLA most likely will require the lessee to comply with local land use regulations. M Duncan had Torgerson clarify that if SITLA developed the land they would not have to comply with local land use regulation but contractually SITLA makes their lessee comply, however if the land was sold then it would be privatized and the owners would have to comply and they would not get the SITLA exemption. M Duncan had clarified if the developer cannot get what they need (water rights) can they get out of the lease contract, Torgerson responded there is a due diligence period with the lease contract that would potentially deal with that kind of situation.

\*Water Agent and Water Committee Report - John Groo/ CM O'Brien

CM O'Brien reported on the 7.20.22 Water Committee Meeting, they are working on the draft ground water management plan which might aid in getting the aquifer closed to further appropriations. They had further discussion on the location and cost of the Shafer monitoring well. The County is seeking a water protection zone that would affect development density. And the Committee is looking at amending the Town's Watering Ordinance as far as assessing trigger/activation points and how they would apply through the State drought regulations.

\* EMS- Ed Weeks

Weeks asked how many Fire Department members would want to get EMR training. He is still trying to find out what level of training would be required in order to work on the non-transport ambulance. There may be fewer requirements for those members than the general public. The ambulance has to be staffed by 2 personnel. Drake reported so far this year there has been 6 EMS calls to the Town. M Duncan pointed out that if the Fire Department takes this over they would have to service the entire Fire District not just within the Town limits.

\*Roads Committee- M Duncan reports provided

\*Planning & Land Use Commission- Colleen Thompson- no questions.

\*Community Renewable Energy Act-CM Gibson reported at the last meeting they approved the agreements to pay the experts for the Public Utilities Commission and CREA as required by statute. Talks continue with Rocky Mountain Power about how to set rates. The Low income plan template is almost complete and the Town will have to work within the template and submit our own plan by the end of the year. CM Gibson is hoping that we can integrate our plan with Moab and Grand County.

\* Solid Waste District-Diane Ackerman- report provided

\*Treasurer's Report - report provided. CM Hill added FY 2022 ended up getting \$68K in sales tax which was more than she had projected; the surplus was put into the capital fund.

\*Fire District-M Duncan /Chief Drake updated the Council on the 6 hour rescue/ fatality on Parriot Mesa; he opened station one to provided support to the rescue personnel.

4. Correspondence: Email from Bruce Keeler supporting getting the EMR service back in the Valley. And we received Certificate of Sponsorship from the Solid Waste District.

5. Administrative Matters & Procedures: Eagle Scout Project CV Sign the Council asked to have a pro-

posal submitted. No Town letters this month.

**NEW BUSINESS**

6. Discussion and Possible Action re: Approval of the Conditional Use Permit Lot 381.

David Smith explained that they will receive no funds for the filming on their property and any money received would be donated to the Moab Multicultural Center. CM Hill had verified letters were sent out to neighbors and we received only positive feedback. M Duncan reiterated the 4 conditions for the permit: Fire Safety and Law enforcement personnel to be present at filming, no identifying landmarks will be filmed and the crew will be limited to 75 people. She asked how the crew would be transported. Andrew Hodge (Horizon representative) responded that they have leased the UDOT parking lot on SR 128 and will be shuttling the crew up from there in order to reduce traffic and parking issues in Castle Valley. Hodge added that the production would like to make a donation (impact fee) to the Community. CM Hill motioned to approve the Conditional Use Permit Lot 381 as presented; CM Gibson seconded motion passed unanimously.

7. Discussion and Possible Action re: Ditch Company Green Belt Project.

Duncan Fuchise explained that the Ditch Company proposal would entail clearing out some of the undergrowth along Castle Creek and he clarified that they would not use any herbicides. Council was interested to see how much work could be done, how long it would stay cleared and how this might affect the flow of the springs. Jason Matz added they hope to be able to collect data on flow changes. Merrill Brady added that they will be planning on annual maintenance and they are going to try using Vinegar on the Russian Olive stumps. Fuchise asked to have a permission form signed by the Town in order to start work. Council agreed on the conditions of the proposal.

CM Hill motioned to approve the CIVC Diversion Invasive Species Reclamation Project; CM O'Brien seconded motion passed unanimously.

8. Discussion and Possible Action re: Southeast Utah Riparian Partnership Memorandum of Understanding.

CM Hill motioned to approve the Southeast Utah Riparian Partnership Memorandum of Understanding; CM O'Brien seconded motion passed unanimously.

9. Discussion and Possible Action re: EMR Training funding. Some discussion was in EMS report.

M Duncan added that the Town has budgeting EMR training in the past but no one has been using it. CM Hill stated we can add EMR Training funding when we amend the Budget. M Duncan also wanted to get information out to residents acknowledging what emergency services are available in Town and the potential 911 response times from Moab. Item dropped

**UNFINISHED BUSINESS**

10. Discussion and Possible Action re: 2023 Rocky Mountain Power Franchise Agreement (tabled). Left tabled

11 Closed Meeting (If necessary)

12. Payment of the bills.

CM Gibson motioned to pay the bills, CM O'Brien seconded, motion passed unanimously.

**ADJOURNMENT**

CM Hill motioned to adjourn, CM O'Brien seconded, motion passed unanimously.

M Duncan adjourned the Meeting at 8:34 PM

Approved: 

Attested: 

Jazmine Duncan, Mayor

Jocelyn Buck, Town Clerk