

**REGULAR MEETING MINUTES
TOWN COUNCIL, TOWN OF CASTLE VALLEY
WEDNESDAY, JULY 19, 2006, COMMUNITY CENTER**

Call to Order: Meeting adjourned at 6:32 PM.

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

Others Present: Mark Webster, Darr Hatch, Vickie Kress, Ron Drake, Marie Hawkins, Jim Tharp, Michael Peck, Dave Erley.

Town Clerk: Rebecca Martin

1. Open Public Comment Period.

Mark Webster explained the Vineyard intends to donate funds for the CV scholarship again this year from their volunteer harvest day. Harvests will be over by September meeting, and the Vineyard does intend to have this year's donations go to this year's recipients.

2. Planning Commission Report

Valli reported that the P&Z recommended that the TC pass the IBC code, discussed the Clerk's position and decided to try to keep Rebecca on as Clerk to help with continuity, set a public hearing date for 85-3 for August 2nd, tabled the fencing Ordinance and Fuel Storage Ordinance work, and removed the Enabling Ordinance from the P&Z agenda. (memo included)

New Business

3. Discussion & possible action re: Appointment to the P&Z.

Damian noted that the only applicant is away from the Valley a lot. **Rebecca will re-post the public notice for 3 weeks.**

4. Discussion & possible action re: General Plan and Overall Ordinances Review.

The General Plan is up for review; it should be reviewed every 5 years. **A TC special meeting and joint workshop with the P&Z was set up for Tuesday, August 1st, at 7:00 PM, to work on the General Plan.** The meeting will be a general discussion and brainstorming session. **Rebecca will email the TC and P&Z and post it.**

The Town will find someone to take minutes for this meeting and for the regular P&Z meeting occurring during (the Clerk training in SLC), and Rebecca will help them learn what is required.

5. Discussion & possible action re: Resolution re: Voting Methods for Town Elections.

Damian reported re: various concerns expressed by the public about electronic voting machines that have led to a need to draft a Resolution. Alice proposed that the resolution state that Castle Valley will use paper ballots for all Town elections.

Discussion ensued about how resolutions are typically drafted. Different people have written these in the past. Rebecca has examples and instructions in the office. **Damian will write this Resolution.**

Dave Erley suggested researching what the costs would be with either voting method. Darr, Valli, Damian and Jim commented on the potential confusion if a duel system is used, and whether printing logistics could become difficult if the rest of the state uses electronic/optical scan systems.

Marie commented on documented problems with Diebold machines counting different votes than the ones people actually cast, and expressed a need for anyone who can fight this to do so.

Rebecca will ask the County whether CV would have to buy the machines.

6. Discussion & possible action re: Knapweed funding.

Damian proposed that \$2,000 of the \$3,500 set aside for weed control be spent this fall in the Upper Valley for a biological agent that attacks knapweed. Tim Higgs is interested in eradicating diffuse knapweed in Upper CV because it is the only place in the county where it exists. Dave, Damian and Rebecca commented that knapweed may be present in other areas of the Valley, e.g., Jeff Foote's, the Seventh Day's pipeline, Brooke Williams', and Buchanan Lane. Discussion ensued about current related firebreak issues, UOL concern about

“weed highways”, and the need to keep funding for knapweed eradication in the coming few years. The POA had agreed to fund a display at the mailboxes to help people identify diffuse knapweed.

Discussion ensued about differing ways to deal with this biennial plant at various stages; knapweed grows in a rosette in the first year, produces seed stalk in the second, and then is replaced by others.

Valli moved to put the entire \$3,500 in the weed budget towards eradicating knapweed and for public weed education. Jim seconded. Motion passed unanimously. Damian told Darr that \$500 for goathead control can be made available from the regular budget.

7. Discussion & possible action re: Proposed Process for Appraising Property Owners of Water Rights Data

Scott drafted a letter to property owners to be mailed out with the State’s map of water use for their lot. Owners will sign off on the map and send a copy back. The Town can vote to amend the whole group at once.

Discussion ensued, with comment by Vickie Kress and Jim Tharp about the timing of field reviews and of hearing back about results afterwards. Fifty lots have been proved up, and the town has 11 maps so far. Kinghorn looked at this letter, agreed with tone and said there are not serious legal implications with this one. Kinghorn is also reviewing another letter about modifying the water permit agreements, which does have legal implications. Eleven (lot maps) are ready to go out when this letter is ready.

Changes were suggested to make the letter read more easily, i.e., swapping the second and third paragraphs, breaking the last sentence into two sentences, and correcting a typo in the first sentence. **Damian and Scott and Jim will polish off the letter. Scott will do the mailing and provide copies for the record.**

8. Discussion & possible action re: Setting Public Hearing Date for Re-Adoption of Ordinance 85-3.

The Planning Commission has set a Public Hearing for the re-adoption of Zoning Ordinance 85-3 for August 2, at 7:00PM. Marie Hawkins commented that according to the State, the penalty section must say “and/or” rather than to impose both a fine and jail sentence. Discussion ensued with comments by Marie, Jim, Damian, Darr, Valli and Michael about the appropriateness of applying this to minor offenses as opposed to serious offenses, whether a clause should be added to make the penalty proportionate with the offense, what effect setting the maximum penalty would have given that a judge imposes the fine, the importance of having the ordinance worded correctly, the appropriateness of fine amount, and that it is important to have the fine listed as part of the ordinance.

The Council set the Town Council Public Hearing on the re-adoption of Zoning Ordinance 85-3 for August 16, at 6:30 PM, at the beginning of the regular TC meeting. Rebecca will publish this hearing.

9. Discussion & possible action re: Adoption of Resolution Enabling Land Use Authority and Appeals Authority.

This draft ordinance has been worked on by the P&Z, Pam Hackley, David Church, and Valli Smouse.

Section 3, (Commission Member Eligibility and Selection Process): Ranna commented the phrase “the Mayor and one TC member shall interview each candidate” represents a change from the current practices. The following phrase “The Mayor shall then appoint an eligible candidate with the advice and consent of the Town Council”, is the current practice.

Section 12, Minutes and Records: Ranna suggested that time limits replace the phrases “in a timely manner” and “within a reasonable time after the meeting”. Discussion ensued with comments by Ranna, Rebecca, Damian, Alice, Marie, Michael and Jim, about the State’s ten-day time limit to produce a public record up on request, the status of draft minutes, the question of setting an artificial deadline for sending out draft minutes, the uses of draft minutes, and who is responsible for doing the filing.

Section 14: Rules of Order: The lawyer suggested putting Robert’s Rules back in, because Robert’s Rules.

Section 18, Appeal Authority: the phrase “of the record” vs. “to the record” was discussed. Jim noted that what would be judged would be whether the Appeals Authority followed correct protocol in their proceedings, not whether they made the right choice.

The Council decided to make the following changes:

- **Section 3: to remove “and one Town Council Member” from the interview process.**
- **Section 12: the first sentence of the third paragraph will remain as is.**

- **Section 12: the final sentence will read “The approved minutes are public record and shall be available within ten days after approval”.**
- **Section 12: the phrase “the Chairperson shall file a hard copy” will be replaced by “the Town Clerk shall file a hard copy”**
- **Section 14: replace “Roberta’s rule of Order” with “Robert’s Rules of Order”.**

Jim moved to adopt this Ordinance/Resolution establishing the Planning and Land Use Commission and designating Land use and appeal authorities with the changes just specified. Ranna seconded. Motion passed unanimously. Valli will help Rebecca to be sure all changes were made correctly.

10. Discussion & possible action re: Adoption of Ordinance re: Utah Local Government’s Trust.

This is a Resolution clarifying the Town’s relationship with the Utah Local Governments Trust, our insurance handler. **The document title will be changed to “Resolution”.**

Ranna moved to adopt the interlocal agreement with ULGT as reviewed by Kinghorn. Jim seconded. Motion passed unanimously.

11. Discussion & possible action re: Adoption of Ordinance re: International Building Code.

On Jeff Whitney’s suggestion, and in accordance with State regulations, the Town will adopt the International Building code (as opposed to the Universal Building code adopted in 85-1) Jeff provided a copy of the Ordinance the county used to change the county from UBC to IBC. Rebecca re-worked it to match Castle Valley specifics. **Damian will run this ordinance past Kinghorn for comments and approval.**

OLD BUSINESS

12. Discussion & possible action re: Proposed Nuisance Ordinance.

Gerry Kinghorn’s associate, John Brems, drafted a Nuisance Ordinance and an enforcement process for the Town. (copies included with these minutes) Jim and Ranna have been working with them on this, subtracting things that do not pertain to CV and adding barking dogs (Ordinance 98-2), lighting (Ordinance 91-1), and language from a county noise ordinance. Jim noted that a nuisance ordinance is a good tool to deal with a junkyard problem and for other problems. The Ordinance defines nuisances both generally and specifically. The criminal definition is a category of misdemeanor. The remedies match codes 10-11-1 through 4. (copies included with these minutes) If there is an infraction, they receive formal notice and have a specified period of time to solve the problem. If the problem is unsolved after 30 days, the Town may solve the problem, keep track of costs, and bill the owner. If they refuse to pay the bill within 30 days (of the mailing of the bill), a lien may be placed on their tax bill. Or the Town may sue and levy a fine. **Jim will re-include the option to go to court and have a fine levied.** Michael noted that Sydney Fonnesebeck had stressed that a fine is a necessary remedy to include.

Jim reported that Brems recommended the Town have an enforcement officer to serve papers, inspect property, have the situation cleaned up (gun needed). This officer should be trained as a policeperson is trained; Towns may hire off-duty cops. The Town would hire a private prosecutor and have an agreement with county court to do this, perhaps splitting the funds. Happy Morgan has such an agreement with Moab, and could do the same for CV.

Jim proposed re-opening the process to put in place an intermediary process, as proposed by Bob Lippman and Pam Hackley.

Discussion ensued about the psychology of going onto properties and enforcing, the need for (Ordinances) to “have teeth”, and exhausting all other options first.

Vickie asked about the current status of enforcement in the Lot 100 situation with a long-standing problem, multiple neighbors complaining and 1.5 years of demonstrated non-cooperation. Damian commented that the nuisance ordinance would give the Town a way to deal with (Lot 100), we presently have no enforcement officer, and car crushing is becoming an option through David Hawks and (Day Star Academy), i.e., the last thing we haven’t tried is a town-wide clean-up. Jim asserted that the Town must proceed with (the nuisance ordinance) and that Lot 100 needs to know that “a door is opening” and at the same time “a big stick is in place” that the Town absolutely intends to use.

The following clarifications were asserted: both the owner and the resident would be served notice; Lot 100 would have a certain number of days to comply; if they do not, a clean-up can begin, financed by the Town; a

court order is actually not needed; the owner is sent a bill; if the bill is not paid, a lien against the property appears on the owner's tax bill; the question of selective enforcement is actually not an issue.

Valli proposed that the memo (from Brems) and the right copy of the ordinance should be sent to the P&Z. Jim proposed that TC explore the logistics, i.e., hiring an enforcement officer and private prosecutor, and then hold a joint TC and PLUC meeting to discuss this further. A public hearing will have to be set. Concerns voiced were about the typo "refuge" vs. "refuse", and "weeds in excess of 6 inches" being an enforcement and fairness problem.

David Erley commented that the Town should take the initiative in cases of potential watershed contamination instead of this being on a complaint basis. He argued it is an important function of the Town to protect the watershed, studies have identified junkyards as a risk to our watershed, proactive action is required, and watershed contamination is almost certainly permanent, i.e., once there is a problem it is prohibitive to clean it up. Discussion ensued about whether individuals should be the "bad guy" or whether the Town should take the steps to protect the shared resource.

Lengthy discussion ensued about complaint-based enforcement vs. proactive enforcement, whether water risks have been properly identified, whether threats to our water are of "equal weight", and when the Town should step in. Comments were made by Darr, Marie, Dave, Damian, Jim, Michael, Alice. It was generally agreed that water is a primary and shared resource.

Michael commented that the "cleaning up consciousness" will spread if we get started.

13. Discussion & possible action re: Employee Policy Manual (tabled).

Damian reported that a special meeting was held (4PM, 7/19/06). No further action taken.

14. Discussion & possible action re: Clerk Job Description (tabled). Item remained tabled.

15. Discussion & possible action re: Proposed Ordinance re: Complaint Resolution & Ordinance Enforcement. (tabled)

Ranna moved to take this item off of the table. Jim seconded. Motion passed with Valli, Jim, Ranna and Alice voting aye. Damian opposed.

A TC Special Meeting and joint TC/PLUC workshop was set for 4:00 PM, Tuesday, August 1, in the Conference Room at the Community Center.

Ranna motioned to re-table. Jim seconded. Motion passed unanimously.

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

Item remained tabled.

17. Discussion & possible action re: Bid Process for Basketball Court.

Ranna reported the Town applied for a Grand County Special Recreation District grant in the amount of \$20,000, with the Town contributing \$10,000 to construct a full basketball court. The Recreation District meeting conflicts with the August 16 TC meeting. Jim Salmon will tell Ranna if he thinks someone should show up to "sell" the proposal. Trish Hawkins went to a meeting four years ago and would be willing to go again.

The invitation to bid was published and posted.

18. Communications, Petitions and Committee Reports (reports on Water, Roads, Building, Landscaping).

Damian reported on the Water Adjudication Department as follows: Theresa Wilhelmsen said the State team would come down the first and third weeks of August to finish field reviews and meet with Scott.

Vickie asked what would happen with water rights that are in the Town's name, but are supposed to run with the land, if the town dissolved. Discussion ensued with comments by Darr, Damian, Vickie, and Michael.

Damian will ask Jerry Kinghorn. Michael said a paragraph should be in an agreement saying that the water must revert to the property owners (in the event of the Town being dissolved).

Jim Tharp commented on the difficulty for property owners to know when/how to meet the field review people. Damian agreed to tell the State that (their lot) will need a timely call to arrange the field review, and commented that the State has been very accommodating generally.

Darr reported on the Roads Department as follows: the road crew took advantage of the last storm (moisture helps road work), Taylor and Buchanan have some flooding, Lazarus Lane has a 2-3 foot washout on the South side.

The Building department gave out three permits in the last month: a septic permit for Lot 88, a building permit for 283, and a building and a septic permit lot 9.

Damian reported on the Landscaping Department as follows: Greg Halliday has been doing a nice job, his wife Susan has been volunteering quite a bit, most plants are now in. Greg is considering going with sprinklers instead of drippers. It is a goal to get the lawn in before the field review. Alice noted there is a Community Lot goathead problem.

Jim inquired how the project would come in according to plans. Damian noted the project is approximately three quarters of the way done, both in timing and budget, and expected to come in close to the estimate. Labor costs may come in 30 hours higher than planned. **Damian will discuss this with Greg.**

APPROVAL OF MINUTES

19. Approval of Minutes: TC Regular Meeting, June 21, 2006.

Ranna suggested the following changes:

- Item 8: sentence will read: "Bob's Sanitation is to be paid the dumpster fee for one dumpster..."
- Last sentence of Landscaping Report: sentence will read: "...Lot 2 will be proved up soon."
- Item 20: Remove "(E J Heineman)".
- Item 26, second paragraph: sentence will read "A temporary tax license is needed".
- Item 27: "Grand County" will be replaced by "Grand County Recreation Special Service District".
- Item 27: omit "including fencing".

Jim moved to adopt the June 21 minutes as amended. Valli seconded. Motion passed unanimously.

20. Treasurer's Report.

Jim reported on the budget as follows: Barbara Hicks did the end of year numbers and provided a new report, and time was spent time cleaning up the budget in the process. There are still a few things to clean up. The outline of how reports will look is now complete and should be easier to follow.

21. Payment of Bills.

Check number 5259, to Office Equipment, is to be withheld, as it was a mistake on the part of Office Equipment, and is not a Town expense.

Jim moved, and Ranna seconded, to pay the bills with the omission of check # 5259. Motion passed unanimously.

Jim commented that the views of the Council Members sometimes seem to get preempted, and the discussion sometimes changes, due to the format of allowing open input from the public. He suggested trying to have the Council be recognized first and to move on to the next item of business when necessary.

22. Executive Session. (if needed) None.

Adjournment. Alice moved, and everyone seconded, to close the meeting. Meeting adjourned at 9:05 PM.

ATTEST:

**Rebecca Martin, Town Clerk
with Clerk objections to changes vetoed by Council.**