

**MINUTES
TOWN OF CASTLE VALLEY
REGULAR COUNCIL MEETING**

Date: Thursday, April 14, 2005
Place: CASTLE VALLEY COMMUNITY CENTER

CALL TO ORDER 6:38 PM

Council Members Present: Bruce Keeler, Bob Lippman, Dar Hatch, Jerry Bidinger, Robert Ryan.
Others present: Dave Erley, Jennifer Mengel, Tom Henry, Ron Mengel, Pam Hackley, Catherine Howells, Jack Campbell, John Taggart, Damian Bollermann, Richard Schwartz, Mary Rees.
Recorder: Rebecca Martin.

Approval of minutes of Special Meeting 03-02-2005, no changes; minutes stand as presented.

Approval of minutes of prior Town Council meeting 03-10-2005, no changes; minutes stand as presented.

COMMITTEE REPORTS

1. **Town Lot:** written report by Karen Nelson; copy attached. Projects of immediate concern include getting shade cloth up on the South side of the building and ordering the blinds, weeding, seeding the lawn, and bringing in fill dirt.
2. **Water Working Group:** Two meetings have been held so far, with work accomplished on meeting protocols and discussion of what studies have been done.
3. **Update from Water Agent:** Catherine's disclosure statement was sent out to realtors, and Catherine has a letter from Kinghorn to her stating that she can still issue a water permit if a property owner requests one. The water permit agreement has been modified to add the disclosure to it. Catherine gives out the disclosure to those who apply. Copy of letters attached.
4. **Road Department:** no report.
5. **Planning & Zoning Commission:** A conditional use permit was approved for Mary Rees, lot 52. A proposed boundary adjustment on Lots 154 and 155 was not approved. **Richard requested the Clerk to send a letter to the lot owners notifying them of the decision that this lot line adjustment will not work because a further variance would be needed but is not possible according to Town attorney, Jerry Kinghorn.** Bruce commented that **the Council will need to appoint a Board of Adjustments**, and that it should have no TC or PC members on it. One alternative is for the owners to seek a variance on the set-backs to create a building site within the boundaries of the lot. Robert expressed that it is important to find people who know what it requires to be on such a board. **Discussion led to the conclusion that the issue would not yet go before the Council because there were further options open between the property owners and the P&Z.**
6. **Firewise Report:** Ron Mengel reported that the group met and discussed spending \$28,000 to help four property owners voluntarily to clear brush and make their properties more firewise at no cost to the land owners. These lots would then be used as examples for people to see what it would look like. A wide variety of lots from different areas in the valley is represented in this.
7. **POA Board:** no report.
8. **Grand County Recreational Services Board:** no report.

Bob Lippman asked whether the Town Council should receive the Building permit reports. **Agreement was reached that the monthly reports that Ron Mengel submits to the P&Z would be included hereafter with the reports to the Town Council.**

Report from Solid Waste District: The solid waste board agreed to pick up the tipping fees for the Castle Valley Spring Clean Up. The Town will pay for the transportation portion of the costs. Eleven dumpsters were filled this year. The space needed really is too large for the event to happen on the community lot, and the activity does disturb the area. There was discussion of ways to alert people to the event, i.e., to "re-train" everyone to bring their Clean Up items to the old fire house.

OLD BUSINESS

9. Public Hearing re: Amendments to the Town Budget.

Public Hearing opened at 7:02PM.

Jerry Bidinger presented the Castle Valley Amended Budget for Fiscal Year 2005; copy attached. He commented that this adjustment is being done now because the budget is so far out that it is hard to keep track.

Comparisons are between the fiscal year up through March 10, 2005 actual expenses, and the original budget approved in June, 2004. Proposed changes are listed in a separate column. Building construction was finished in this FY, and the pavilion was built. Approximately \$35,000 was taken out of the general fund for the community building, computers, furnishings, carpets, architect fees, project manager fees, and things not covered by the loan. \$40,000 had been set aside in a PTIF account to cover capital items. The budget adjustments are intended to use the PTIF money to cover capital expenses rather than to use property tax and sales tax revenue. \$75,028 is to come out of the Capital Reserve. \$27,500 was projected to cover the Community Building and the Pavilion from the prior year's general fund, of which \$8,576.50 was needed for non-capital items, and the rest should come from other funds. This creates a net increase in income of \$56,104.50 for a total working budget of \$196,984.50.

Insurance was \$881.50 over budget to insure the building. Capital Expenditures, slated for a copy machine, went \$7,500 over budget to purchase computers, software, and to cover system installation. Office expenses went over budget by \$2,000 for cleaning supplies, toner cartridges and other non-capital office supplies. Travel expenses went over budget due to the water rights issues, and requires a \$1,000 increase. \$22,180.55 was spent on carpets, lights, fans and other construction items not included in construction costs and not part of the loan. \$122 was also spent on a lock box for keys. The project Manager costs went over budget by 4,100, of which 3,619.98 is listed here as a proposed increase. The pavilion and dirt work, due to unexpected changes of the contractor, requires \$14,105.47 to cover costs; \$39,000 was the final total on the pavilion. Some money is still available for landscaping from the recreation board. The labor expense for the water department, due to the unexpected water issues, requires a \$4,695 increase. The net increase in expenses would be \$56,104.50, for a total expense plan of \$196,984.50.

Ron Mengel asked if the Town's income still matches what was expected. Jerry said the expected income from outside the Town savings will be exceeded by around \$7,000. Of that: \$2,000 of 2004 funds had been withheld, and then paid in 2005. \$5,552 in delinquent property taxes makes up some of the outside income increase also, where only \$3,000 was expected.

Jennifer Mengel asked if the \$76,000 approximate difference between the budget of \$196,000 and the projected income of \$120,000 is covered by the reserved funds. Jerry said \$39,000 comes from the Recreation Board grant to build the pavilion. \$35,000 comes from monies the Town had set aside for capital expenditures. The Town estimates that it will go \$2,000 or more over expected expenses. Attorney expenses and State Agency expenses may bring it more than \$2,000 over.

Jennifer asked, now that the capital funds and recreational funds are expended, whether the Town would expect to be \$50,000 to \$70,000 short of income, and whether this will mean a tax increase? Jerry said the water rights issue, should it end up in litigation, would throw off projections. There remains over \$13,000 in the capital reserve fund from the recreations board grant which can be used for tables and other Pavilion needs. There is a provision in the recreation board grant for \$5,000 for 1 acre of landscaping. There remains around \$4,000 left in capital reserves for the community building to cover shades and other expenses.

Jennifer asked where liability insurance shows up as an expense. Jerry said insurance show up as "insurance," determined to be the for the Community Building, and also as a line item under the road department amounting to around \$2,800 per year. The insurance total is over \$4,000.

Damian Bollermann asked if there are accounts other than the what had been discussed already? Jerry said there are three separate categories in the capital reserve account: building (\$4,000), pavilion (13 cents), and road department (\$14,000, B&C road funds, for use in an emergency, and may only be used for roads). Bruce noted that funds were spent as allotted, and that costs were kept to within the projected amounts. The pavilion has come the closest to going over. The total cost of the building was over \$300,000.

The Public Hearing was closed at 7:26 PM.

Bruce asked whether any Council members had objections to any of the proposed changes. No one did. **Jerry will give the proposed budget amendments to the accountant for them to begin working on. "Budget Amendment" will be placed on the May 12, TC agenda as an action item.**

Ron complemented Jerry on a clear presentation.

10. Public Hearing re: Exclusionary Deer Fencing Policy Amendment.

The planned public hearing did not take place at this meeting. **A Public Hearing on this amendment issue will be placed on the TC agenda for the May 12, TC meeting.**

11. Discussion and possible action concerning River Road Clean-Up. This project will be put off until fall.

12. Discussion and possible action concerning accepting the Landscape Bid.

Only one bid came in, from Kara at Wild Landscapes, at \$32,834.35. This was more than the Town has budgeted, so the Town must reject the bid. **Robert moved, and Jerry seconded the motion, to reject the bid. Motion passed unanimously.** (further discussion later)

Bruce said that the landscaping could be broken down into parts, and that it would not need to be re-bid as per Resolution 2003-3, Purchasing Policy; copy included. That is, because a phase would be less than \$10,000, it requires three written bids solicited by phone.

Bob asked if this can be done along the lines of Karen's recommendations about critical timing on certain issues. Bruce said the main trunk of the irrigation and the dirt work which would cover the poly-pipe would fall in that category. Drippers can be added to that main trunk as things develop.

13. Discussion and possible action on Interlocal Agreement with Grand County regarding law enforcement. Remained tabled.

14. Discussion concerning activities for Castle Valley youth. Remained tabled.

NEW BUSINESS

15. Discussion and possible action concerning Bids for Monitoring Wells:

Bruce reported that Mike Lowe has narrowed the field to three bids. One bid is close to the \$48,300 available from the grant the Town received to pay for these wells. One low bid has stipulations attached that are unacceptable. The \$56,000 bid may be his choice so the Town would have to decide if they can cover the \$8,000 above the grant amount. Mike is going to get back to the Town on his choice for the driller and Bruce suggests going with Mike Lowe's suggestions since Mike laid out the specs and holds a long-term relationship with the Town.

Discussion included the question of drilling fewer wells to bring the cost under the budgeted ceiling? One bid was based on this premise. Bruce said if we cut the number of wells, we may have to work through approval with CIB on the change. The dozen wells are targeted to cover the area we want to monitor so cutting out wells is not optimal. Damian suggested that some wells could be moved lower down in the Valley to reduce costs. The reason for spreading out the wells is to be able to monitor the wider area, so this was not thought to be a viable solution either. Catherine says one of the wells is more for hydrology then for monitoring for septic contamination. **Bruce will ask Keith Burnett if CV could re-do the request to include 11 wells. If the number of wells is changed, or the bid is changed, the Town may have to re-open the bid process and also get re-approved by the CIB.** Mike Lowe already trimmed the project down to 12 wells.

Jack Campbell asked if can the Town can go to Spanish Valley Water and ask them for the difference between the grant and the bid. Bruce said he discussed this with Dale Pierson and it sounded like this might be a possible source of funding in a case like this, but that the project can't be put on hold until a definite answer comes in.

Discussion ensued re: contingencies if a well doesn't reach water. Bruce explained that Mike Lowe's range for reaching expected water is between 80 to 100 feet, and that he created the specs, so the Town does not carry that responsibility.

Dar Hatch suggested choosing the lowest bid. Two unacceptable clauses would have to be removed for this to happen, i.e., that if the project isn't ready, the project will be billed at \$250/hour, and also if the project encounters difficulty, the driller reserves the right to re-negotiate the price. If the driller agrees to drop these riders when Mike talks to them, Mike would choose them.

Easements for BLM land and for affected private lots, and right of entries to Trust lands, will be needed. Fees must be paid. An archaeological survey must be done.

Bruce took a straw vote of the Council to ask whether the Town should consider covering the \$8,000 above the grant amount if the low bid doesn't work out. **Council members agreed that they would lean towards the \$58,000 option if the lower bidder does not agree to remove the unacceptable contingencies.**

Ron Mengel commented that Town residents should not have to pay the difference, but rather we should do everything possible to get the Ken's Lake funds. Bruce said that no service can be expected for the circa \$12,000/year that the Town pays into that county-wide fund, as it is a general obligation bond that created to pay for Ken's Lake. Neither can the Town get out of the district. They did give the Town \$15,000 for the hydrology study. Bruce said it may be possible to get the \$8,000 if it is needed.

Ron asked if the CIB could fund the extra \$8,000. Bruce said a request would be weighed against the history of CIB monies already received. He thinks they would turn it down.

Jack suggests checking with organizations who contributed to the previous water studies for funding, e.g., DEQ, EPA. Bruce said these organizations were discussed earlier, and the CIB was the only organization that had funding for this.

Jerry moved and Dar seconded the motion to, to table this discussion. Motion passed unanimously.

16. Discussion and possible action concerning advertising for a new Landscaping Coordinator

Discussion ensued about advertising for a minimal paying and sporadic coordinator position, working with volunteers, as opposed to an \$18/hr. full time job. Jerry suggested asking for a volunteer first, then if no one volunteers, to put it out to hire. Bruce said he would work with the volunteer, using Karen's written suggestions. Pam Hackley questioned whether a volunteer would be asked to liaison with the contractor to have the dirt work and irrigation done because this is an in-depth service.

Bruce suggested completing the dirt work for \$2,500 and irrigation for \$3,300 as phase one. Phase two would be bringing in all of the plants to match the landscaping plan.

Robert suggested starting a volunteer landscaping committee. Discussion included liabilities, the planting of the Arbor Day trees April 30th, temporary watering of things by hand, and creating a donation system to cover plant costs. **Rebecca will advertise for volunteers to form a landscaping committee.**

Bruce will contact Wild Landscapes, thank them, explain our circumstances, and ask if they might begin the dirt work and irrigation infrastructure.

Jerry moved, and Bob seconded, to advertise for a landscaping committee. Motion passed unanimously.

17. Complaint, Lot 53:

Diesel Fuel was reported to have been emptied into an underground storage tank on Lot 53, 50' from a neighbor's well; copy of complaint included. Jim Adamson has been to the site and recommended remediation. Bob spoke with Jim Adamson who is working on a follow-up inspection; the site is to remain open until follow-up testing is complete. Adamson ordered the 1,250 gallon unapproved poly-tank removed and said that this buried tank was a violation of State law. No testing is being done because of the volatility of the diesel fuel. He said that spills appeared to be from the top, not from the bottom of the tank. **Adamson will send the Town a written report after the inspection is complete.** Jim told Bob that he "wears the DEQ hat" for enforcement locally.

Richard Schwartz affirmed that **P&Z members are making a concerted effort to come up with standards for fuel tank storage.** Approval is currently required for underground tanks in Castle Valley. State approval is definitely required to bury a tank. Damian commented that the State does not regulate above ground tanks smaller than 660 gallons.

Bruce said the process will be for **the Town to receive Jim Adamson's report, which then goes to P&Z. The P&Z can then investigate and make a recommendation to the Town on what the situation is and what action the TC should take. Then a consultation would occur with the Town attorney to determine what action, if any, would be taken.** It must be determined what Town ordinance is being violated.

Since this has been determined to be a State violation, the State is overseeing remediation. Adamson can initially inspect it, to see if there is a problem, then it goes to DEQ, who monitors the clean-up and signs off on it. **The DEQ will make a recommendation to the Town if they see violations.** Mary Rees does not think that DEQ was on site, and that Jim Martin is doing the clean-up.

Mary would like to have her water tested for hydrocarbons as a point of reference. Catherine said to **contact the regional DEQ person, and push them to come down to do the sampling. Mary said she will do this; Bruce said the Town will also.**

Dar Hatch will follow through with Adamson & the DEQ, and Bob Lippman will help with that.

Mary says she is still concerned about where 300-400 gallons of the fuel she observed went. The hydrocarbon smell is much stronger since the tank has been taken out of the ground. There are some mounds of dirt that Adamson says contain contaminated dirt. The mounds were there before the tanks were excavated.

The P&Z will come up with standard for the storage of fuel for equipment use in the Valley. The State is responsible for enforcement and overseeing clean-up. The Town will be responsible to educate the residents on regulations and remediation processes. Bob said that current regulations are many and complicated, and that a protocol for dealing with such things is necessary.

Ron suggested that the Town can require the best available technology, e.g., standards that require double tanks, include concrete catchments, and be licensed and monitored by the Town. Bruce said the town can draft an ordinance to address this kind of issue and distribute the information to residents. Tom Henry asked if there is any regulation for private fuel storage? The State regulates in-ground tanks, and above ground tanks of higher volume, and the DEQ can help set local regulations. Dar said that people typically might have 25 gallons (5 five gallon cans) to run a diesel vehicle for quite a while, and that a large tank is not practical. Jerry commented that there are cases of class action suits for groundwater contamination. The Town has its own fuel storage for its machinery.

Bruce requested that the P&Z determine what the State regulations are, and what the Town must do to have its regulations match State regulations and these regulations must also protect the Town's water and recognize the needs of Valley residents. Once a report comes back from Jim Adamson or the DEQ, then the P&Z can follow up on that and make recommendations that the Town can potentially act upon.

18. Complaint, Lot 100

A written complaint, in the form of a petition from the neighbors surrounding Lot 100, has been received by the Town. The complaint is about junk cars, the creation of a de facto junk yard on Lot 100, and what an alleged non-conforming trailer moved onto the lot.

The owner on record is Jesse Nation, and the final step of recording the deed is said not to have been done.

Dave Erley spoke with Joe Kingsley who thinks there probably will not be a place to crush vehicles for the next 18 months. The former collection area received complaints so the county is re-working the process of disposing of junk vehicles. The cost of removing a non-functioning vehicle is \$100/car. The State charges \$25/vehicle for the removal of the

VIN number. There is no legally functioning salvage yard in Grand County at this time. Cars cannot be stored at the landfill because it would violate Federal standards. Grand Junction was discussed as an alternative.

Issues raised particular to Lot 100 include that the current resident is continuing to add more junk vehicles and refuse to the lot,

there is conjecture that the year of manufacture may make the newly moved blue trailer a non-conforming structure and that this particular trailer may have been moved from one CV lot onto Lot 100 against the wishes of the County, there are potential contamination issues. The end result of the county's current enforcement plan would be to place a lien on a lot, which was presumed to be inadequate to address the issue on Lot 100 (county information from Mary Hoffine attached).

Damian suggests that the Community will need to come up with a community clean-up process. He emphasized that Lot 100 is not the only lot with a junk removal issue. The possibility of positive reinforcement was suggested.

Jerry Bidinger commented that positive reinforcement is inappropriate for a case of significant zoning violation. He suggested a 30-day warning, followed by a process of punitive action, possibly leading to a lien on the property and/or eviction of the violators. There was conjecture that if others see that such zoning violations are receiving punitive action, they may start to clean up their lots.

Jerry noted that a municipality should not avoid using legal means to protect the Valley, and that non-action sends the wrong message. Bob Lippman emphasized that if a well is contaminated due to in-action by the Town, a class action suit could cost tax payers whatever amount is not covered by insurance.

Burning the trailer as a fire department exercise was ruled out due to the potential air quality and health risks to Valley residents.

Discussion ensued about getting contributions for a clean-up process, and whether the Town could contribute financially. Dave suggested that one step is to determine how many junk vehicles there are. The need was raised for prevention at an earlier stage and a viable avenue for cars to leave the Valley.

Bruce Keeler stated that the first step, in this case, is for the Town to send a written notice of violation of Town Ordinance to Jesse Nation. He commented that he felt there was no point in going to the tenant, Robin, because he does not own the lot.

John Taggart commented that the Town & the P&Z have failed to take action over the years and have allowed this to get far out of hand. He advocated beginning a litigation process to clean up the problem. The complaint should be filed with Jesse Nation.

The P&Z requested that the Town give them very clear directives as to what is expected of the P&Z in relation to this issue. The P&Z is not expected to handle enforcement, in this case, but rather are directed to go over the county information to make recommendations on the process for dealing with violations. Typically, a complaint would go to P&Z first, and they would investigate the validity of the complaint and bring recommendations for action to the Town, but this case is beyond that stage. **Bruce suggested that the P&Z should speak with Mary Hoffine to determine "where the county is at with this" and "to get whatever the county has put together".** The Town currently has an interlocal agreement only on building inspection. Bruce said it is not an option simply to have the county deal with this; the Town would need to have the same ordinances as the county and an interlocal agreement, and even then it couldn't be completely turned over to the county.

Bruce will work on this issue. Ron relayed that Jeff Whitney had said he would be eager to work with the Town on issues related to pursuing the enforcement of Town ordinances. Bruce will work with Kinghorn to get the clean-up on Lot 100 moving forward.

Dave commented that following up with Joe Kingsley about when options will open up for car crushing within the county, putting a plan in place to use that option, learning more about the number of junk vehicles, etc.

19. Discussion and possible action concerning the Annexation Policy Plan

It was determined that no one has definite information, nor has anything been found in the files, to indicate that notification letters ever went out to adjacent landowners whose property might be considered for annexation into the Town. The State specifies that affected landowners must be notified in order to put this policy in place. **A decision was made to send the notification letters out including the clear statement that the Town of Castle Valley is not taking any action to annex any property, but rather that this policy would only affect adjacent owners should they take the initiative to request annexation by the Town on their own behalf. The list of affected owners should include: BLM, Seventh Day Adventists, Colin Fryer, SITLA, Utah Open Lands, Nature Conservancy, and some private lots.**

The question was raised whether the letters have to be sent followed by a public hearing, thus necessitating another public hearing on the issue after the letters have been sent? **If required by state statute, then a public hearing will have to be held.**

20. Discussion and possible action concerning Water Rights and Water Quantity Issues.

Dar moved, and Bob seconded, to suspend the order of the agenda. Motion passed unanimously. [Clerk's note: the change was to place the topic of item 20 under item 26, to be handled in executive session.]

21. Comments by Council members. None.

COMMUNICATIONS AND PETITIONS

22. Communications to/from the Town:

- If anyone wants to nominate a local level humanities champion, Bruce has a merit award form for doing so.
- A \$250 Grant was received for Arbor Day, to be held on April 30. Required work involves consulting the landscaping plan, ordering the trees, advertising the event, contacting Ron Drake, and managing volunteers.
- House Bill 136 & House Bill 105 require that the Town register building permits with their database. Ron suggested that the county will file for us, and is following up on this.
- Grants are available for making trails in 2006.
- Vicky Todd suggests that the town should have a notary. **Rebecca will check into fees, eligibility, and responsibilities.**
- Ron explained House Bill 146, passed in 2004, dealing with the costs of fighting fires in the “Wildland/Urban interface. The state wants to push costs back to the county. Improvements are aimed at 1) the training of fire fighters 2) “responsible infrastructure”. Fifteen people from CV will be attending a training. Counties are being asked to adopt minimum standards. **Ron suggests that the Town or P&Z should look into the question of whether a community such as Castle Valley is going to be required to follow these standards.**

Bruce wants to know if Castle Valley is too small to fall into the affected category. Ron says these are the basic standards that all communities would have to meet, and that CV falls short of meeting them, e.g., on road widths, marking houses, etc. The county is in a process of upgrading their standards to meet these new standards. Ron says these are good minimum standards in terms of what the fire district needs. Damian asked whether there might be funding for roads? Most of our roads are less than 20 feet wide. Bruce would like the Town to keep abreast of where Castle Valley’s obligations will fall.

- Ron commented that the presentations of town finances were great in the last year and a half and offers congratulations to the Council and to Jerry for clarifying the town’s fiscal situation. (Applause.)
- Tom Henry requested further information on the proposed exclusionary deer fencing policy amendments.

23. Open Public comment period.

24. TREASURER’S REPORT

\$18,000 will be left in our checking account which will be sufficient through May. \$114,000 is in the sales tax account with which to cover bills from June through December.

Bruce explained that the Town does not have a fixed rate for property tax at this time. If the rate were fixed, the amount of revenue will go up when new homes are built. Someone may investigate whether setting the rate constitutes a rate increase. Jennifer noted that the filing requirements for a budget with a changed rate are different; you have to file sooner. Jerry commented that the deadline may be to have it in by August.

25. PAYMENT OF BILLS

Jerry clarified that the Council was being asked to pay the bills from check number 4410 down to the bottom of the list. **Jerry moved, and Dar seconded the motion, to pay the bills. Motion passed unanimously.**

ADJOURNMENT

Copies of documents included:
 Karen Nelson’s report
 Kinghorn letters re: water

ATTEST:

APPROVED:

REBECCA MARTIN, CLERK/RECORDER