

## **Special Meeting of the Town of Castle Valley Wednesday, March 2, 2005**

Special Meeting **officially opened** by Mayor, Bruce Keeler, at 7:00 PM.

Town Council members in attendance: Bruce Keeler, Jerry Bidinger, Bob Lippman.

Additional Water Working Group members in attendance: Damian Bollerman, Jack Campbell, Alice Drogin, Dave Erley, Pam Hackley, Bill Hedden, Catherine Howells, Dan Kent, Joe Kingsley, Ron Mengel.

### **Installation of Town Clerk/Recorder:**

**Mayor, Bruce Keeler, administered the Oath of Office to Rebecca Martin** thereby officially installing her in her office as Town Clerk/Recorder for the Town of Castle Valley.

[The meeting was **recessed** in order to install the Secretary/Treasurer of the Municipal Building Authority, but this action was later declared invalid due to a public posting technicality. Thus, the official swearing in of the MBA Secretary/Treasurer appears as part of the minutes for the March 10, 2005 Town Council meeting.]

**Jerry moved and Bob seconded a motion to adjourn** the meeting of the MBA. Bruce **reconvened** the Special Meeting of the Town of Castle Valley at 7:16 PM.

### **First Official Meeting of the Water Working Group:**

[Special Note from the Clerk: This being the first meeting of the Water Working Group of Castle Valley, it was by definition an organizational session without a detailed agenda. The minutes, as written here, represent a close reflection of the content of the meeting, with the content re-ordered to group discussions by topic.]

Bruce Keeler explained that this first meeting was intended to be an organizational meeting to launch the Town of Castle Valley Water Working Group (hereafter WWG), which would serve as an advisory board to research water topics, present information from various perspectives, and make recommendations to the Town Council. The Town Council will establish procedures, handle policy decisions and serve as the oversight body for the WWG. The WWG will report to the Town Council. Bruce specified that the WWG would hereafter meet without a quorum of Council members, and would handle its own internal meeting procedures and recordkeeping without the Town Clerk.

Jerry Kinghorn, Town attorney, will serve as advisor for the group with the following stipulations: Contact with Kinghorn shall happen through the Town Council of the Town of Castle Valley. That is, Jerry Bidinger or Bob Lippman will monitor and facilitate the access to Kinghorn.

Goals for this meeting include: choosing someone to chair meetings, choosing someone to take minutes, and deciding other procedural aspects of the functioning of the group from here on.

A distinction was made between tasks involved with the "paper water rights" vs. the "wet water issues". The Town Council and the Town's Lawyer, Jerry Kinghorn, are working on the "paper water rights." The main areas where the WWG is being asked for input are water quality protection, water quantity and long-range sustainability, i.e., "wet water" issues. These areas are referred to in section II of the Working Paper (Bob noted that "water quantity" is referred to in section II B as "Municipal Water Rights"). Various WWG members expressed interest in discussing and learning more about the "paper water rights" issues within the context of the WWG as well as "wet water issues". Council members agreed that this could be accomplished within this group.

### **Discussion: What does the Council and WWG think needs to be done by the WWG?**

- To provide the Town Council with input and advice as outlined in the "Working Paper for Castle Valley Water Working Group".
- To utilize the diverse knowledge within the group, including gaining access to collective history and accurate knowledge re: water issues.
- To meet an identified need to provide an inclusive forum for a wide range of water users within our single, shared aquifer, with a goal to broaden the range of ideological approaches, agenda inclusions, sources of advice, areas of discussion, etc. connected with that aquifer.
- To optimize effective communication re: water issues between all water stakeholders within the Valley.
- To identify and alleviate potential problems of misinformation/lack of information in the general public re: current water issues.
- To serve as informed members of the community and raise the collective knowledge and awareness levels re: water issues.

- Re: “water quality protection”, to look at studies that have been done, recommend to the Council other potential studies to protect water quality.
- Re: “water quantity” issues, to explore the needs and constituent relationships, and to research a municipal use option.
- Re: “long-range sustainability”, to help delineate the watershed, to set a forward-looking agenda, to identify needs/potential needs of the community not yet met, to set a positive precedent, and to serve as an example within the state.

Damian Bollerman suggested a mission statement which is transcribed as follows: “To make recommendations as to policies and actions which the Town of Castle Valley may wish to pursue in the interest of preserving the availability of sufficient quantities of high quality water for the citizens of the Town/for the preservation of the high quality of life in the Town of Castle Valley.” Bruce Keeler suggested that the definition be broadened to include the entire water user community.

**Tasks and Topics:** (names added in parentheses to identify people connected with these topics)

- Re: Manti La Sal district, Forest Service (hereafter USFS), scoping period on their planning process. **It would be timely for the Town to “give a push” to the USFS right now because the USFS are “teetering on” a decision whether to take a categorical exemption vs. adhering to the NEPA process. The Town will write a letter to the USFS, by March 7<sup>th</sup> objecting to a categorical exclusion of public input into the process.** (Bill Hedden/Bob Lippman/Catherine Howells/Ron Mengel/Alice Drogin)
- **Send a recommendation to the council that they should go for the maximum in “paper water” right issues.** The town is “shooting for the biggest number”, i.e., the original amount. (Dave Erley/Bruce Keeler)
- The Kinghorn transcript re: water rights and Catherine’s history of CV water rights are meant to be public, so **the WWG can spread the word and people can pick up copies of these papers at the Town Office.**
- Re: SITLA Land Swap process. The proactive planning process is continuing. A revised bill will be introduced this month to the house and senate, first introduced last October by the whole Utah delegation, to exchange all of the State Trust land out of Castle Valley. The BLM has been supportive and expresses concern for the deer herds. The EPA sole source aquifer designation is a potential motivator because, with its water protection ordinances in place, and with Castle Valley down grade of Forest USFS land, litigation is a risk. Grand county realtors may be focusing more on development issues on SITLA land elsewhere in Grand county/Moab Valley and the creation of a college campus. The County Council voted unanimously to support the land trade. Several people felt **the Town should be very supportive of the Land Swap option. Laura Kamala has so far advised the Town to wait to write an official letter on this issue, and the Town has been waiting to get her recommendation on when to write a letter of support. Suggestion: to have Laura give an update/presentation at a Town Council meeting on the whole topic.** (Laura Kamala/Dave Erley/Bill Hedden)
- Re: Update on paper water issues. Around 1974, five water rights were transferred from the ranch to Leisure Industries at the initial ranch sale. Four rights had been perfected by the ranch, one of which was segregated out and used by the development and a second right was segregated out by John Groo and Joe Kingsley as a donation to the Town. Those two rights were used. People assumed that the other large water rights, because they were perfected, were safe and could be accessed as needed, i.e., that the Town could hold them for future use. The Town did allocate some of the rights to individual lots by segregating them off. **Beneficial use must be proved up (and filed with the state) every five years, and the transfer of rights had started the 5 year time period in which the water use needed to be proved up. By 1979, a “filing of non-use” would have needed to be made on the unused portions of that water.** That filing was not done, partly due to the Price office not including the filing of non-use as part of any discussions. **Any water rights not put to use after 1980 that did not have a filing of non-use on them, were forfeited. If a lot has an individual water user claim before 1980, and it never lapsed, then that water right is safe.** Discussion centered on whether available (paper) water could sustain the Town and its growth; opinions differed. **Tell the community to go to Mark Page, lot by lot, to find out the status of their own water rights.** The town can’t issue the opinion about what water rights are valid, although Catherine does have records of what water rights have been lapsed. **Everyone, including Mark Page/the State and the Town of Castle Valley, is working to make the water rights work out for Castle Valley.** Other water right options under discussion were a “hardship case” to assert that Castle Valley does have a right to some water somewhere, acquiring 3,700ft. from a Flaming Gorge water right, acquiring a .45 cfs amount from the county on a lot by lot basis. Castle Valley may not be able to pursue defending the original water rights if the adjudication finds that they are lost, due to water law issues, costs, and the question of actions taken/not taken by Castle Valley. (Bruce Keeler/Joe Kingsley/Catherine Howell/Jerry Bidinger/Mark Page)
- Re: Flaming Gorge. The Flaming Gorge water right option is said (Kinghorn) to be “just as secure” as what we originally had. Flaming Gorge has ten years seniority over our original water right. We have a strong chance to get that water with no water users between Flaming Gorge and the confluence of the Green and Colorado who would be deprived by Castle Valley using that water. 2000+ acre feet of water could then be released to other water users waiting in line in the state.
- Re: “water budget” and an actual “wet water” amount. Statewide, all water is allocated from a state water bank. The Price office promised a “water budget” in the 1990s, but none has been issued. One study mentions “a quarter of a million acre feet”. The Town of Castle Valley is not suggesting a wet water budget at this time, but is working on the paper water issues. Budgeting may happen at a future date if we find that the wet water does not match the paper water. **Currently we want to know how big our aquifer is and how fast its recharge rate is. Quantifiable numbers are desirable.** Most of what we

know is for Castle Creek, but not Minors Basin and Placer Creek. Eventually, one recommendation to the council may be to say that “we need a water budget”. (Damian Bollerman/Catherine Howells/Bruce Keeler/Bill Hedden)

- **Distribute a background paper, once it is in an appropriate form, to the WWG members, on the overall water rights issue.** A paper is being prepared now with the understanding and intention that further information will be made public. When the water issue first came to the awareness of the Council, they went on the opinion of the attorney as to when to bring it to the public. Once Kinghorn has gone over the background paper that too will be made public. (Jerry Bidinger/Bill Hedden)
- Re: “Municipal use” designation. More can be learned about what it would mean to establish a “municipal use” designation. Legally, water quantity is adjudicated; the designation (type of use) is not.

#### **Planning for the next meeting:**

##### **A draft agenda was discussed for the next meeting as follows:**

- Team building exercise to open this next meeting.
- Report by Catherine Howells to explain what is known in order to identify what else needs to be researched.
- Discussion topic: To examine the possibility of getting a “municipal” water right designation, including the definition of a “municipal water right”, and the future administration of a municipal right.
- Discussion topic: Prioritizing the issues upon which the WWG shall focus in the near future.
- Discussion topic: How to go about learning what needs to be learned.

##### **Other tasks to be completed by the next meeting:**

- Pam and Bob to share a list of web resources.
- Catherine to create a reference file folder with copies of pertinent water files to be kept in the Town Office.
- Catherine to pull together State information on what a municipal water use designation means.

##### **Designated Titles and responsibilities:**

- Facilitator: Ron Mengel to run the actual meetings, keeping people on track with the agenda and topics, facilitating smooth communication functions amongst those present.
- Chair: Pam Hackley to organize and produce the agendas, to be a spokesperson to report back to the Tow Council. Dave Erley and Damian Bollerman also expressed interest in helping to produce the agendas.
- Scribe: Dan Kent to take minutes at the next meeting.

##### **Logistics for the meetings were decided as follows:**

- How often? Meetings will be held every two weeks for the first two months, and once a month thereafter.
- When? First and third Wednesdays of the month, at 7:00pm, at the Community Building.
- How long? Efforts shall be made to keep the meeting to no longer than two hours. A basic suggestion was that meetings need to be well-prepared, concise, pointed, in-depth, well-run.
- Who will open the building?: Town Council Members, who have the keys to the building, will coordinate opening and re-locking doors, lighting, table and chair set-up and break down.
- Public notice: Agendas for the WWG can be posted on the Town’s official posting boards and also post WWG agendas to the official Town of Castle Valley website once it is up and running.

**The next meeting of the WWG is scheduled for Wednesday, March 16, 2005, at 7:00 PM, at the Community Building.**

Open office hours, when the Clerk will be “in”, are expected to be set for Monday, Tuesday, and Wednesday mornings. The official posting of the hours will be emailed to the WWG.

Jerry moved and Bob seconded a motion to adjourn the meeting. Meeting adjourned at 9:22 PM.

##### **Attachments:**

- Working Paper for WWG
- Transcript of Kinghorn from the public meeting
- Catherine’s History of CV Water Issues
- Updated address List for WWG
- Attendance sheet