

**REGULAR MEETING MINUTES
TOWN COUNCIL, TOWN OF CASTLE VALLEY
WEDNESDAY, AUGUST 16, 2006, 6:30 PM, COMMUNITY CENTER**

Call to Order: Damian called the meeting to order at 6:35 PM.

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

Others Present: Dave Erley, Leta Vaughn, Mary Beth Fitzberg, Marie Hawkins, Scott Brackett, Jeff Johnston, Gil Gonzales, Mark Webster, Joe Kingsley, Emily Svendsen, Dave Hawks.

Town Clerk: Rebecca Martin

1. Planning Commission Report

Report from the August 2, 2006 PLUC meeting read by Gil Gonzales. (report and 8/2/06 PLUC minutes included)

PUBLIC HEARING

Hearing called to order at 6:42 PM.

Damian explained that the intention of re-adopting the ordinance was to put back in the section that was left out, or to address typos, rather than to make major changes at this time.

No public comment.

Valli noted that the PLUC had suggested in the Punishment & Fines section, inserting "and/or".

Marie spoke in favor of changing the fine and jail sentence clause saying she thought the punishment would be unenforceable because it is unreasonable. Discussion ensued about the appropriateness of the punishment.

Valli pointed out that further work on 85-3 is pending after the General Plan is re-visited.

Public Hearing adjourned at 6:45PM.

2. Discussion & possible action re: Re-Adoption of Zoning Ordinance 85-3.

Jim moved to adopt Zoning Ordinance 85-3 with the amendments of the typos provided by Gil. Alice seconded. Ranna commented that she didn't feel right about voting on (re-adoption of) this ordinance because the means for enforcement was not in place. **Motion passed with Jim, Damian, Valli, and Alice voting for. Ranna voted against.**

NEW BUSINESS

3. Discussion & possible action re: Awarding Castle Valley Scholarship.

Nelly Drogin, attending University of Utah, and Emily Stock, attending University of Montana, have both applied for this year's scholarship.

Mark Webster read aloud a list of those who contributed 103 hours labor in the grape picking this year which generated an \$826 donation from the vineyard to the scholarship fund.

Alice Drogin recused herself from the discussion and decision.

Jim moved to split the total scholarship amount between the applicants. Ranna seconded. Motion passed with Damian, Ranna, Jim and Valli voting for. None against. Alice abstained.

Discussion ensued about where to fit public comment within the agenda for this meeting.

Jim moved, and Valli seconded, to handle item 15 at this time. Motion passed unanimously.

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

Jim introduced two paths of possible enforcement (outlined in this ordinance):

- Section 1.1 outlines Class B misdemeanor penalties, or
- Section 2.1 (based on Code 10-11-1) outlines a process (outlined in the next paragraph).

The second option is a process whereby the Town goes in and does a clean-up after a 30 day warning, bills the person, and the amount goes on the tax bill. The Town would not have to go to court in order to go in. Damian clarified that if this is not paid, it is a lien against the property; it does not mean a foreclosure. The money must be in the budget because it could take years to recoup the expenses.

Items 37, 38, defines it as a nuisance to violate our ordinances on dogs or on lighting, and item 39 includes new wording defining noise as a nuisance. Three things must be in place for this to work: a code enforcement officer, a private prosecutor, and a signed agreement with the County Court that they would handle these cases. A job description for a code enforcement officer is under consideration which calls for someone with cooperative problem solving skills, but who has peace officer training. This code enforcement officer would be asked to investigate alleged violations and would also be asked to testify in court.

Upcoming tasks were outlined as follows: Everyone will give their comments on the draft job description to Ranna by August 31st, everyone will give their comments on the draft ordinance to Jim, Ranna will take the revised job description to Jim Nyland, Jim will take the existing draft of the ordinance to Happy Morgan. Damian suggested putting together a hiring committee.

Damian commented that the definitions should be made specific to the real problems we are having rather than to place unnecessary details on the books, e.g., the allowable level of (junk) cars could be set at 1 or 2. Valli noted that this is written under the assumption that we are working on a complaint basis. Discussion ensued about the reconciliation process being a first resort, and this being the last resort. Jeff Johnston commented there should be a clause to address the issue that certain permitted uses, such as construction, cause noise. Discussion ensued about complaints, negotiations, costs to the builder, challenges in defining some things, and how to decide what is an unreasonable amount of noise, i.e., a violation. Jim commented that an ordinance is put it in place and then the Town has to be reasonable with enforcement. Dave commented that you have to measure base lines of noise in order to be able to enforce.

Discussion ensued about the absence of the accustomed public comment period from the agenda. It was explained that State Law now required all agenda items to be specific and that “public comment”, when not listed under an agenda item, is not supposed to be on a meeting agenda.

Dave Erley presented the map of existing potential Castle Valley water contaminant sources (attached: Special Study 113, Utah Geological Survey, Plate 7) asserting that the study is a valid expert study. He expressed opinions about the potential effect on the demographics of the Valley that would be caused by watershed contamination, disparity between the 1 dwelling unit per 15 acre septic density suggested by the study and our current 1septic/5acre septic density, being clear on differences between aesthetic problems vs. pollution problems, and the need to enforce to prevent contamination. Dave handed out a document (document attached).

Dave supports the current efforts of the Town and urged a more proactive approach on watershed protection. He suggested a referendum to get a clear mandate from this community to protect its watershed, to give support to the Town Council in pursuing water protection goals, and to address the issue over six months.

Valli invited Dave to put the item on the TC agenda. Marie suggested a special meeting to deal with this item.

Joe Kingsley asserted that inoperative vehicles are a health and safety issue, related to rodent infestation of junk cars and the associated diseases of hanta virus and bubonic plague. He detailed a 1998 Grand County plague outbreak and described the current problem as a “powder keg”. He noted strict County enforcement of setback and building laws, but lack of enforcement for health/safety issues. Joe supports the current efforts of the Town.

4. Presentation by David Hawks re: Junk Car Removal.

David Hawks presented his opening of an auto recycling facility in San Juan County. He plans to arrange an annual, free, car crushing event in Castle Valley on land provided by the Day Star Academy. He will provide free hauling and disposal of up to 15-20 junk vehicles per day, for roughly 10 days, earning money from the sale of the metal. He plans to do this mid- to late-October this year. People applauded. Jeff Johnston asked about fluid contaminants. David will drain fuels.

People should call David Hawks (260-8506) to ask questions and to arrange for hauling ahead of time. He prefers to have the vehicle title. He would like to have a sheriff’s deputy present to deal with VIN numbers for cases without a title. There is an ownership statement to say a vehicle was removed from a property at the property owners’ request if people do not own the junk vehicle.

Public notice will be published in the paper and posted on the bulletin boards (and website). A large poster will be posted at the front gate. Alice will talk to Ron Drake to get something in the CV Comments. Everyone was encouraged to contact people who have junk cars in person. Valli will call Jack to have something included in the POA newsletter. Damian will work on a temporary opening of Shafer Lane to allow David Hawks to haul vehicles through for this event. Ranna will check with Jim Nyland to get an off-duty police officer, perhaps Ducky Drake, out here to help with VIN numbers. (second round of applause)

5. Discussion & possible action re: Junk Car Removal. Handled under Item 4.

6. Discussion & possible action re: Basketball Court Bid Process.

Ranna presented the one bid received from Ehlers Construction to construct a basketball court for \$25,200. Ranna said this was high and suggested re-opening the bid process. The total expected amount of money allotted for the project was \$30,000, i.e., \$10,000 from the (Town Capital Projects Fund) and \$20,000 from the Grand County Special Recreation District (grant). Discussion ensued about what is allowed in terms of soliciting bids after the first round of the closed bid process is complete. Rebecca called attention to the Town's purchasing policy which speaks to those options.

Jim moved to seek further bids either through an open bidding process or another bidding process depending on what the rules are. Ranna seconded. Motion passed unanimously.

7. Report by Rebecca on Clerk Institute (Week-Long Training).

Rebecca gave a report on the Clerk Institute training in Salt Lake City which she found very worthwhile. She presented a synopsis of notes, including some points of law that pertain to changes Castle Valley must make, and also copies of some of the training materials that may be useful to the Council. She gave brief examples of practical, methodical and attitude issues that were discussed at the training. Further work includes bringing the Town into line in areas where we are not yet 100%.

Jim pointed out that the notes said that Town officials needed to be sworn in again by a notary but that David Church confirmed this was not so. However, the Town Clerk needs to be sworn in by a notary.

Jim also noted that the notes make clear that the Town needs to have a Records Policy Resolution, an Electronic Meetings Resolution, and a Constitutional Takings Ordinance.

8. Discussion and possible action re: Compensation for the Castle Valley Town Mayor.

Jim introduced this issue, speaking in favor of paying the Mayor a stipend. The Mayor is called upon to do a lot of work. The position is difficult and time consuming. The Mayor of Moab gets \$1,000/month, and Council members get \$500/month.

Alice asked about long-term funding for this position; it would have to be put into the budget. **Jim will look at the budget to determine how this could be done.** Discussion ensued about the amount of money that would be appropriate.

Valli agreed that Damian spends a whole lot of time and suggested that Damian keep track of the hours he spends to give the Council a scope on it. Discussion ensued about the number of hours the job requires and the current multiplicity of Town efforts. Damian believes he currently spends around 20 hours per week, which varies on different days. Bruce had commented he spent around 20 hours per week. Valli noted that when she was Mayor, she spent around 20 -30 hours per week, with different stresses.

Ranna spoke in favor of paying the Mayor saying that, for a working person, the significant time needed for public service represents a financial sacrifice.

Damian commented that he will do the best job regardless, and that some compensation would represent a lot in terms of appreciation and thanks. He noted that (the Mayor's position) could be a full time job if you ran down everything that comes up.

Jim moved to table this item; Damian will keep track of hours; a public hearing will be necessary eventually; everyone will give the idea further thought; Jim will look into the budgetary questions. Valli seconded. Motion passed unanimously.

9. Discussion & possible action re: Mail-In Option for Non-Municipal Elections.

The County has asked for feedback on the possibility of doing mail-in only balloting for Castle Valley and not having this be a polling place. The County must have a polling place if you are larger than 500 voters; Castle Valley has fewer than that on the County voter roll. They are concerned that they will come out and set up the machines and people will demand paper ballots anyway which could be expensive and logistically difficult. Discussion ensued about trusting/not trusting the Diebold machines, the valued tradition/ritual of going to the polls, exit polling, encouragement from the public to make a statement (to the Attorney General) about objections to the machines, and rapport-building with the County. Comments were made by Jim, Alice, Marie, Cris Coffey, Jeff Johnston and

Damian. Damian polled the room and everyone was more comfortable with keeping a polling place in Castle Valley. **Rebecca will let Fran know it was a consensus.**

OLD BUSINESS

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

Jim Martin's name is the only name in at the moment. **Damian will check to see if he is still interested. Rebecca will post notice and check to see if ads have to be in the paper continuously.**

11. Discussion & possible action re: Review of Letter to Property Owners about Water Use Maps.

Theresa Wilhelmsen said the State thinks they have 12 more lots to do field reviews on and will be done by the last week of August. They map irrigation, then they map domestic, then they map livestock. The Town intends to send a letter out with all of the information once it is compiled.

Discussion ensued about how best to help lot owners understand the total amount of water indicated on the map. **Scott will re-write the letter, add a deadline and wording to indicate that if we haven't received it back, we will assume the amount is correct. This will be sent mid-September with one color and one black & white map to the owners. Owners will sign and send back the black & white copy.**

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

Damian introduced this proposed Resolution which has been reviewed by Town Attorney, Gerry Kinghorn.

"For Municipal Elections" was added after "Ballot Form of Choice" in the title. "The type of voting methods they will use" was changed to "the type of voting methods the Town will use". Two typos were corrected: "input" was replaced by "input", and in item 2, "affect" was replaced by "effect". The wording of the second "Whereas" was changed to, "Input from numerous citizens stating that they do not trust electronic voting."

Alice moved to adopt this Resolution to stay with paper ballots for municipal elections as amended. Ranna seconded. Motion passed with Ranna, Alice, and Damian voting for. Valli against. Jim abstained.

13. Discussion & possible action re: Adoption of Resolution re: International Building Codes.

Jim moved to adopt the ordinance as written. Valli seconded. Motion passed unanimously.

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

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

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

Jim moved to take this item off the table. Valli seconded. Motion passed with Valli, Jim and Ranna voting for.

Jim went over further changes that were to be integrated according to the last meeting. These were:

- **Top of second page: in the sentence ending "...without fear of retaliation", add "or intimidation"**
- **#3: the title of this section will be changed to "non-hostile work environment."**
- **Next page: typo - replace "house" with "hours"**
- **page 6, #14, second sentence: sentence to read "in case of emergency or if the employee will be two hours late."**

Damian spoke to (a lawyer from ULCT) who said the Town should state that the "employment is non-contractual." Jim suggested saying "employment is based on mutual consent and is non-contractual."

Jeff Johnston asked whether working hours are defined. Job descriptions will have to be written to include defined working hours.

Discussion ensued about the correct way to phrase the definition of "full time". **It was decided to use "35 or more hours"**. Discussion ensued to the effect that the Town must treat someone who regularly works the defined number of hours as full time.

Valli suggested that anything "below a 3" on the employee evaluation report must be listed with further explanation detailing why the rating was low because this will go on file. **Jim will add "scores below 3 should include a specific comment/should be explained on an attached sheet."**

Alice asked about the process if the employee disagrees with the evaluation. Jim read aloud from page 5, #9. Jeff suggested that if a negative came in from one Council person, perhaps it could be approved by the whole Council. The

Council serves as a final appeal board. Jim commented, in our form of government, the Mayor is the personnel administrator for everybody except the Town Clerk. In the case of the Clerk, according to this policy, the Council has advice and consent power. Jim cited Utah code 10-3-916. The Council establishes policies, enters into contracts and agreements, and would approve raises. The advice and consent clause does mean a vote. The Mayor could fire a non-statutory employee without Council approval.

Jim will make these changes. Damian will get legal advice from ULGT/David Church and run it by Kinghorn. This policy will be a resolution.

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

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

18. Discussion & possible action re: Proposed Ordinance re: Complaint Resolution & Ordinance Enforcement. (tabled) Item remained tabled.

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

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

Damian spoke on the need to complete a cemetery maintenance plan for the County, and advocated scaling back the installation amount to \$1,500, and lowering the annual amount we are asking the County to pay for the CV to water and mow the cemetery lot to \$500. Discussion ensued about the \$7,000 per year the Town pays into the cemetery district and other County fee and rapport questions. Michael Smith is working up a cemetery maintenance plan. Ranna suggested that **we need to get the plan from him by the next Town Council meeting.**

Jim moved for Damian to change the offer to \$500 and (for the Town) to pay up to \$100 for immediate mowing. Valli seconded. Motion passed unanimously. This item will be removed from the agenda.

[Clerk note: audio recording changes from digital to audio cassette due to recorder malfunction.]

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

Jeff Johnston presented a request for the town to buy a good ping pong table and paddles, at a total cost of \$500, to allow ping pong evenings at the community building. He explained that a lot of people are interested in playing. Damian says the POA should buy the table. Jim suggested that having a club or process to let people in and to clean up would be good. **This will be put on the agenda for a decision at the next TC meeting. Jeff will approach the POA and expressed willingness to form a ping pong committee.**

Rebecca will connect with the auditor to see what the audit timeframe is.

Re : Building: The monthly Building Department report from Leta Vaughn was received.

Damian presented a Memorandum of Understanding from Eleanor Bliss and the Regional Tamarisk Coalition. Discussion ensued about tamarisk removal methods, obligations the Town may/may not incur if we sign the MOU, whether signing on may give the Town a voice in the tamarisk removal process and/or leverage in garnering funding for tamarisk removal, pesticides in the watershed, the use of tamarisk beetles, rapport within Grand County, whether CV should make a statement that we will not allow pesticide use, and the responsibility of the Town with a greenbelt full of tamarisk to manage it and not allow it to spread. Ranna stressed the need to determine how many of the listed signatories are actually signed on, especially the Towns and Federal agencies. **Damian will tell Eleanor that CV is interested but not committing yet.**

Dave Vaughn called Damian asking to open Shafer Lane for a resurfacing project on CV Drive. Gravel could be stored at fire house #1. Damian explained that gravel can be stored on Lot 2.

Two training opportunities were received: a UT State Tax Commission training, to be held in Moab, on August 30-31st on how property taxes work in Utah, and the ULCT Annual Convention, to be held in SLC, on September 12-15. The Council decided not to attend either training.

The annual report was received from the Office of the State Auditor stating that the Town is in substantial compliance with the Uniform Fiscal Procedures Act.

Re: Roads: Ongoing roads issues were discussed.

Re: Landscaping: Greg has the sprinkling system set up for lawn, and will be seeding the lawn soon.

Damian noted that Karen Nelson has voiced concerns about landscaping. Jim presented a budget overview of the landscaping project that showed the planned expenditure limit has been reached. Jim noted that when Greg was hired, the plan was for him to be managing the project, not doing the on the ground work.

Discussion ensued about the level of confusion in communications, and money saved by comparison with high estimates from professional landscapers, and the meticulous work Greg has put in. Damian suggested that another \$2,000 would probably complete the project.

It was decided that Damian and Alice would meet with Greg re: the budget being used up, what must be finished, the time needed, and the amount of money needed, to bring completion to the installation phase of the landscaping project. Greg will be directed to come up with a finishing budget and to stay within that budget.

Approval of Minutes

21. Approval of Minutes: TC Special Meeting, July 19, 2006, Personnel Policy Manual Workshop.

Jim moved not to approve this set of minutes. He will give Rebecca suggested changes. Ranna seconded. Motion passed unanimously.

22. Approval of Minutes: TC Regular Meeting, July 19, 2006.

Ranna suggested the following changes:

Page 3, item 12, par.3: correct spelling "Brems"

Page 4, par.3: correct spelling "Brems"

Page 5, item 19: request to remove the lot 100 allegation on a second dwelling and the farmers' market piece.

Jim suggested the following change:

Page 4, par.2: Replace the existing paragraph "The following clarifications were asserted: both the owner and the resident would be served notice; the sanction goes on the owner's tax bill; Lot 100 will have 10 days to comply and 30 days to pay, and then the clean up can begin based solely on the ordinance; a court order is actually not needed; the question of selective enforcement is actually not an issue; the standard for legitimacy of a complaint is that three properties must srite complaints." with: "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; then 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."

It was determined that the final minutes can be found on the Town website.

Jim moved to approve these minutes as amended Ranna seconded. Motion passed unanimously.

23. Approval of Minutes: TC Special Meeting, August 1, 2006, Complaint Resolution & Ordinance Enforcement Workshop.

Valli moved to table these minutes. Jim seconded. Motion passed unanimously.

24. Treasurer's Report.

Jim pointed out that the accountant has presented the budget divided by 12 (budget vs. actual reports, Year to Date column) He suggested leaving it this way for a couple of months to see if people like it, then going back if not.

25. Payment of Bills.

The relatively large legal bill for work on the nuisance ordinance was discussed. The \$690 bill to Wells Fargo was employment taxes.

Jim moved, and Ranna seconded, to pay the bills as presented. Motion passed unanimously.

26. Executive Session. (if needed) None.

Adjournment.

Ranna moved, and Valli seconded, to adjourn. Motion passed unanimously. Meeting closed at 10:40 PM.