

MEETING MINUTES
REGULAR TOWN COUNCIL MEETING, TOWN OF CASTLE VALLEY
Wednesday, April 19, 2006, Castle Valley Community Center

CALL TO ORDER. Meeting called to order at 6:33 PM. Damian Bollermann presiding.

Members present: Damian Bollermann, Jerry Bidinger, Bob Lippman, Ranna Bieschke, Jim Lindheim.

Others present: Marie Hawkins, Dan Kent, Jack Campbell, Karen Nelson, Scott Brackett, Steve Melelski, Mark Webster, Jeff Anderson, Diane Vaughn, Dave Vaughn, Ron Drake, Jim Tharp, Vickie Kress, Pam Hackley, Tom Noce, Dave Erley, Mary Germain, John Buchanan, Vigali Hamilton, Greg Halliday.

Clerk/Recorder: Rebecca Martin

1. Approval of Minutes: TC Special Meeting & Executive Session, April 10, 2006.

Jim moved to table this item. Ranna seconded. Motion passed unanimously.

2. Approval of Minutes: TC Regular Meeting, March 15, 2006.

Jim moved to approve these minutes as presented. Ranna seconded. Motion passed. Voting yes: Damian, Jim, Jerry, and Bob. Abstained: Ranna.

3. Approval of Minutes: TC Special Meeting Workshop & Executive Session, March 28, 2006.

Jim moved to table this item. Ranna seconded. Motion passed unanimously.

Jim commented that the minutes for four Special Meetings are tabled, and he wants these available for approval by next month.

4. TREASURER'S REPORT.

Jim Lindheim reported the Town could be running a significant surplus at Fiscal Year ("FY") end on June 30, 2006. Under-spent areas are Legal expenses, especially in the Water Department, and Roads Improvements. Payroll is over-budget. Legal costs were planned in but not spent as expected. Some of the roads money may yet be spent by the end of the FY. (financial reports included).

Budget planning will occur this month. Property taxes, sales taxes and road taxes will be similar to last year. A preliminary proposed budget (for FY 2007) will be available for the meeting next month.

5. PAYMENT OF BILLS.

Bills this month total \$7,912.60 plus \$171.08 for AmeriGas. **Jerry moved to pay the bills as presented. Bob seconded. Motion passed unanimously.**

6. OPEN PUBLIC COMMENT PERIOD.

Dave Vaughn, speaking as private citizen, requested that the Town explain the status of the complaint on Lot 100. Damian said he consulted with the Town's attorney, who has drafted a letter. The legal remedy could be to clean it up and try to recoup the costs. The cost is thought to be \$10,000 - \$15,000 in legal fees.

Damian said CV would like to be included in the Grand County county-wide clean-up. The proposed process is the same (clean up followed by a legal process to recoup costs). By year-end, if county process hasn't worked, CV could clean up on its own. Damian spoke to Jim Nyland who didn't see significant barriers to forming an interlocal agreement.

Car crushing has been proposed at the (Daystar Academy) or in Moab. Issues such as pollution from fluids are a concern.

Damian asked Gerry Kinghorn not to send the letter, saying he felt the town may not be able to follow through on the threat.

Lengthy discussion ensued with comments from Karen Nelson, Dave Erley, Marie Hawkins. Topic included:

- frustration with the length of time the Town has been working on the Lot 100 clean-up and the establishment of an interlocal agreement
- the possibility of serious water quality concerns and the EPA aquifer protection status
- placing taxpayers above renters in considerations
- public perception about the enforcement of ordinances
- seeing Lot 100 as a precedent
- a suggestion to recoup fees by putting the charge on the person's tax bill.

Assertions were made that within the next month, the town must clean up (Lot 100) and put a lien on the property. A court order may be needed to do a clean up on private property. Jerry said that the process would be: **the Town will issue a statement that it will be coming on to the property to do the clean up**, (the owner/tenant) will have ten days to agree to this or else the Town will go to court, then **the Town will do the clean up and file a lien to recoup costs**. Damian agreed to take some action even if it costs money for the Town.

Karen commented that the Town will have to hire a building maintenance person. **The Road Department will need to order new handicap signs, and will be directed to put them back up.**

Dan Kent presented a proposal, and volunteered to help facilitate a project, for the burying of power lines. This is time sensitive because Trees Incorporated is back in town wanting to cut trees that are otherwise great to have around. Costs, benefits and drawbacks were discussed. There is a current ordinance on the books that UPNL must bury lines.

There is a street sign down on Pope Lane and CV Drive, and another falling off across the street.

Dave Erley asked about securing water rights for future residents. It is clear, now, that the Town cannot hold the unused 1968 McCormick Ranch rights. At the (April 12, 2006) meeting the State said that Grand County Water Conservancy ("GCWC") can hold rights/can continue to hold rights until asked to allot them to lots in CV. Dave asked whether anyone has opened negotiations (on the holding of water rights by GCWC), as Jerry Olds said (March 2, 2006) was possible, and whether the town made Olds aware of potential threats from land owners.

Council members commented that the Town feels an obligation in this regard and is committed to trying to get water rights for the future. Anyone who needs a new water right presently can get it from the State, i.e., the 6.73 acre feet. The process for ending the open appropriations would take a year and include public hearings so the Town would know.

Dave commented that the 6.73 new option is a junior right and must therefore be considered inferior to the Town rights. He thought that Conservancy rights will have more seniority (than a 2006 right).

Bob expressed concern that the Town may be conceding too easily that the McCormick rights are invalid. He asserted that these rights are needed as a position of power in negotiations and pointed out that the state worked with John Groo for 18 years on the basis of the McCormick rights being valid.

Jim Tharp expressed concern that the Town pursuit of unused water rights was a pro-development policy. Discussion ensued about the nature of the Town's obligation to the lots that had not yet proven up water, the legal validity to public assertions, and how far to go in trying to secure rights for undeveloped lots.

Jerry commented on the Town's perceived obligation to secure water for individual owners, noting that if the rights could be held onto then there is liability if the Town allows them to be lost, but if they are not valid then there is nothing lost. [tape 1, start of side 2] The Town Water Agreement states the Town will use its best efforts to secure a water right. Discussion ensued about what "best effort" may imply. The Town is making efforts to leave no one without a water right option; nothing can be done about a lack of water. Future water rights may not be free, or have the same (seniority), but at least it may be available, e.g., someone may have to lease a right from the Conservancy or other entity. The most recent cost discussed was \$20 per year per acre foot.

Dave Erley claimed that everyone who bought land inside the River Ranchos bought with the understanding that water rights came with that land, and it affected the cost of the property, whereas the same obligation is not true for land outside the Ranchos. Arguments were made whether such a promise had ever been made and whether the value of a lot would be adversely affected by the difference in water right seniority.

The town has discussed making a defense of the McCormick rights, at a high financial cost, targeting the State water rights system. The Town's position has been to avoid taking this position or spending this type of money. (Since the 12/8/05 letter) there has been no indication that the State would treat the McCormick rights as valid and it has been thought unwise, including on the part of the Town's attorney, to push hard on this question.

Karen expressed concern about the length of time it takes to get answers from the Town attorney.

7. COMMENTS BY COUNCIL MEMBERS. None.

COMMITTEE REPORTS

8. Water Department Report

Scott Brackett reported on a meeting (April 12, 2006) with (Rick Wilde, Claude Manzanares, Marc Stilson, Teresa Wilhelmsen). Adjudicators will be starting to measure water in two weeks.

The Town Council letter went out and some 50 calls have come back. Lapsed water rights are able to be included in the proving up process. A new town water permit agreement would be filled out. Rick Wilde said to assign it to one of the Town's old water rights. There is no need to issue a new start card to drill a well.

Rules may change over time as to what is available. All properties are going to be reviewed that have not already been reviewed, i.e., any without a water user claim. Scott's goals include: get review information to the lot owner and finding out what is happening with people who are not listed.

The town rights will not be in the owner's name; if the owner has a town agreement, they are under the Town's right/name. If you want a right in your own name, the 6.73 is an option with a 2006 seniority. In the past, some people may have had a Town's right in their own name (after proving up), but that is now changed and a Town right would be under the Town's name. Both is not possible.

Discussion ensued about making specific appointments with the State. Some said that it would be good to have about one day's lead time between when the State calls and when they arrive. No formal process has been outlined. If the owner says "good" they will come, if not they will reschedule.

The Town would sign the election. The State will include it in the book whether the town signs or not.

9. Road Department Report

10. Landscaping Report

Damian reported that he interviewed all applicants and recommends hiring Greg (Robert) Halliday. They will work with the project plan and budget. **Damian will call him tomorrow.**

11. Building Department Report. None.

12. Planning & Zoning Commission Report.

Pam reported that the P&Z met on April (12, 2006). Two CUPs are recommended to the TC for approval. Item 25 (Planning Commission Enabling Legislation) is still under revision; David Church hasn't offered comment yet. The P&Z is presenting a revised draft of the proposed Ordinance re: complaint & ordinance enforcement processes under Item 16.

The P&Z requested that the TC review the drainage review process, especially the potential to incur liability by signing off on drainage. Pam suggested that the drainage (study) may need to be updated in view of road and culvert changes and development that has gone on. The original mylars are missing.

Damian said drainage reviews are to keep people from changing drainages, signing off that they are not, and for giving informal and formal drainage advice.[tape 1, side B, 2/3 through]

13. Fire Wise Report

14. POA Board Report

OLD BUSINESS

15. Discussion & possible action re: Employee Policy Manual (tabled). Item remained tabled.

16. Discussion & possible action re: Administrative Process for Complaint Resolution & Ordinance Enforcement. (tabled)

Bob moved to take this off the table. Jim seconded. Motion passed.

A revised draft was created at a P&Z workshop (4/18/06). A TC workshop was suggested before the next TC meeting, devoted to this topic and also to the draft employee manual. The terms "Complainant and Complainee" were discussed; **it was decided to change these terms or add definitions.**

Appreciation was voiced to the P&Z for getting this back so quickly.

Jim moved to retable this item. Ranna seconded. Motion passed unanimously.

17. Discussion & possible action re: Cemetery Maintenance Agreement (tabled).

Jim moved to take this item off the table. Jerry seconded. Motion passed unanimously.

Damian has spoken to Judy Carmichael (County) and Jim Salmon of the cemetery district. The Cemetery district has added an employee so they want to do the maintenance themselves. **They want a plan from Castle Valley. Michael Smith will be approached to draw up the plan.** Damian suggested using the weeds budget to cover creating the plan.

Jim moved, and Ranna seconded the motion, to table this item. Motion passed.

18. Discussion & possible action re: Clerk/Recorder Job Description.

Jim moved to take this item off of the table. Bob seconded. Motion passed.

Jim presented a tally of records being kept to track the Clerk's time. Long hours were kept so far this week due to numerous tightly-packed meetings. Over 15-16% of Clerk time is spent in the area of P&Z work. Possible solutions mentioned include that the P&Z could get their own clerk and/or that the Clerk position be turned into a full time job. There are many simultaneous, high-priority things vying for the Clerk's time. Statutory responsibilities and TC responsibilities are the primary responsibilities. The data indicates that dealing with the public is not a large time issue, although there was a spike during the run-up and aftermath of the Olds meeting. **The Town intends to continue to track Clerk time until next month.**

Ranna moved, and Jim seconded, to table this item. Motion passed unanimously.

19. Discussion & possible action re: Town Website.

Ranna moved, and Jim seconded the motion, to take this item off the table. Motion passed unanimously.

The Town website is not up and running. Vickie volunteered to update the website and to work on it on her laptop. Miso had some problems moving the program between the hosting site and the two computers; one system is PC and the other is Mac. Miso said he would get the website back up and running. A plan was discussed whereby it may cost around \$250 to reconstruct and around \$70/month to maintain the site. The updating should be able to happen from any computer. **It was decided to have Miso reconstruct the website in such a way that Vickie can update it.** This must not take longer than a week and should cost no more than \$250.

NEW BUSINESS

20. Discussion & possible action re: Conditional Use Permit, Horse Mountain Plaster & Stucco, Lot 77.

Jim moved, and Ranna seconded the motion to approve this CUP. Motion passed unanimously. (copy included)

21. Discussion & possible action re: Conditional Use Permit, Sweetwater Well Service, Lot 181.

Jim moved, and Ranna seconded the motion to approve this CUP. Motion passed unanimously. (copy included)

It was determined that pages 4 and 5 of the permit application were needed to show the "boilerplate" and reference to the Zoning Ordinance, which was the basis of the conditions on both permits. Frustrations were voiced about continued glitches in the CUP process and in getting necessary paperwork in the red books.

22. Discussion & possible action re: Request from Round Mountain Vineyards to Re-examine Conditional Use Advertising Regulations in Zoning Ordinance 85-3 (amended), 1.4.5, Par. 11.

Round Mountain Vineyards requested a review of Conditional Use #11 prohibiting advertising mentioning Castle Valley. Discussion ensued about the rights of towns to regulate businesses/conditional uses, and efforts to let people do things on their property without allowing the high impacts resulting from bringing a lot of people into the community. It is believed that because this is a conditional use, the town has the right to limit advertising. All conditional use owners agree to the conditions at the time the permit is granted. Advertising the physical address is not allowed. An ad may only print the mailing address or website address. Or it could say "call this number".

Lengthy discussion ensued, including comments by Karen Nelson, Ranna Bieschke, Steve Meleski, Jack Campbell, re: past problems, growing companies in the conditional use environment, and advertising that promotes visitation to the Valley beyond the business itself were discussed. Concerns were voiced about traffic volume past peoples' homes, difficulties regulating numbers, and meeting the conditions if people could "just show up" because they have the physical address. The current condition on Round Mountain Vineyards allows up to 10 vehicles, imposed to allow wine tasting activities.

Mark Webster asked for clarification on the difference between "public advertising and private advertising". The Council indicated that public advertising refers to paid space in the media (newspapers, radio, TV, billboards) and is distinct from brochures, websites, direct mail, etc.

No action taken to change the existing provision.

[Referring back to items 20 and 21]

Copies of pages 4-5 of the above Conditional Use Applications and the Zoning Ordinance were reviewed referring to the Zoning Ordinance. Discussion ensued about how conditions in the CUP process relate to Town Ordinances. Owners must follow the Conditional Use section of Zoning Ordinance 85-3. There are several other conditions, e.g., allowable numbers of vehicles, that are in other parts of Ordinance 85-3. Other conditions may be put on the permit/use to cover things not covered in the ordinance. Marie Hawkins commented that the law is changing so conditions can't be placed that (do not refer to an existing ordinance), **The P&Z will be streamlining the CUP process.**

It was decided to stand by the decisions to approve these CUPs. [tape 2, end of side A]

23. Discussion & possible action re: Re-Noticing Section 3 of Ordinance 85-3 (amended 3/17, '04).

Section III, dealing with enforcement, was not published or posted at the time amendments were made to the Zoning Ordinance, and (Section III) is not present in copies that are handed out currently. Everything points to this having been dropped by clerical error.

Jerry moved to photocopy and post the Ordinance in three places and publish section III. Jim seconded the motion. Motion passed.

Bob moved that there be a notice appended or prior to the posting or publication explaining that this is being posted due to a clerical error on the date of posting. Jerry seconded. Discussion ensued about how to fit the missing section back into the ordinance (physically). Motion passed unanimously.

Sydney Fonnesebeck has advised the Town to re-visit and re-adopt the Zoning Ordinance periodically. The General Plan is up for review this year. The Zoning Ordinance would follow.

24. Discussion & possible action re: Protocol for PLUC and Town Council Directives and Communications.

Discussion ensued about how to insure that information passes back and forth appropriately between the TC and the P&Z. Draft minutes are needed within 7 days after a meeting. At that point or before, (the head of the TC or P&Z) would write an email to (the other entity) and circulate it to everyone,

It was determined that the Town liaison with the P&Z would not take on that role, and that Bob does not want to continue to be the TC's P&Z liaison.

Damian will take on this role and pass something written on to the P&Z after each TC meeting.

25. Discussion & possible action re: Review of Planning Commission Enabling Legislation.

Jim moved to table this item. Ranna seconded. Motion passed with Jim, Damian, Ranna and Bob voting yes. Jerry Bidinger was out of room.

26. Discussion & possible action re: Town Water Permit Agreement Processing Fees.

The State (Division of Water Rights) asked the Town to review the fee required for a town water agreement since the State fee is \$75, the Town's fee is \$95. Discussion ensued about the Town's ongoing responsibility to water users who have a Town agreement. It was agreed that the \$95 fee is for someone getting their first town permit only, not for people who have already had one. No action taken.

27. Discussion & possible action re: An Ordinance Amending the Semi-Monthly Pay Provision of Ordinance 2006-1.

When (Ordinance 2006-1) was passed re: hourly rate and travel expenses, it included a bimonthly pay schedule, but new information has indicated that we do not have to do this.. An Ordinance was proposed to remove the clause and replace it by the clause allowing a once-a-month pay schedule. (Ordinance 2006-2 included.)

Jerry moved to adopt 2006-2. Jim seconded. Motion passed unanimously.

28. Discussion & possible action re: Dissolution of Water Committee.

Jerry pointed out that there was no action taken to enact the committee, so no action is needed to dissolve it. Bruce had simply asked (Jerry and Bob) to do something, and they agreed.

29. Discussion & possible action re: Setting a Date & Place for Clean-Up Day.

Clean Up Day will be held at Tom Henry's lot, and Tom is OK with using his homeowner's policy for liability. **Bob Hawkes of Bob's Sanitation will help set the date. Rebecca will post this. Damian will speak with Bob Hawkes.**

Ranna moved that Mayor assign clean-up day for the next Saturday available. Jim seconded. Motion passed unanimously.

30.COMMUNICATIONS AND PETITIONS.

Danny Kent's letter re: underground power was received. (letter included)

A letter was received re: a grant deadline for trail building. Danny expressed interest in continuing to look at the Castle Rock area, especially converting motorized to non-motorized trails.

[tape 2, side B, 4/5 through]

Pam Hackley read aloud **her resignation from the Planning Commission, effective June 15 or earlier if a replacement can be found**, citing leadership issues, intimidation and poor working relationships, and lack of support of ordinances, among other things. (letter included)

Damian thanked Pam for all of her work up to this point (on the P&Z).

Bob Lippman read aloud **his resignation from the Town Council, effective at the close of this meeting**, citing irrevocable breaches in working relationships, lack of welcoming of his contributions and abilities, a dysfunctional climate, concerns over Town liabilities, and deterioration of Town relations with other political entities, among other things. (letter included)

Damian thanked Bob for his work. (on the Town Council).

Jerry also **tendered his resignation, effective immediately**, citing an un-peaceful four months, a personal choice to no longer participate in the current environment, and a need to put his energies in another direction. (letter included)

Jim commented that he feels badly about all three of these resignations, that these are all fine individuals and that he feels sorry people didn't feel that existing tensions could be worked out as he thinks they could have been.

Ranna thanked all three for all they have done to make this a better place to live, and commented that as a Council member she appreciated their work.

1. EXECUTIVE SESSION. (if needed) None held.

ADJOURNMENT.

Jim moved to adjourn. Ranna seconded. Motion passed unanimously. Meeting adjourned around 9:45 PM.

Attest:

Clerk/Recorder

Date