

**Minutes**  
**Regular Meeting, Town Council, Town of Castle Valley**  
**Wednesday, September 20, 2006, Community Center**

**Call to Order: Damian Bollermann called the meeting to order at 6:32 PM.**

**TC Members Present:** Alice Drogin, Ranna Bieschke, Jim Lindheim, and Damian Bollermann.

**Absent:** Valli Smouse.

**Others present:** Laura Kamala, Ryan Anderson, Eleanor Bliss, Steve Meleski, Ron Drake, Dave Erley, Vickie Kress, Scott Brackett, Tom Noce, Darr Hatch, Scott ~~Bramer?~~Crueger, Jeff Johnston, Michael Peck, Cris Coffey, Greg Halliday, Joan Sangree, Aaron Davis, Jim Tharp, Mary Rees.

The inclusion of a public comment period on the agenda was discussed with comments by Damian, Dave, Rebecca and Jim. It was agreed that people were pleased to see the public comment period back and that including it was backed by a legal opinion.

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

Laura Kamala gave a presentation on the current status of the Land Exchange Bill. 5,000+ acres of ~~(SITLA)~~ land in the CV watershed will be conveyed to the BLM. 20,000 acres of oil and gas leases have been withdrawn from those lands, which includes everything in the CV watershed. (general applause) The entire Utah delegation co-sponsored the bill and the Governor is supporting it. (documents included)

Dave Erley asked to go on record stating that the TC asked him to go on the agenda for water issues. The Mayor told him this was not on the agenda and was too long for open public comment, thus denying him the right to be heard.

Damian commented for the record that he says what does/does not go onto the agenda, people shouldn't go to the Clerk with agenda items, people should ask the Mayor about agenda items, agenda items are for where ~~(the TC)~~ can reasonable expect to take an action or transact business, that open public comment was the right venue for this type of thing, and the understanding (at that point in the last meeting) was that the public comment agenda item was not allowed.

When asked what he would like to do, Dave said he would like to be scheduled to show up at the next TC meeting with ~~(Mary Rees and Diana and Dave Vaughn)~~ to discuss why he feels watershed protection should not depend on the current citizen's complaint process, why this deserves a higher level of protection, and why the Town should take the active role in these types of issues.

~~{Dave left the meeting.}~~

Jim asked to go on record with the following: this Town Council is working hard on improving the complaint process, takes water protection seriously, has worked to include a (water) section in the General Plan, and is working on enforcement.

Ranna commented on the challenges in moving issues along through a process, ~~her perspective on the style of Dave's comments~~, and the amount of effort being put in by the Council.

Alice spoke in support of involving Dave as a valuable contributor to water issues and suggested finding a way to have Dave work with (the TC). She suggested that perhaps Dave could head up the CV Water Working Group.

Darr noted that the public comment area is a good place to start, and if something needs to be discussed further, then it could go on the agenda.

Damian said public comment is welcome, and the "work" for the TC is translating ideas into policy.

Jim suggested extending the courtesy to Dave of being told to bring (Mary, Dave, & Diana) to speak in the public comment section.

Vickie announced that a ~~water~~ meeting has been set up for November 8, 7:00 PM, at the community building to discuss water in relation to the General Plan questionnaire.

Ryan Anderson suggested a community well and that ambient light pollution issues be addressed.

### **2. Planning Commission Report**

Michael reported a good turnout and good discussion at the PLUC Special Meeting (9/19/06). The PLUC is compiling previous surveys and soliciting suggested survey questions. He commented on a good working

relationship between the PLUC and TC and Mayor. The current plan for reviewing the General Plan includes receiving data, creating a survey document, and running it by a consultant.

### **New Business**

#### **3. Discussion & possible action re: CUP for Lot 340, Michael Peck, Castle Valley Property Management Service.**

Michael commented that his business is all conducted off-premise. Ranna commented that the approval box was not checked (page 4 of the application) Vickie confirmed that this CUP was recommended for approval.

**Jim moved to approve the CUP for Lot 340 as presented. Alice seconded.** Ranna and Jim commented on receiving CUP applications that are not correct. **Motion passed unanimously.**

#### **4. Discussion & possible action re: Adopting MOU for Tamarisk Task Force.**

Eleanor Bliss presented the Memorandum of Understanding with the Tamarisk Task Force as a device to get CV on board to allow CV to attend meetings and have some input to the Strategic Task Force. Jim received confirmation that this commits CV to no expenditure, financial obligations or other obligations, except to participate if they chose.

**Jim moved to sign onto this MOU. Alice seconded.** Ranna commented that she is in full support but cannot attend meetings. Eleanor acknowledged that CV is a distinct entity and the Task Force wouldn't be making a plan for CV. **Alice will serve as liaison. Damian called the question. Motion passed unanimously.** Eleanor collected the Mayor's signature on the original document.

#### **5. Discussion & possible action re: Proposal to Purchase a Ping Pong Table.**

Jeff presented the response from the funding proposal to the POA; Jack said they would fund half, but expressed interest in lending his table. No one has seen Jack's table yet. The Club has been organized and raised \$100 from the community. The Club is therefore asking for \$150 for equipment to use with Jack's table to see how it goes.

Darr (a POA Board Member) suggested getting a new table for this nice facility and hasn't heard the POA proposal yet. Damian agreed about the new table and commented this would be a good thing for the POA to do. Steve commented in favor of people contributing to Club funds.

**Ranna motioned to fund up to \$150 for equipment, the club can use Jack's table, the idea can be run by the whole POA, and at the next meeting, if the POA funds half the TC will fund the other half. Jim seconded. Question called. Motion passed unanimously.** The check will go to Jeff Johnston.

#### **6. Discussion & possible action re: Knapweed Proposal from Plateau Restoration.**

Damian pointed out an example knapweed plant in the community building for people to learn what it looks like and presented a proposal from Plateau Restoration concerning CV knapweed removal. The bulk of on-the-ground work will happen in the spring with some educational work this fall. Jim commented that he is happy to approve entire project, but that the Town would benefit from paying half up front and half in the spring to best fit in with cash flow issues.

**Jim moved to approve this proposal and try to negotiate a payment schedule that is workable. Alice seconded. Motion passed with Damian, Alice and Jim in favor. Ranna abstained.**

#### **7. Discussion & possible action re: Process for How the Minutes are Done.**

Jim presented his proposal for a process outlining how the minutes should be done. He commented that the process has not been clear enough.

Ranna commented that she has not had enough time to read the draft minutes and prepare to approve them.

Rebecca commented that part of the proposed process is not statutory, but that a clear definition of the process should be helpful nonetheless.

**The Council agreed that Jim's proposed process will become the standard procedure.**  
(documents included)

#### **8. Discussion & possible action re: Restoration Work on Terry & Brooke Williams' Lot, 274 Pope Lane.**

Damian presented a proposal by Mary Rees (Rees Native Gardens) to do \$2,100 in restoration work on Brooke and Terry Williams' lot where accidental damage was done to plants when Darr had removed dirt from

their pond. He indicated a miscommunication about the agreement with Brooke to take dirt and clear the drainage. The drainage is part of the new Placer Creek as opposed to the old Placer Drainage.

Darr commented that he had followed Damian's request to take it out of the pond and bring it (to Lot 2), that he had removed dirt from that area before, that the area had been scraped the year before, that he improved the area rather than hurt it, that the only thing growing there had been naturally reoccurring sage/tumbleweed, and that the restoration cost should not be so high. He said Brooke was aware that Darr was taking dirt out of the pond (as opposed to the drainage), and presented why he believed this to be certain.

Mary commented on the size of the area, the re-vegetation plants under discussion, how the work would be done, and what the costs would include. Mary commented for the record that nothing is now growing there except a tree she planted.

Jim commented on the need to address damage to someone's property and suggested determining whether the Town's insurance would cover this. Jim suggested that Darr should be part of any settlement, since he was paid as contractor.

Suggestions were made by Jim, Damian, Vickie Kress, Joan Sangree, Eleanor Bliss, Michael Peck, Jeff Johnston, Tom Noce, Steve Meleski, and Greg Halliday about possible next steps to take in getting this settled.

Darr said he would approach Brooke and Terry because he wants to straighten this out directly, that he would cover the restoration costs, and that he would like to be included in a bid. Jim spoke for shared responsibility, as opposed to sole responsibility, and that Darr would have to go in as a private citizen.

Ranna, Jim, Damian and Alice made comments about how much responsibility belongs to the Town and/or how much should be shared responsibility, and about Darr working as an employee, a contractor and as road supervisor. Damian outlined the work process as Damian telling Darr what to do as road supervisor, Darr saying who the best person to do the work is, and Darr sometimes hiring himself as the contractor.

**Decisions were made to have Alice and Michael speak with Terry and Brooke, to check Google Earth for images of the site from two years ago, to check with the insurance company to see what could be covered, to double-check State statutes about the bid process, and eventually to restore the pond to where it was before the Town came in this past summer.**

Vickie, Tom, Darr and Damian commented on questions related to whether this project must go out to bid.

## **Old Business**

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

There are no current applicants. **Item remained tabled.**

### **10. Discussion and possible action re: Compensation for the Castle Valley Town Mayor (tabled).**

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

Jim explained that some pockets of funds were created in the budget for needs that come up, but costs are adding up, thus to pay the Mayor, it would be prudent to start it in January. Vickie, Jeff and Cris agreed that it would be good to pay the Mayor to support the work he does. Cris Coffey commented some administrations put a pay rate change into effect for the next administration.

The procedure for moving this idea along was outlined as follows: to write an ordinance, to hold a hearing and then to make a decision. **Alice moved to schedule a public hearing to discuss the idea of compensation for the mayor and specify the amount & start date. Jim seconded.**

**Alice amended the motion to add that the hearing will take place at the November TC meeting (11/15/06), Jim seconded. Motion (to amend the motion) passed with Alice, Ranna and Jim in favor. Damian abstained.**

**The amended motion passed with Alice, Ranna and Jim in favor. Damian abstained.**

### **11. Discussion & possible action re: General Plan and Overall Ordinances Review Process (tabled).**

**Jim moved to un-table this item and to take it off of the agenda. Alice seconded. Motion passed unanimously.**

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

Jim reported that a copy of the draft Ordinance was given to Happy Morgan. Ranna got no comments on the enforcement officer job description has given it to Jim Nyland. **A meeting is pending with Ranna, Jim, Happy and Jim Nyland to discuss it. Re: the agreement with Grand County court: Happy Morgan will research the statutes to see if the Town will need to write a contract or not.**

**13. Discussion & possible action re: Basketball Court Bid Process.**

Ranna reported that she and Damian went to the Grand county Recreation Special Service District meeting. There is no decision yet on funding. She suggested waiting to solicit further bids until funding is cleared.

Comments came from Jeff, Steve, Joan and Greg about the expense of the project and suggestions for proceeding with affordability and clarity. Ranna commented on the increases in the cost of cement that \$10,000 has already been allocated for this by the Town.

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

Scott has given Damian a draft letter to go to lot owners about their water allotments. Gerry Kinghorn will talk to Teresa Wilhelmsen about the adjudication process. The letter will be dealt with under communications to the Town.

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

The manual is currently being reviewed by the Town's attorney and the Town's insurance company's attorney. **Item remained tabled.**

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

**Jim moved to un-table this item. Ranna seconded. Motion passed unanimously.** Jim explained that Damian made the decision that there was no longer a need to track the Clerk time. He commented that if the Clerk does all the work it's a full time job, and that the PLUC portion of the Clerk job is about 15 % of the job.

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

**17. Discussion & possible action re: Proposed Ordinance re: Complaint Resolution & Ordinance Enforcement.**

**Alice moved to ask the PLUC to take the notes from the Complaint Resolution meeting (8/1/06), revise the document, and give it back to the TC. Damian will forward this to the PLUC.**

Vickie commented that when the complaint is about the watershed, there should be pro-active enforcement by the town, addressed on a different level than everything else.

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

**Re: Water Adjudication Report:** Damian read aloud a water adjudication status report from Scott Brackett (report included). **Gerry Kinghorn is going to talk to Teresa Wilhelmsen to be sure everything is going smoothly.** Kinghorn has informed Damian that the Town is going to be filing a claim for all of the original water right based on the 1991 State-approved change application. The State may try to reject this under the recent "partial forfeiture law" which has never been tried in court. Kinghorn said this is the only course the Town can take.

Vickie and Damian commented on giving the fire department water rights through the Town vs. the State.

Jim noted that there are two protest periods: 30 days initially, and a 90 day period that starts on the day the determination book is received. Damian noted that 30 days has been allotted for lot owners to review maps, but this may not be enough if Scott has a lot of work to do on each map. Scott commented on uncertainties about what types of map(s) will be received. Jim, Scott, Damian, Jeff and Dave discussed the information from the maps and allocations in relation to Scott's potential workload, differences between amounts allocated by earlier field reviewers and recent reviewers, how accurate and/or useful the maps may/may not be, what the allocation represents and whether water can be moved around as needed on the lot.

**Tom noted that he can make the maps if given the data.**

**Re: Building Permits Report:** Leta's report showed no permits issued in July and one electric permit issued for Lot 30 in August. (report included)

**Re: Landscaping Project Report:**

Damian met with Greg Halliday. They proposed that the Council allot another \$3,000, ~~for the~~The following work still has to be done: adjusting the height of the lawn sprinklers, bringing in more fill dirt, adding solar path lights, transplanting native plants, and constructing horseshoe pits.

Damian noted that some donations of plants have been offered from specific people. Jeff Johnston offered to volunteer time towards the horseshoe pits and towards the basketball court.

Jim noted that this budget item is currently \$1,500 overspent, and with the additional expenditure it will be \$3,000 over budget.

**The Council approved this additional expenditure up to an absolute cap of \$10,550 in this fiscal year.**  
(documents included)

**Re: Southeastern Utah Association of Local Governments grant opportunity:** The Council discussed a communication about Community Development Block Grants (CDBG) to benefit low income citizens. **It was decided not to send anyone to the September 27 mandatory meeting because this grant would not be applied for in this year.**

**Re: Gourd Festival/Tractor Parade/Pot Luck request for funds:** Ranna suggested covering expenses but not donating to the fire department. **The Council authorized the expenditure for actual expenses of up to \$250.**

**Re: Petition letter from Jasmine Duncan:**

Damian read aloud a petition letter about the creation of a fire break on the Border between SITLA Land and the Town boundaries. (letter included)

Damian, Jim, Dave, Joan, Alice, Aaron, and Darr discussed some history on this topic, pros and cons of different types of fire breaks, weed and weed hazard issues, how to improve communications about this, and who has authority to decide if a fire break goes in in this type of zone.

Jim suggested that if the town is really concerned, CV may have to pass an ordinance to the effect that a fire break would require a permit.

**Damian will have a discussion with Maggie (Wyatt, BLM) and report back.**

**Re: Roads Report:** Darr reported on a lot of work this past week. Two weeks ago, he and Damian walked a problem area up on Miller. Water has been washing out of a driveway and affecting three residents. To fix the diversion will require going onto someone's land. Darr reported a lot of damage on upper roads this last week. He recommended a field session with everyone looking at roads for an hour. On Pope, someone cut a diversion across their property and diverted the water onto the road. New rocks are causing problems. Funds have been set aside specifically this year for roads work. **A field trip to look at roads will be set up for sometime in the next two weeks.**

**Approval of Minutes**

**19. Approval of Minutes: TC Special Meeting, July 19, 2006, Personnel Policy Manual Workshop (tabled).**

Jim suggested the following changes:

- Item 1, paragraph 1: parentheses will read "draft manual and March 1 memo included" and Jim asked for the Solid Waste manual not to be attached to these minutes.
- Page 2, section "Re: Opening disclaimer": capitalize "County" and change "this clause" to "their clause".
- Page 3, 1<sup>st</sup> sentence: Jim meant to say "a non-exempt status is standard."
- Page 3, 2<sup>nd</sup> sentence: Jim meant to say "The Town pays Medicare taxes and Social Security and Workers Comp for all employees."
- Page 3, paragraph 2: change "unpaid benefits package" to "standard benefits package".
- Page 3, paragraph 2, sentence 3: Jim meant to include "paid jury duty (30 days)" in the list of benefits for full-time regular employees.
- Page 3, section "Re: "at will employee status": Remove Valli's comments and the reference to the section Valli read aloud, and replace the section with "Jim presented a mutual at will concept. "At will" means being able to

let employees go without reason. Valli commented on the “at will” policy and how it is applied by the County. Discussion ensued about various cases, with comments from Damian, Valli, Jim and Ranna.”

- Page 4, first paragraph: remove parentheses “(second document)”
- Page 4, section “Re: benefits in general”: Remove the sentence: “to date, the Clerk receives zero benefits.”
- Page 4, section “salary vs. hourly”: the phrase “...salary discounted by six weeks worth of pay to cover the cost of benefits” will be changed to “...salary discounted to cover the cost of benefits”.

Ranna suggested the following changes:

- Page 3, section “Re: Types of Employment: section to read “the following categories were changed” followed by only the first and third bullets.
- Page 4, section “Re: Overtime Pay”, parentheses: “2007” will be changed to “2006”.

**Jim moved to adopt these minutes with those changes. Alice seconded. Motion passed with Jim, Damian and Alice in favor. Ranna abstained.**

Damian agreed to have a Council training on the Open & Public Meetings Act.

Jim read aloud, for the record, the following from page 94 of the ULCT Powers and Duties Handbook: “If there is no contract and the employee is not protected by State Law, the employment is “at will” and the employee can be terminated with or without cause.”

#### **20. Approval of Minutes: TC & PLUC Joint Special Meeting, August 1, 2006, Complaint Resolution & Ordinance Enforcement Workshop (minutes adopted by PLUC 9/6/06).**

Ranna suggested the following changes:

- Page 3, last paragraph: “It was agreed that the amount of the fee for filing a complaint would be \$20” will be replaced by “the amount of the fee for filing a complaint was discussed.”
- Page 4, paragraph after bullets: “would much rather deal with someone in a n unofficial capacity rather than an officer” will be replaced by “would much rather deal with town designated community members than a law officer”.

**Jim moved to adopt the minutes from the workshop as amended. Ranna seconded. Motion passed unanimously.**

#### **21. Approval of Minutes: TC & PLUC Joint Special Meeting, August 1, 2006, General Plan Workshop I (minutes adopted by PLUC 9/6/06).**

Jim suggested the following change:

Page 2, paragraph 6: replace parentheses with “Powers & Duties”.

Ranna suggested the following change:

Page 3, Assignments: Remove “Economic Bases. Jim and Ranna.”

**Jim moved to adopt the minutes of the August 1, 2006 special meeting general plan workshop as amended. Alice seconded. Motion passed unanimously.**

#### **22. Approval of Minutes: TC & PLUC Joint Special Meeting, August 15, 2006, General Plan Workshop II (minutes adopted by PLUC 9/6/06).**

**Jim moved to adopt these minutes. Ranna seconded. Motion passed. Alice abstained.**

#### **23. Approval of Minutes: TC Regular Meeting, August 16, 2006.**

Jim suggested the following changes:

- Page 2, paragraph 3: the reference to Utah code 52-4-202 will be removed.
- Item 11, top of page 4: a typo will be corrected; sentence to read “Scott will re-write the letter.”

Dave suggested the following change:

- Page 2, paragraph 4: Dave meant to say “1 dwelling unit/15 acre septic density”.

Ranna suggested the following changes:

- Page 2, item 2: strike “she didn’t think”; sentence to end “because the means for enforcement was not in place.”
- Page, 4, item 16: add “Ranna” to the aye vote.
- Page 4, item 16: remove question marks.

Jim suggested the following change:

- Page 5, section “re: roads”: keep only the first sentence; remove everything else.  
**Jim moved to adopt the minutes as amended. Ranna seconded. Motion passed unanimously.**

Rebecca expressed objections to the amendment process saying that changing the minutes to the degree that they are is inappropriate. Jim said ~~the minutes are the Council’s and it is the Council’s right to make changes as long as they don’t contribute to the decision.”~~“We are the Council. It is our minutes. We are the ones who determine that. As long as we do not move it in an inaccurate direction, it is our right to take out something as long as it doesn’t contribute to the decision.”

#### **24. Approval of Minutes: TC & PLUC Joint Special Meeting, August 31, 2006, General; Plan Workshop III.**

Jim suggested the following changes:

- Page 2, paragraph 5: “it was noted that the first General Plan meeting was a joint open public meeting”

Damian suggested the following changes:

- remove the reference to the statute number.
- Page 2, next to last paragraph: name misspelling; replace “Jeff” with “Geoff” Freethey.
- Page 3, item7: typo, “basketball” is one word.

**Jim moved to adopt the minutes of the Special meeting of the TC and PLUC of August 1<sup>st</sup> as amended. Ranna seconded. Motion passed with Jim, Ranna and Damian in favor. Alice abstained as she was not at that meeting.**

Alice commented that she felt uncomfortable with the tone people have taken with one another and that the TC is being very critical. She expressed appreciation for Rebecca trying to be in compliance with the statutes. She asked for a different tone. Jim commented that the process has been very frustrating and the new process should make it easier. He hopes for a higher level of generality in the minutes.

#### **25. Treasurer’s Report.**

Jim reported that C Road Funds and Sales Tax income appear higher than expected. He explained that larger bills, including the scholarship, landscaping, and the annual insurance bills, will necessitate moving some money from capital funds to general funds. The larger portion of property tax income comes in in December. He noted that the allotted training fund has been spent on training and travel and other related items, and commented that this shouldn’t stop CV from further training. Questions about the scholarship and Black Oil expenditures were clarified.

#### **26. Payment of Bills.**

Jim commented on the annual insurance bill. The rent to the Municipal Building Authority was discussed. A decision was made to continue to pay the rent annually instead of quarterly to avoid cash flow challenges. The possibility of changing the type of account that the MBA has to an interest bearing account will be looked at. There was discussion of the insurance in relation to property damage.

**Jim moved to pay the bills with the exception of the MBA quarterly rent check. Ranna seconded. Motion passed unanimously.**

**27. Executive Session.** None needed.

**Adjournment. Alice moved to adjourn. Jim and Ranna seconded. Motion passed unanimously. Meeting adjourned at 11:12 PM.**

**Attest:**

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**Town Clerk, Rebecca Martin**