

MINUTES
SPECIAL MEETING OF THE TOWN COUNCIL
OF THE TOWN OF CASTLE VALLEY
Thursday, September 7, 2005, at #2 CV Drive

CALL TO ORDER: Mayor, Bruce Keeler, called the meeting to order at 6:35 PM

Council Members present: Jerry, Bob, Bruce, (Robert and Darr arrived after the beginning of the meeting.)

Others present: Jack Campbell, Jennifer Mengel, Dave Erley, Damian Bollerman, Jim Lindheim, Scott Cruger (sp.?)

Minutes taken by: Rebecca Martin, Clerk/Recorder

1. Approval of Minutes of prior Town Council meeting 08-11-05. Minutes stand as presented.

COMMITTEE REPORTS

2. Water Working Group

Jack Campbell reported. Alice Drogin is the new WWG chair. A recent topic of the WWG has been “use designation”. Joe Kingsley has proposed that a public water filling station be created possibly then being designated as a municipal water system. Jim Adamson and someone from the State both opined that this represents liability, and brings maintenance and inspection responsibilities. **Joe’s report will be forwarded to the Town Council.**

Bruce said the idea of the Town putting in a well or otherwise providing access to water has been discussed positively in the past, and may be financially doable. Adamson said the rules for a municipality to operate such a thing are significantly extensive; more so than for a private individual. Bruce said that the rules for distributing water need to be evaluated and the idea should either be dropped or moved forward.

There has been low WWG attendance over the summer. There was speculation that attendance may vary based season, issues changes, etc.

Jack said that a WWG mission statement has been adopted, and is forthcoming; Jack will get a copy to Rebecca when it is ready.

3. Water Department Report

There is one new request for a well permit.

Jennifer Mengel asked what the process is for proving up one’s water right, and would like to join the list of those ready to be proved up. Bob said the proper action is to send the request to the Town in writing. When the list is sufficiently long, possibly 4-6 lots, the engineer will be brought from Price to prove up the water on these lots. **Bob noted that the Town still needs to draft the administrative process for proving up water rights into writing, and is still waiting on an opinion from the State Engineer whether the Town has the legal “green light” to go ahead. Bruce said that by 2008, the Town must prove up the rights that belong to the Town,** and the administrative process will be needed for that effort. There is a different (proving deadline) date for each water right.

Bruce commented that individuals may be able to talk an inspector into saying that s/he will come down to inspect a single lot, but that is outside of the process set up with Price/Mark Page. The State has told the Town that they want to prove up lots in groups rather than individually, and Bruce said the Town should handle the process of proving up the rights that actually belong to the Town.

Rebecca has a copy of Catherine Howells opinion of the outline of the water proving process as part of the files handed over by her when she exited the Water Agent position.

Bruce reported that the Town is in the process of looking at some replacement water rights, and that the letter expected from the Division of Water Rights will say this it is necessary for certain water rights to be replaced. He said that there may be “some form of solution possibly close at hand”. It is not clear yet if (this solution) will be what the Town needs, but Bruce said there seems to be a good potential, and the Town is beginning to put together a contract.

4. Road Department

Damian reported that there have been a few floods in the past month. All needed repairs and clean-ups have been made. One culvert on the Upper 80 road is always flooding out badly, creating an undercut, and always

takes at least an hour and a half to deal with after a flood. He said that this culvert will have to be replaced with a pour-through similar to what was done by Larry Fields' place, which is much more stable, so that no future flood will take out the road.

Damian has notes for Bruce on research he has done on costs of signs.

More improvement on roads is planned for this fall, and Damian said that those who want gravel will probably get it.

5. Planning & Zoning Commission

Rebecca reported that P&Z did not meet on the scheduled meeting date, but did hold a special meeting (on August 23, 2005). They forwarded a copy of the draft of the Fuel Storage Ordinance for Watershed Protection to the Council (copy included with Minutes).

Rebecca will pass to the Council the "Steps in the Conditional Use Process" from the P&Z.

A hearing on the Fuel Storage Ordinance is scheduled for the next P&Z meeting on September 14, 2005.

6. Fire Department Report: no report.

7. Building Department Report: Ron Mengel sent a report that he has fielded some calls, but that no actual activity occurred in the building department (report included with the minutes).

8. POA Board

Jack Campbell reported that a date has not yet been set for the annual meeting. It is likely to be in the end of October. Water is expected to be the main topic, and the Town will be given time to address the issues. Jack may ask for the Town to review a draft of the annual POA letter.

9. Grand County Recreational Services Board: no report.

10. Landscaping Committee

Bruce reported that they have boxes to drop into the ground to house the valves. **Within the next week or two, the electronic valves can be completed and some plants can then be put in.** They are looking for fill dirt, especially for the triangle near the front door and the area nearest the building that was compacted during construction. Dave Erley volunteered some fill dirt. **The landscaping committee will produce a wish list of planting materials, so people can donate.** Ken and Alice, and Mary Reese, have offered to donate some things.

11. Solid Waste District Report

Bruce reported that the district has been busy with a lot of construction. The Moab landfill has been bringing in a lot of money. They are switching to a per-tonnage rate at the Klondike Landfill to more accurately reflect how much material goes there.

Overhead has been cut by eliminating the Manager's position administratively. Some of those duties have been given to the landfill supervisor and the Board has taken over some responsibilities. Barbara Hicks is doing books.

OLD BUSINESS

12. Discussion & possible action re: Water Agent Position.

Water Agent position closing date was Tues., September 6th. Bruce suggested extending the deadline date for applicants to apply. Only one application has come in.

Jerry moved and Robert seconded the motion to keep the Water Agent position open until Monday before the next meeting. Motion passed unanimously.

Rebecca will re-advertise the position on the official message boards and in the Times Independent.

13. Discussion & possible action re: Board of Adjustments (tabled)

Robert moved and Jerry seconded the motion to take this item off the table for the nomination of the five people who have applied (to be on the Board of Adjustment). Motion passed unanimously.

The names of people interested in serving on the Board are: Dave Erley, Susan Ulery, Rob Soldat, Jennifer Mengel, and Mark Webster.

Jack commented that it may be necessary to also assign (length of) terms for these positions. **Bruce agreed to research the terms with Rebecca to set up a system whereby people's terms end in staggered years to avoid everyone's terms expiring at once.**

Jennifer asked whether Mark Webster would have to resign from the Board of Adjustment if he is elected to the Town Council. Bruce said he would have to resign. Rebecca said that he is aware of this and said that he would. The Board of Adjustment is the final resort before bringing a question to court in cases of dispute with decisions of the Town Council or the Planning Commission.

Bruce called the Question. Motion passed unanimously.

Rebecca will notify the members of their official appointment.

14. Discussion & possible action re: Grand County Special Services Water District Consolidation (tabled)

This item was tabled because the Council did not have a formal opinion at the last meeting. Bruce now has a letter from attorney saying why the Town should take certain actions (letter included with these minutes).

Jerry moved and Bob seconded the motion to take this item off the table for action.

Kinghorn has recommended that the Town reject the request for extended sewer services into Castle Valley because he does not see any possible benefit to the Valley, but does see a liability in the need to increase taxes. The Sewer District does not install sewer treatment, so the Town would be made to put in a treatment plant when they specifically never wanted one.

There was a thirty day response deadline (Sept 2) that the Town allowed to pass because a non-action under State statute is a rejection of the proposal.

Jerry moved, and Robert seconded the motion, to determine it to be in the best interest of the community not to consent to the extension of the sewer service district to the Town of Castle Valley.*

Bruce reported that the Mayor of Green River made pointed comments at the recent County Council meeting to reject the proposal, as well as to request to be withdrawn from the water districts. Affected parties were very dissatisfied with the County's process on this issue, e.g., they did not receive any information about it at all. Moab City let the deadline expire. San Juan County apparently also let it expire. Only Spanish Valley political entities favored this proposal.

Jack asked whether Kinghorn had advice on whether this issue is killed by default if the effected entities do not act on it, i.e., whether non-signing is a way of protecting Castle Valley. Bruce said this was not one of the specific questions he asked Kinghorn.

Bruce explained that the Town is opting out of this expanded district, but that Castle Valley remains part of Spanish Valley Water District, and other districts, because Castle Valley is still obligated to pay on a GOB for expansion of the irrigation in Spanish Valley, and the districts stay together until the bonds are paid off.

Jack asks whether Castle Valley would have to pay on another irrigation project, if the water district decided to do one. Bruce said they would have to do another GOB. He noted that decisions were made in the 70s when the composition of Moab City was very different and no one imagined that people would really live in Spanish Valley.

Bruce said that a lot of the questions being asked about how it would all work have not been answered yet. The next (county) resolution is rumored to include whether Boards will be elected or appointed, how many board members there will be, etc.

David Erley suggested meeting with Green River to discuss legal advice because of shared opinions on issues. It was noted that Gerry Kinghorn is attorney for Green River as well, that there are differences in legal needs, and that they are in another county.

Jerry clarified that Kinghorn's recommendation was to opt out (of the consolidation) at this point, and to wait on further action to see what is in the upcoming County resolution.

Bruce called the question. *Motion passed unanimously.

Bruce said a letter is being formulated to outline the Town's decision to reject this proposal. He will run this by Kinghorn before it goes to the County.

15. Discussion & possible action re: Shade Cloth Cover for South Building Windows.

The Town determined, at the last meeting, to look for another bid. Sue DeVall has proposed a system that can be fabricated locally with a local person doing the installation. Materials costs are expected to be \$8/running foot. Time costs are expected to be \$18/hour. The total rough estimate is thought to be less than half the total of the other bid, e.g., perhaps around \$500-\$700 to do the whole project. This may keep it below the purchasing

policy cap. Several places in the Valley now use this shade cloth which provides 90% shade protection, can be made to be fairly wind resistant, and could be taken down annually.

Jerry moved, and Bob seconded, to spend up to \$900 for the fabrication of shade cloth covers for the South-facing windows. Motion passed unanimously. Jerry noted that this is a capital expenditure. **Rebecca was instructed to contact Sue to get this project moving.**

NEW BUSINESS

16. Discussion & possible action re: option to increase Insurance Policy to \$5,000,000.

Jerry Bidinger introduced a proposal to increase the Town's General liability insurance coverage from the current level of \$2,000,000, with a premium of \$2,975 per year, to a limit of \$5,000,000 which would cost a total of \$4,475 per year. This covers general liability, auto bodily injury, property damage, personal injury, etc., and directors and officers.

Jerry commented that \$2,000,000 is not adequate currently, and the Town has more issues than it had when the policy was put in place. He recommended raising the coverage to \$5,000,000.

Jennifer Mengel remembers from the insurance history file that the general increase is running around 10% per year in the policy.

The Pavilion and Community Building, and associated activities, both heighten the need for insurance.

Bob asked whether the budget could accommodate the \$1,500 immediate increase as well as the annual 10% increase.

[Clerk's note: Jerry Bidinger gave the Treasurer's Report at this point in the meeting.] Jerry reported that the Town has spent \$15, 927 in a three month period, i.e., just over \$5,000/month. These are very low expenditures per month compared with last year. Winter may bring expenses up a bit. The Town is trying to keep expenditures low.

Bob inquired whether the Town would still have a buffer in case of unforeseen expenses. The Capital Projects Fund currently holds around \$57,295. The estimate for expenditures for that fund is around \$17,295. The General Fund currently holds around \$82,500. Monthly Sales Tax income is around \$2,100/month. Taxes will bring in around \$60,000. B&C Road funds have brought in around \$5,200. Gravel costs are just above average, but the monies fluctuate a bit month to month. Jerry concluded that the expenditure/income ratio appears to be good.

The Profit and Loss statements for FY 2005 and FY 2006 are unavailable due to the holiday Monday and the changed meeting night. The Town's auditor wants the Town to organize our P&L statement differently, i.e., to show the capital and the general fund separately. Rasmussen told Jerry that this is the way public auditing is done throughout the state. **Jerry is working with Barbara Hicks to transform the FY 2005 and FY 2006 P&L statements into that form.**

Bruce says the budget (tax rate) is set on an evaluation from one year back. The overall evaluation goes up and the taxes are paid in real time, so that every year there appears to be a \$4,000-\$5,000 cushion above the set the tax rate. Larger municipalities end up with a bigger cushion. Bruce commented that the law works such that, the tax levy for the coming year is based on (kept the same as) what was collected previous year. As construction and values go up, the municipality would have to vote to raise taxes in order to keep up with rising values. He said that fixing the tax rate may become prudent when the Town is "built out" and at the rate we are going, this would take ten years.

Robert moved, and Jerry seconded the motion, to increase the Town's general insurance policy to \$5,000,000. Motion passed unanimously.

17. Discussion & possible action re: Employee Policy.

Bruce introduced the Special Service District Employee Policy from the Solid Waste District, saying it is thorough and that the Employee situation is similar so the document can be helpful in outlining an employee policy for the Town. **He asks people to read it and highlight things they want to discuss.**

Jerry moved and Robert seconded the motion to table this agenda item, and add it to the October Agenda. Motion passed unanimously. It was thought that the creation of an Employee Policy could be addressed in October and possibly finalized in November.

18. Discussion & possible action re: Ordinance concerning parking prohibition on CV Drive from Keough Lane to Upper 80 Cul de Sac.

Bruce presented a draft of a Parking Ordinance (draft ordinance included with these minutes). He has been communicating with Joe Nicholson, a Department of Wildlife Resources ranger for this area, who is implementing educational efforts to deter hunters from problem behaviors, including in Castle Valley. He has one year to try to make an impact with educational techniques before DWR will have to do an emergency proclamation. Due to past problems, the Town Council voted to pass a resolution but missed the cycle (timing) when such things could be implemented.

For the hunting season this year, Joe is designating hunter parking by posting signs out by gate and along CV drive in the Upper 80 area. Signs will direct hunters to go all the way up past the end of the pavement, through the gate, to park on the Trust Lands side of green gate, outside of the Rancheros. If people post their private property in accordance with State hunting statutes, then violations will be enforced by Happy Morgan (District Attorney) as part of the State program. Joe can tell inappropriately parked hunters that they have to move if the Town has an ordinance in place.

The designated way to post private property is to place standard no trespassing signs at any road access, stream crossing, or driveway coming onto the property, and on all four corners (three if it's a triangular lot.). In addition, property owners with posted land should paint the corner posts orange. These steps are required of private owners in order for DWR to come in to enforce.

It is against the law to discharge firearms within 600' of a dwelling; Castle Valley lots typically are only 600' long.

Bruce proposed that the Town take the following steps:

1. Damian will put up signs about hunting restrictions as always.
2. Joe Nicholson will put up signs at the front gate and on both sides of the road.
3. A Parking Ordinance would be adopted.
4. Signs would be purchased by the Town and made available for property owners.

Jerry noted the phrase: "Violators are guilty of a class B misdemeanor," saying the misdemeanor may have to be changed to "a violation". A parking ticket is usually a violation, not a misdemeanor, and a misdemeanor carries other consequences. He suggests **calling Kinghorn to put in the appropriate wording for a parking violation carrying a fine of \$250. To Section 5, Penalty, was added, "(guilty of a...) violation imposing a \$250 fine.**

Bob suggested that the issue of off-road vehicle travel should be addressed in this ordinance, noting that if they can't park they will keep driving. **To Section 3, Restrictions, was added, "all motorized vehicles shall remain on existing, designated roads and trails within the boundaries of Castle Valley."**

From Section 3, Restrictions, the first 12 words were stricken, so that it begins, "There shall be no parking or standing along Castle Valley drive..."

The Title was changed to read, "Parking Restriction and Road Use Ordinance."

To the second whereas was added, "between Keogh Lane and the end of Castle Valley Drive at the cul de sac, except for within private property within the boundaries of the Upper 80."

A mailing will be sent to all property owners to include this new Ordinance, and information on posting for no hunting, and the availability of signs.

Bob moved, and Jerry seconded the motion, to adopt the Ordinance with the corrections.*

David Erley offered to donate the cost, to the Town, of a mailing to property owners.

Discussion ensued about the 7th Day Academy hunters. The 600' shooting limit and color signposts don't deter them from traveling and shooting close to people's homes. Darr says they shoot across his field. **Darr will talk to them.**

Rebecca was directed to post the Ordinance on the website.

*** Motion passed unanimously.**

19. Discussion & possible action re: Signs for Private Property/No Hunting/No Trespassing related to the deer hunt. (This item discussed partly under item number 18.)

The Mayor authorized the capital expense to purchase Private Property/No Hunting/No Trespassing signs for property owners to use to post their lots.

Communications and Petitions

20. Comments by Council Members. None.

21. Communications to/from the Town.

Dave Erley commented that he can not thank the Council enough for taking action on the hunting issues. He says they have ATVs within 5-10 feet of their house, with people threatening them and a miserable and frightening situation every year. Jerry said issues were happening on Shafer, right in the middle of the Valley.

Notice was received that the cleaning company providing the once a month building cleaning service is out of business. Rebecca was instructed to put up a notice of the job opening.

Senator Hatch sent a thank you letter in connection with the Recreational Exchange Act of 2005.

An outdoor multi-media event is scheduled for September 21, in the pavilion area, called "Quantum Community."

22. Open Public Comment Period.

Jack has noticed ATV tracks along easements of the roads which may spread the goatheads.

23. TREASURER’S REPORT: Completed under item 16.

24. PAYMENT OF BILLS.

Robert moved and Jerry seconded the motion to pay the bills. Motion passed unanimously. [Bob was out of the room at the time of the vote.]

25. Executive Session (if needed).

26. Adjournment: Jerry moved, and Robert seconded the motion, to adjourn the meeting. Motion passed unanimously. Meeting adjourned at 8:37 PM.

ATTEST:

Rebecca Martin, Clerk

APPROVED:

Bruce Keeler, Mayor