

**Regular Meeting and Public Hearing Minutes**  
**Town Council, Town of Castle Valley**  
**Thursday, November 16, 2006, 6:30 PM, Community Center**

**[An audio-recording of this meeting is available to the public.]**

**Call to Order.** Meeting called to order by Mayor Bollermann at 6:31 PM.

**Council Members Present:** Damian Bollermann, Ranna Bieschke, Valli Smouse, Jim Lindheim, Alice Drogin.

**Others present:** Dave Erley, Sherri Simmons, Ron Drake, Darr Hatch, Mark Webster, Ron Mengel, Mary Germain, Greg Halliday, Jack Campbell, Scott Brackett, Greg Nunn, Mary Beth Fitzburgh, Leta Vaughn, Jim Tharp, Ken Sikora, Joan Sangree, Aaron Davis, Jeff Johnston, Marie Hawkins, and Steve Heinrich.

**1. Public Hearing: Bed & Breakfast New Building Permit, Lot 242, Jim & Mary Germain.**

Damian and Valli explained the B&B is a non-conforming use and their contract requires a hearing and approval by the TC for expansions or additions. Jim and Mary Germain have proposed building a garage, workshop and storage area to replace a smaller storage shed, but not to expand the Bed & Breakfast business. Valli and Vickie walked the property with the owners. An agreement will be signed that there will be no plumbing or living facilities and that the building will never be used as accommodations.

Greg, Jack and Ron Mengel spoke in favor of the current proposal as it is in compliance with their current contract and includes a signed agreement specifying use.

Hearing closed at 6:35 PM.

**2. Open Public Comment**

Dave Erley presented a letter and map about the hunt and the effects of shotgun usage on the Upper 80. A citizens' group is going to the RAC board in February asking for the same protection be afforded for people in the Upper 80 as the rest of the Valley, possibly turning the shotgun zone into a primitive weapons zone. The Upper 80 is most strongly affected by the hunt, and is becoming popular for shotguns and primitive weapons. Shotguns are multiple shot and longer range, and cross-shooting is causing danger.

Jack spoke in favor of re-creating an active, functioning road committee, saying this protected the supervisor somewhat. Joan concurred saying the road committee had offered some supervision of employees and added some accountability.

Jim questioned providing drafts ~~of proposed Ordinances~~ to the Public. Rebecca ~~explained~~ asserted that the law defines all records as open public documents unless officially designated differently and requested documents must be provided within ten days.

Jeff questioned the draft employment policy re: contracts with employees, saying Rebecca completed a probationary period and has been approved as an employee thus assuming there is an oral contract. Damian said the attorney suggested disclaimers to avoid any supposition that anybody is guaranteed employment.

Greg commented on the draft nuisance ordinance and had sent a letter in reference to barking dogs.

**3. Reports**

**Planning Commission:**

Marie reported on issues addressed at the last PLUC meeting and efforts to get the General Plan questionnaire out after Thanksgiving. Valli wants the questionnaire to come before the TC before it goes out to the university expert.

**Property Owners Association:**

Jack reported that the POA annual meeting a pleasant, friendly meeting. Trish got the 2-year term.

**Water Department:**

Scott reported that letters went out to all lot owners who have some kind of change. Fifteen maps have been returned for revision so far. The Division hopes to have a cut off for change requests by Dec. 1<sup>st</sup>. Scott is making calls to follow up on any not yet in.

**Roads Department:**

Damian reported Darr has resigned as road supervisor and Damian is handling road matters. Recent work has included repairs on roads, repairs on the grader, getting the operator out there. The next step is to have Mark Simmons do some drainage maintenance with a 4-wheel drive backhoe. Gravel comes after structure and drainage.

Dave asked about follow-up on covering power lines. Comments: Upper Pace, Upper Pope and Buchanan are all significantly improved.

Aaron asked about plans for hiring a road supervisor. (see agenda item below)

### **Building Department:**

The Council received a written report from Leta. Valli requested that the reports should include what each building permit is for.

### **New Business**

#### **4. Discussion & possible action re: Proposal for a new building permit for Lot 242, at the Bed & Breakfast.**

**An error in the contract addendum was corrected to say the new building will be 24' X 36'.**

**Valli moved to pass this Resolution approving the Addendum to the Building Compliance Contract between the Town of Castle Valley and the Castle Valley Bed & Breakfast, with the change as specified. Jim seconded.** Valli commented the Germains have been upfront and easy to work with, the PLUC has done their job, and this protects the Town and the owners. **Motion passed unanimously.**

#### **5. Discussion & possible action re: Proposal for Mayoral Compensation.**

**The public hearing for Mayoral Compensation was re-scheduled for December 20, 2006 at 6:30 PM.**

#### **6. Discussion & possible action re: Road Supervisor Position.**

Damian stated he would handle roads for a few months to see how it works. It is not possible to be both the Mayor and an employee, so he is eliminating the position.

Valli expressed interest in helping to re-form the roads committee. In the past, this was 3 to 5 people who met once a month with the road supervisor about priorities, went out looking at roads, outlined expenditures, and served as a responsible party. Further discussion was suggested for the workshop (scheduled under item 11).

#### **7. Discussion & possible action re: Target Shooting Inside Town Boundaries.**

Joe Kingsley submitted a letter re: target shooting problems noting that the firearms ordinance addresses hunting but not target shooting. Discussion ensued about firearm safety, the sheriff responding to firearms complaints as a safety issue, and the firearm and nuisance ordinances, with comments by Damian, Ranna, Jim, Mark Webster, Jack, Greg Halliday, Mary Germain, Valli and Greg Nunn.

**Jim suggested that this issue should be handled as a nuisance and complaint resolution issue, i.e., that two people should talk to Joe, find out who this was, and go talk to them.**

#### **8. Discussion & possible action re: Potential for a Town Well.**

Jim placed this on the agenda in response to Ryan Anderson's suggestion to put in a municipal well. Potential responsibilities and expenses were brought up such as monitoring quality, charging for usage, using a solar pump, preventing over-pumping, the requirement for a 1,500 foot protection radius, and current aquifer draw-down created by Colin Fryer's ranch, with comments by Alice, Marie, Jim Tharp, Brian Murray and Greg Nunn.

It was agreed that, at this point, a town well is not something the TC is willing to pursue. Ron Mengel mentioned the Water Working Group considered a town well as a mechanism to achieve protecting water rights through a municipal water supply. He strongly suggested, as a safety backup, that the Town reserve the right to develop one in the future even if one is not needed now.

#### **9. Discussion & possible action re: Building/Landscaping Maintenance Position & Expenditures for Building & Town Lot.**

Damian announced Greg Halliday has been hired as the maintenance person for the building and landscaping.

A letter came from Karen Nelson about providing more path lights. Cost estimates were \$700 to \$1,000 for more low-voltage lights. Jim says there is \$3,000 left over from the building fund. Solar lights cost around \$20 per light. A larger project will take a while. **Damian approved the purchase of solar lights as an interim solution.**

Jim inquired about how oversight and the budget will be handled for this position.

**Greg and Rebecca will come up with a list, with prices, of needed maintenance and office capital expenditures for possible approval at the December TC meeting.** Discussed items included a lawnmower, a ladder, tools, a filing cabinet, and recycling bins.

Most people present said they would use recycling bins and also warned against allowing the site to be overwhelmed. Jim suggested waiting until the recycling center makes decisions about their situation. Valli brought up reminders of past problems with other forms of garbage collection. Damian said a bid from the recycle pick-up service was around \$600 per year.

**10. Discussion & possible action re: Cemetery Maintenance Project.**

Damian reported on a meeting with Grand County Cemetery Board and his efforts to mow rather than spray herbicides. He suggested having Greg mow. Damian and the Cemetery Board agreed to leave the agreement open to evaluation any time. Jim Madden suggested \$1,000 for the first year and \$600 year thereafter. Damian suggested completing the MOU before Judy Carmichael leaves in January.

Alice inquired about Plateau Restoration, who were hired to come up with a plan. The plan was too expensive; Michael Smith had said perhaps it could be done without irrigation, or with very little irrigation. John and Stacy's well can be used with a water meter installed.

**11. Discussion & possible action re: Set up a Special Meeting – Workshop on Prioritizing & Procedures.**

Valli suggested a workshop for the TC to define direction, set priorities and get to know one another's TC goals more. Topics suggested for discussion included the possibility of a water committee, roads committee and/or an oversight committee for the community lot, administrative procedures, increasing Council involvement, and general process for getting done all that is "on the plate".

**A Special meeting for these purposes was set for Tuesday, November 28, 2006, at 5:00 PM**

**12. Discussion & possible action re: Possible Change of December TC Meeting Date.**

**A decision was made not to change the date; the regular meeting will remain December 20, 2006.**

**Old Business**

**13. Discussion & possible action re: Appointment to the Planning & Land Use Commission.**

Letters of interest have come in from Susan Halliday and Jack Campbell. Damian suggested letting this ride for a month. Alice asked about putting on more than five members. There is a provision for alternates in the current Ordinance establishing the PLUC. Rebecca noted that there is always room for extra help. Darr noted that committees can be called using as many people as needed.

**14. Discussion & possible action re: Flood Mitigation – Short-term Actions.**

Jim commented that a variety of things still need to be done and extra money was set aside for road work this year. He suggested that a road committee should outline some projects to use this money such as fixing drainages, replacing gravel, and other serious work. Damian noted that conditions are currently good for road work and \$5,000 to \$10,000 may be spent on backhoe time.

**15. Discussion & possible action re: Flood Mitigation – Long-term Actions & Grant Search.**

Jim put together a letter to get on the county's PCIFB list to apply for ~~\$30,000~~\$35,000, as a high priority item, to update the drainage plan. Jeff Johnston asked if it is clear the current plan is obsolete. Costs for listed projects will have to be updated.

Engineer, Mark Wright, faxed Valli a letter outlining engineering cost updates to the drainage plan ranging from \$20,000 to \$100,000. On the phone he suggested planning to spend \$25,000 to \$35,000.

**Valli will begin getting bids for the updating of the drainage plan.**

Jim said the CIB is the most available state funding. He ~~checked~~researched with the Department of Water Resources and the Department of Environmental Quality, who typically fund larger projects and projects related to water delivery systems. The Department of Agriculture~~at~~, at a federal level, has a rural development department that funds storm drainage projects, as a mixture of loan and grant. The loan rates are higher than CIB.

Jim noted the timelines may be very extended. The CIB cycles are in December and April.

Ron Mengel warned that the Town may have to sign an agreement to be compliant with the National Incident Management System (NIMS) in order to get federal funding.

Damian mentioned Charlie Skews is the Town's engineer of record. He suggested that three bids could come from Skews, Mark Simmons and the original engineer.

Mark Simmons told Damian the current drainage plan is OK; the included areas just need to be maintained. Alice asked if this is part of the short-term solution; it was agreed that it would be.

**Jim will talk to Moab about their storm drainage retention project.**

Jack suggested the Town should interact with property owners on illegal drainage changes, e.g., diverting water from driveways into roads. Decisions must be made whether the town will address these.

Jeff commented on the need for an emergency plan to notify people and coordinate responses. Ron Mengel described the Local Emergency Planning Committee (LAPC), which meets each month, and to which the Town is invited. Coordinator, Corky Brewer, reported favorably on the systems after the recent flooding. Mary Beth, Damian and Jeff commented favorably on the availability of sandbags.

Damian commented the road committee is not a place to push for specific issues, but that issues should come up at TC meetings.

**16. Discussion & possible action re: Proposed Complaint Resolution Process.**

Jim inquired about this draft Ordinance being designated as "temporary". After discussion, it was decided to leave this as a temporary ordinance.

Alice noted the proposed fee to make a complaint has been taken out.

The fines are now consistent with State standards.

The TC added time-lines. The following decisions (underlined) were made:

- #2: the Town Clerk would forward the complaint to the Mayor and CRB group "within seven days".
- #2: two CRB Members would be appointed by the Mayor "within fourteen days".
- #2: the interview with Complainee would happen "within 14 days"
- #2: replace "If the ordinance violation is valid" with "If they believe that the ordinance violation is valid."
- #2: changed to read: CRB members will contact the complainant "within fourteen days" to provide early feedback on what is happening with the complaint.
- #3: changed to read: the resolution "shall be documented by all parties at the time of the resolution".
- #3: changed to read: two CRB members will schedule a meeting with the complainant to investigate "within fourteen days"
- #3: changed to read: two CRB members will document their observations and report their findings to the Mayor , the CRB group and the complainee "within fourteen days"
- #4: changed to read: "the Mayor and/or the code enforcement administrator will initiate legal proceedings"
- #4: a registered letter as per Town Ordinance 96-3 or the Nuisance Ordinance, within 30 days".
- #7: replace "town attorney", with "the town prosecutor"

The following roles in this process were discussed: the Mayor's, the Judge's, the code enforcement administrator's, the Prosecutor's, and the "witnesses"(Complainants'). Also discussed were the composition of the Complaint Resolution Board, the relation between this ordinance and the nuisance ordinance, the enactment of fines, which ordinance the fines would be based on, court costs being covered, the need for time in order to reach a resolution, 100 junk cars crushed this year, and whether this should be enacted immediately. Comments were made by Damian, Jim Tharp, Jim, Ranna, Valli, and Greg Nunn.

[Digital recorder stopped working at 8:35 PM. Audio-tape began at 8:50 PM]]

Mary Beth commended the TC for working out a complaint resolution process.

**Jim moved to pass this temporary complaint process ordinance with the changes, contingent on final review of the draft. Ranna Seconded.**

The changes were reviewed and recorded by Damian. **Rebecca will make the changes to the document.**

Ron Mengel inquired whether the Town or the individual signs the complaint. **It was agreed that the Town can not carry forth a complaint even though important things could get dropped because the person with the complaint decides to back out.** Watershed concerns were discussed in light of Dave Erley's suggestion that the Town should pursue this category of violations more proactively with comments by Damian, Jim, Valli, and Darr.

**Damian called the question.** Discussion about when to enact this ordinance and the steps to do so with comments by Aaron Davis, Damian, Ranna, Jim

**Jim amended the motion to adopt the Temporary Complaint Process Ordinance with the specified changes, contingent on final review of the draft, to become effective December 8, 2006. Valli seconded. Damian called the question. Motion passed unanimously.**

It was discussed that both the firearms complaint and dog barking complain would be pursued under the new ordinance.

### **17. Discussion & possible action re: Proposed Nuisance Ordinance.**

Jim reported the draft includes suggested changes from Happy Morgan. Valli noted that watershed issues and fuel storage are not addressed. Alice suggested referring to the Watershed Protection Ordinance. Jim said items 37 animal control, 38 outdoor lighting, and 39 noise were added by the Town.

Lengthy discussion centered on what constitutes a nuisance under this ordinance with comments by Jim Tharp, Valli Smouse, Ron Mengel, Damian Bollermann, and Jim Lindheim. Damian, David and Marie spoke against treating watershed protection as a simple nuisance. David also warned against creating vigilante-ism in protecting the watershed.

Changes proposed included:

- Add a #40: Add language to refer to Ordinance 96-1 re: Watershed Protection.
- #17, dust: change to read “excessive dust due to construction over a prolonged period of time”
- #17: add “high speed traffic”
- #29: Add an A, B, and C to interject language to prohibit second dwellings.

Ron Mengel mentioned that anybody can pursue legal recourse regardless of whether the Town does or not.

The job description for a “code compliance administrator” has been differentiated from that of a law officer through the removal of law enforcement language.

**Jim moved to table this item. Valli seconded. Motion passed unanimously.**

### **18. Discussion & possible action re: Employee Policy Manual (tabled).**

**Jim moved to un-table this item. Alice seconded. Motion passed unanimously.**

Jim reported spending an hour on the phone with Lisa Peterson, from Kinghorn’s office, going over changes and closing potential loopholes. She suggested establishing a grievance procedure (# 5), removing any probationary period, adding specifications for going on the internet (#21), and removing the requirement/encouragement for employees to recycle.

There was discussion of overtime pay being changed to time off, how much compensatory time can accrue and whether it accrues from one year to the next with comments by Ranna, Jim and Damian. Darr explained the Fair Labor Standards Act defines overtime compensation clearly. Jim commented the employee should be encouraged to take their accrued time off so they don’t take it all at the end of their employment and that the advantage of this plan, if the employee is on salary, is not paying the employee more money.

Jim stated for the record that the lawyer said that “employment at will” is Utah law.

**Ranna moved to change “County” to “Town” in #8, to re-add recycling as #28, and to adopt the employment policy with these changes. Motion passed unanimously.**

### **19. Discussion & possible action re: Clerk Job Description (tabled).**

**Valli moved to un-table this item. Alice seconded. Motion passed unanimously.**

The following changes were suggested:

- Section 2, #1: the “drat” annual budget will be changed to the “draft” annual budget.
- Section 2, #3: the close of the paragraph-parentheses will be added.

**Damian, Jim, and Rebecca will meet to update this. Any comments can go to these people.**

### **20. Discussion & possible action re: Restoration Work on Lot 274 Pope Lane.**

Brooke and Terry have responded that they are more interested in seeing restoration work done than in monetary settlement. **They will get back to the Town about this.**

### **21. Discussion & possible action re: Basketball Court Construction.**

Ranna will need to submit an invoice to the Grand County Special Recreation District for our funding after the first of year. She clarified that although \$10,000 was set aside by the Town for the basketball court, \$1,000 came from Rim Rock Roadrunners and \$3,600 came from a previous Grand County Special Recreation District grant, so the Town’s contribution would be \$5,400. She has no bids yet **and will plan to have bids by next meeting.**

Joan inquired about sleeves to put up a net for other uses; this is in the current bid plan.

Damian expressed concern to see that the project come in on budget. Ranna said it would.

## 22. Communications to the Town

Damian read aloud Greg Nunn's letter about barking dogs. **Damian will call Greg to see if this is to become a formal complaint.**

Jim questioned reading communications to the Town aloud. **This will be discussed at the work meeting.**

Other communications to the Council:

- from Cris Coffey re: objection to the basketball court
- from Cris Coffey re: the Gourd festival donation to the Town of a shade canopy
- from Laura Kamala and Terry Tempest Williams, the Earth Charter with the suggestion for the Town to adopt it

Jim expressed thanks to the Gourd Festival for their gift of the canopy.

## Approval of Minutes

### 23. Approval of Minutes: TC Regular Meeting, October 18, 2006.

Ranna suggested the following change:

**Item 13: re: set aside \$10,000: replace "and donated" with "which includes Rim Rock Roadrunners' donation of \$1,000."**

Jim and Ranna said the audio-recording reference should be taken out as irrelevant. Valli explained this reference was trying to condense the minutes and to make everything in the tape a part of the official record and favored keeping it in. Both the audio and the written minutes are public records, but the written minutes are the official record. Discussion ensued about recordings being made available on the website, the Council deciding what goes in the minutes, transparency in government achieved by making information available, and shortening the minutes. Rebecca explained efforts to get audio recordings onto uniform, accessible formats.

Jim said to remove the phrase "Clerks note". Rebecca explained that the Attorney General's office said her inclusion of reference to the audiotapes was good. Damian suggested the following wording: **"an audio-recording of this meeting is available to the public". This will become part of each set of minutes.**

Jim commented that [David Church, attorney for the ULCT, has clarified in an email that](#) only a Council Member can put something in the minutes and no one else can do so.

**Ranna moved to approve the minutes of the October 18 TC meeting. Jim seconded. Motion passed unanimously.**

### 24. Approval of Minutes: TC Closed Meeting, October 18, 2006.

There was clarification that equal value was specified, during the meeting, for the two options.

**Jim moved to approve these minutes as presented. Valli seconded. Motion passed with Damian, Valli and Damian voting aye. Ranna and Alice abstained.**

## 25. Treasurer's Report.

Jim went over the balance sheet and reported that everything is basically fine. The pavilion project is now complete. Lisa will update the budget vs. actual sheet. Money is starting to be spent on roads, as planned.

## 26. Payment of Bills.

**Valli moved to approve the payment of bills. Alice seconded. Motion passed unanimously.**

Jim reported on a conversation with the training person at the League of Cities and Towns. The standard Open & Public Meeting Act training is given at the fall conventions, after the elections next November, and again in April of '08. He said some towns have their legal [council-counsel](#) do this for them. Jim will call [Gerry Kinghorn](#) to see if there is someone who could do this.

[tape ended at 10:37 PM]

## 27. Executive Session. None.

## Adjournment.

**Valli moved, and Jim seconded, to adjourn. Motion passed unanimously.**