

MINUTES
CASTLE VALLEY TOWN COUNCIL MEETING
Thursday, October 13, 2005
Castle Valley Community Center

CALL TO ORDER: Meeting called to order by Mayor, Bruce Keeler, at 6:33 PM.

Members Present: Bruce Keeler, Bob Lippman, Darr Hatch, Robert Ryan, Jerry Bidinger.

Others present: Damian Bollermann, David Erley, Steve Meleski, Michael Peck, Jack Campbell, Ron Mengel, Ron Drake.

Clerk/Recorder: Rebecca Martin.

- 1. Approval of Minutes: Sept. 7, 2005 Town Council meeting. Adopted as presented.**
- 2. Approval of Minutes: October 6, 2005 Special Town Council Primary Election Canvass Meeting.**
Robert moved, and Darr seconded the motion, to table the approval of the Minutes for this meeting.
Motion passed unanimously.

COMMITTEE REPORTS

2. Water Working Group

Three people met last month.

3. Water Department Report

Bob reported that the Town is acting on a few (well permit) applications, writing up agreements, and facilitating the monitoring wells project by locating the wells in order to get the drill permit.

4. Road Department

Dar reported that they have been in the process of cleaning up after (recent) flooding. Everything is now passable. Some roads are now at a stage of needing backhoe work. A long range plan is under discussion to deal with roads; Damian, Ron Mengel and Darr have been discussing sizes of roads, road cuts, etc.

Bob Lippman asked about the proposed removal of an Upper 80 culvert since residents had asked about that. Damian said there is a plan to move some recently exposed large rocks down to stabilize that area, and that discussion is needed about creating a drive-through versus installing a bigger culvert. He said the soil is less stable there than in another drive-through area, and may require concrete. Maximum culvert size for that area would be 6'.

Rocks are needed for Placer Creek in the Upper 80 where the phone line is exposed. Flooding has opened up some drainage issues, generally, especially in the Upper Valley. Bruce has received some calls about flooding between lots, some of which may be road issues, and some not road issues. An island has formed in front of [X] culvert, as it had in the past, and splits the water so that it washes across the road. Taylor was totally washed out and the road crew worked six hours to make it passable. Michael Peck noted that there is "no road base" on Taylor, and hopes there will be further repairs before snow. Darr commented that some storms are big enough that you can't really prepare for them. Bruce commented that the road crew will continue bringing the roads back into shape.

The "No Parking" signs have arrived. They will be put up this week.

Bruce suggested that SITLA has policy about vehicles staying on designated, existing trails. He said SITLA often partners with the local community, and might partner with the Town to provide signs to support the ordinance to keep vehicles on designated roads.

5. Planning & Zoning Commission

Michael Peck said the P&Z is "coming up against" a lack of enforcement of Town Ordinances that they are producing. **The P&Z would like the Town to address the issue of enforcement, to provide a remedy, and to complete an interlocal agreement (law enforcement agreement with the County).** A complaint came in about multiple dwellings, but although dwellings are limited to one per lot and have been since the beginning of the Valley, Michael believed there has been no enforcement since the beginning. So, Michael said, **the P&Z sent the complaint back to the Town.**

Bruce reported that he has just lined up the Town's lawyer to follow up on one complaint, and that this second complaint has also been brought to the lawyer. **If this second complaint is verified to be a violation, the same remedy will be applied by the lawyer.** There are notification periods, and everything is slow, but it is moving forward. The Council is going to have to act on some things, including spending money. Michael said thank you because the P&Z has felt like they were "spinning their wheels".

Bruce said, in the past nobody has been willing to start the first step of the process, which is to submit a written, signed complaint. He said that the (enforcement) capability has been there, but that people have not wanted that level of enforcement. He said if it is pushed to a certain point, the Town does step up to take the action it can take.

Michael Peck asked at what stage of process is the Interlocal agreement? Bruce said it is stalled out and that they only have guesses about why. Michael said it seems like the fulcrum for the Town to take enforcement action. Bruce commented that one should not place too much weight on that agreement, and that very few zoning violations are actually prosecuted in Grand County.

Bruce said Town remedies do exist, and are more complicated and expensive (than an interlocal agreement) because the Town has to engage attorneys on a per-hour basis. He said the Town has taken legal action in the past.

Bob Lippman asked whether costs might be covered by the county attorney. Jerry Bidinger said the cost is a point of negotiation. A county attorney wouldn't voluntarily undertake enforcement in another town because it is additional work, time, etc. He said the county attorney refused to talk to him about this. The Town would end up paying something. Bruce noted that the Town has never been asking for enforcement without a cost.

Robert Ryan noted that at the start of term four years ago, this was being talked about. The problems have been that these are hard issues, and the leadership hasn't been there. He said the current candidates will have to provide strong leadership to get something through, and some people may not want to pay for it.

Jack Campbell commented that we are paying full Grand County taxes, so enforcement has been paid for. Bruce says the statutes only say that the county can enforce, but they don't say they have to enforce. Jerry said their argument would be that we are paying for the enforcement of criminal laws within the county. Moab City has their own attorney; they will say CV has to have its own attorney.

Bruce noted that it is hard to get the county attorney to enforce zoning ordinances. They compare how much time it will take to the time they have, compare priorities, etc.

Rebecca reported that P&Z approved minutes, discussed the complaint on Lot 384, discussed revisions to Land Use Ordinance documents (LUDMA) including shifting it to a higher priority, made revisions to the overhaul of the Deer Fencing Ordinance, and discussed a plan to integrate the information from the public hearing into the Watershed Protection/Fuel Storage Ordinance. **A revised Deer Fencing Ordinance draft will be given to the TC for review.**

6. Fire Department Report

Ron Mengel reported that 38 fire fighters from the Greater Salt Lake area visited station #2 on motorcycles last Saturday. This networking helps in finding equipment. The fire department is looking to obtain two additional brush trucks as used equipment.

Weather permitting, some control burns are planned to remove the slash on private properties where clearing work was done earlier in the year. Ron had posted notices twice, which have disappeared.

Bruce asked Ron to please also give written notice to Rebecca when fire actions are planned. Ron agreed. This is because the Town gets calls asking what's going on and needs information. This would avoid any false information which could shed a bad light on the firewise program.

Steve asked what going on with all of the chopping and noise, apparently in the greenbelt. Ron said brush work is going on on Knowles' property in preparation for the burn.

Bob asked, in the interest of interagency cooperation, whether the Fire District received notice on the planned Willow Basin fuels reduction burn project. Ron said they did not receive notice. Bob said that that is something the Fire District should become involved in as well because it is within our watershed and their jurisdiction, and has EPA and watershed implications.

7. Building Department Report

Ron submitted a written report. (Report attached with these minutes)

8. POA Board

Jack Campbell reported that the annual meeting is scheduled for October 29. The Town water issues are the main thing on the agenda. The annual mailing has gone out. Jack asks if anyone hears of someone who didn't get a mailing, to have them contact Jack. A slot is there for the Town Council candidates to talk about their positions on things. **Bruce said the Town will report on the water issues.**

9. Grand County Recreational Services Board. No report.

10. Landscaping Committee

Wire is needed to protect the little trees from the deer.

We have the boxes to go in the ground. Volunteer work is bogging down. **The next step is to buy valves and hardware and put them in the shed so they can be put in as soon as the boxes are in. Bruce will get prices and run it by the Council for approval if it is over \$500. Jerry said to code the landscaping a capital expenditure.**

11. Solid Waste District Report

Bruce reported that the District is very healthy financially. They are preparing to close some older cells out at Klondike Bluffs.

Robert asked what happened this year to change the finances. Bruce explained, mineral lease funds took a big dip, and then came back up in the next cycle. During that drop, the County Council became nervous thinking about funding the new hospital. The Recreation Board and Solid Waste Board realized they could charge fees for having trash pick up, and otherwise started coming up with revenues. Revenues, however, could not easily replace the line item \$130,000/year district mineral lease funds. The county council has stopped looking at the idea to discontinue mineral lease funding.

The Solid Waste District has cut back somewhat on costs for its operations, administration and expenses.

OLD BUSINESS

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

Two applications have come in. **The Council will now schedule interviews with the candidates.**

Bruce suggested **revisiting the job description to be sure it is fine-tuned before bringing a new person on.**

Bob added that there is also a need to get some direction from the State Engineer on the water process. Bruce said **the TC should tell the State, in a letter, how the Town wants to go about things.** He said the State seems to have come to a different way of handling things during Catherine's time as water agent, than the way the agreements were set up by the Town and John Groo when he was water agent. **It is important to clarify that agreements made by John were agreements with the Town, not with John.**

Jerry noted that everybody in the (State) Division of Water Rights is afraid to take a position. Once a possible problem surfaced with CV water right, people began to pay attention to detail and they became less fluid in answering questions. He said people realize there's enough blame to go around for everybody in the 30 years the problem has existed. Bruce noted that responses differ because there are theories floating around about what they might do to resolve this. Jerry has given up on the expectation that a definitive letter is forthcoming. Bob noted that the attorney has discussed a possible GRAMA request to gain access to the letter under freedom of information.

Bob and Jerry have been talking about an alternative strategy (to procure alternative water rights). When a homeowner outside a township asks for a water right for domestic use, the State has the right to hand out 6.73 acre feet, instead of the .435 mentioned as available in other contexts. Jerry would like a letter from Price agreeing to grant the 6.73 acre feet per lot, granted as a lump, that the Town could administrate in the case that any Castle Valley rights are found to be invalid. The right could be called a municipal designation. The Town should be given the same right allotment as any other case. Jerry suggests that it may be time for the Town to be more forward in its requests for action.

The Town could pursue this even if Kinghorn doesn't advise it. Litigation is to be avoided, but it is an alternative. There is also a political response, i.e., presenting the case to the legislators. This current suggestion is an administrative course of action, i.e., presenting this alternative to the State Engineer.

Bruce said this may be a good idea and a legitimate course of action and the idea should be run by Kinghorn as a first step. The word coming out of Price is that everyone who has a straw in the ground is OK, so there is “a fix” for everyone who is here today. Jerry commented that the State has an obligation to formalize the information, and that people have a right to that information and a need for the information.

Michael Peck said that he was told different numbers by the State.

Dave Erley commented that it behooves the Town to document trying various non-confrontational avenues to resolve the issue. Then if the issue has to go political, the Town can show that it exhausted various avenues in seeking resolution.

Bruce said that there is not an official problem right now, because the adjudication book has not been put together yet for this drainage. Since we’re years away from that adjudication point, Castle Valley water is not a “front burner” issue for the State. Dave said there is, in fact, a real problem if you can’t drill a well right now. Bruce said the State is not supposed to be holding up well permits for more than the allowed six months, but now they are.

Ron Mengel noted that the Town must prove up the water rights that it holds in 2008. Bruce assured him that the Town will prove up its rights in 2008.

Michael asked how the State is responding to people who are requesting to drill a well. The people have an expectation to be able to receive culinary water. It was acknowledged that the State is creating an issue there.

Jerry said he will give Kinghorn a call to run through the (above mentioned) scenario move the idea forward.

Robert moved and Jerry seconded the motion to table this item until the next meeting. Motion passed unanimously.

Bruce said that Bob and Jerry will spearhead the interview and job description review process.

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

The Solid Waste District Employee Policy will have to be tailored specifically for the Town. Bruce sees areas that may need to be changed or omitted to make this policy affordable: 301 employee benefits, 303 vacation benefits, and 305 holidays. He will get an electronic copy and make some draft revisions. Bob suggested that some things may need to be added that are pertinent to small town employment, such as conflict of interest clauses, etc. **(item remained tabled)**

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

Bruce reported that the county is back to square one negotiating with Moab re: the proposed consolidation of the water district. The make-up of the new Spanish Trail Water District Board is a current issue. It may be timely to request that the county council give us a voting seat on that Board. Kinghorn said any time you can hold a voting seat on a board that can tax you, the better. Bruce thinks we need to be in on the ground floor. If we don’t opt in, we may be neither able to opt in or to opt out in the future. Dave Erley commented that he agrees with logic and also hopes the Town is researching options to get out of the relationship. Bob agreed that this is another opportunity to call attention to the amount of money that CV has paid into their district vs. the lack of services CV receives in return.

Jerry moved and Robert seconded the motion to send letter from the TC requesting a seat on the Board. Bruce will draft the letter. Motion passed unanimously.

NEW BUSINESS

15. Discussion and possible action re: Water Lease Contract from Grand County Water Conservancy District

Bruce explained that this is one of the avenues being explored to provide water rights for new wells in Castle Valley. Discussion ensued about the list of contract negotiation points received from Dale Pierson of GCWCD who are willing to commit 200 acre feet of water. (list of point included) Bruce pointed out that the lease fee is high. Bob and Jerry said the Town has always been in a position to assert that we have the right to a transfer of a right, not a lease. A lease arrangement gives the control of the water right and the lease price to GCWCD.

Bruce spoke to the attorney. **Kinghorn will write a letter noting the history of taxation without services, issues over the lease amount, and the Town's preference for a transfer of rights over a lease.** GCWCD says they intend not to take the right back, but it's not a guarantee. If the state says we would only get half that amount in the adjudication. Spanish Valley was subsidized to get a lower price per acre feet and CV also paid for the infrastructure. Jack commented that if the Town requests water rights and they say no, this could be used to extract us from the district in the future.

The Town will have Kinghorn will write a counterproposal letter to secure this 200 acre feet, the TC will review it, then it can be sent off. This letter may then be used as a point of discussion with Division of Water Resources because it was their recommendation to go to GCWCD to begin with.

Bob moved and Darr seconded the motion to authorize the Town attorney to write a letter in a counterproposal format for the TC review, and that the Town would then proceed as appropriate. Motion passed unanimously.

16. Discussion and possible action re: Accepting Bid for Monitoring Wells.

Tracy Balsley is the driller recommended by Mike Lowe to drill the monitoring wells. \$48,200 is the cap. Tracy has the contract and is coming to the Valley next Thursday to visit the sites with Mike Lowe. A Council member will tour the sites with them. The Town is learning about bits and pieces the Town is obligated to handle.

Ron Mengel expressed concern that well drillers may not always follow safety precautions when welding. It was pointed out that Tracy Balsley has an extremely good safety record in Castle Valley.

Bob moved and Robert seconded the motion to accept the bid from Balsley Well Drilling for \$48,200. *

Steve Meleski asked where the wells will be. They will be next to the roads. Bob said that by taking the tour of the sites, the Town will be able to monitor where the wells are to go. The archaeological inventory is done; SITLA has given us a right of entry for all of the requested sites.

These will be 2" non-production wells that will go to the depth of the first water-bearing formation.

*** Motion passed unanimously.**

17. Discussion and possible action re: Proposed Forest Service Fuels Thinning Project in Willow Basin.

Neither the Town nor the Fire District received information on this proposal from the Forest Service (USFS). Bob presented a draft letter to the Forest Service (letter attached) and explained that Castle Valley has been requesting some kind of cooperating agency or stakeholder status for years. Info was only sent to owners in Willow Basin, but Castle Valley was ignored again. The draft letter expresses support for wildfire concerns, but also the need to establish a process in working with them. There may need to be review provisions for watershed impacts because of the federal EPA sole source aquifer designation, under a federal drinking water act. CV also has the state pristine aquifer classification which would engage the federal pollution control act. The USFS needs to abide by federal provisions. A federal court in California struck down the USFS re-writing of the old Clinton review rules by creating categorical exclusions for many USFS projects, meaning the public would not have full review and comment opportunity.

Castle Valley is requesting that the USFS should reinitiate this project, including CV as a stakeholder, and allowing CV to share the information with the public here, have a public comment period, etc. This kind of review should address identifiable concerns including impacts on water quality resources, streams, surface waters, and water recharge areas, sole source aquifer considerations, erosion impacts, etc. The proposal included using heavy machinery on 1,200 acres at one time.

Dave Erley noted that the sole source aquifer protection was acquired for exactly this kind of thing. There are few landowners in Willow Basin, and there has to be some balance. This is a precedent to enforce the sole source aquifer work.

Jack pointed out that the Town could be put on the notification list for proposed USFS actions. Public meetings were held in CV for the Moab face burn project and USFS might send someone out to do this in this case. USFS may think this is a small scale project. They made a presentation to the county and the plan did not sound too outrageous, but some fuel reduction might reduce further problems.

Ron Mengel noted that Willow Basin is overgrown, and that fires have been suppressed so much that it is overgrown more than naturally. A huge fire would negatively affect the watershed.

The Town would like to be included. Bob – thanks for input, it can be included. National Environmental Policy act requires that agencies actively identify stakeholders. The precedent is important in this case too.

Dave said the USFS may not understand sole source aquifer designation. He heard USFS discussing this and they had no clue that this designation involves Bachelor Basin and Willow Basin. He says a message has to be sent.

There was general assent that the watershed is the highest priority.

Jerry commented that parts of letter could be “beefed up” to have the primary focus be an emphasis on consulting with CV on everything USFS does on that mountainside, and treating CV as partners.

Dave expressed thanks to the Council for dealing with it. The public comment period closes on October 17.

Bob moved, and Jerry seconded the motion, to have the Town Council approve a letter to the USFS based on this draft, requesting partnership/cooperative status/stakeholder status on this and on-going planning processes on the National Forest, and that a full review occur, beginning with this project, and that they address the implications of (the) sole source aquifer (designation). Motion passed unanimously.

18. Discussion and possible action re: Tractor Parade.

Catherine Howells has requested \$200 for the annual Pot Luck that accompanies the Gourd Festival.

Jerry moved and Bob seconded the motion to give the \$200. Motion passed unanimously.

Someone is needed to pull the Town’s little green tractor in the tractor parade.

19. Complaint on Lot 384.

The P&Z sent the complaint back to the Town Council saying they did not feel it was appropriate for them to have to determine if there is a problem.

Darr and Robert have each gone to the lot and looked. Darr said he couldn’t find the light on in the middle of the night and couldn’t get the dogs to bark. They both said the property is not actually in very bad shape. There is an RV parked in the back.

Bruce said the chair of the Planning Commission has gone to try to validate health and safety complaints in the past. The Town will have to set up a procedure for these complaints so everybody knows what they should do in such cases.

Re: the complaint on Lot 100, West Auto is advertising that they are doing car removal. Bruce said he was informed by the County that that is an un-permitted operation, so the Town cannot officially

recommend that people bring their cars there. The car crusher is there now and may be about done for this round.

Bruce said that a process has been laid out by Kinghorn for handling complaints.

Bruce thinks the procedures are written down re: how to handle complaints. It started at the P&Z level to Ron Mengel has been asked to do such research by the P&Z. How far can you look? It doesn't come up often.

Discussion ensued about what parts of the complaint are actually zoning violations. A second dwelling and not hooked up to a septic. The accumulation of excess junk has been determined to be a Town issue, not a county issue. Lights may have improved by being now indoors.

Bruce agreed to take a look and begin to sort it out. This item will be placed on the agenda for the next meeting.

Robert noted that they couldn't identify the problem, and someone would have to meet with Michael Ashcraft to interview him on his lot so he can point out the issues.

Bruce noted that the traditional role of the P&Z has been as the first step in inquiring about official complaints. **The TC will create a process and bring it to P&Z.**

20. Discussion and possible action re: Retaining Auditor for Fiscal Year 2005 audit.

Jerry said we are ready to engage the auditor to review the Town's FY 2005 budget. He strongly recommended that the Town use the same auditor (as last year), (Doug) Rasmussen, as he does not lose things, has worked with us extensively in clarifying how the budget should be organized, and is now familiar with the Town's finances.

Jerry moved, and Robert seconded the motion, to engage Rasmussen and his firm to do the form of review required. Motion passed unanimously.

21. Discussion and possible action re: Appointment of Election Judges.

Rebecca provided a list of proposed election judges who are willing and able to serve in the upcoming Municipal election. She said all are experienced and will receive further training upon request.

Darr moved and Jerry seconded the motion to appoint the Election and Counting judges. Motion passed unanimously. (list of appointed judges included). **One more counting judge will be appointed.**

Communications and Petitions

22. Comments by Council Members.

Darr pointed out that any sign that restricts the road will cause that section to become ineligible for B&C road funds. Bruce said this is not an issue for traffic control signs.

23. Communications to/from the Town.

24. Open Public Comment Period.

Steve Meleski expressed concern about spraying along the Loop road, which was enough to generate a smell. He said it was followed by flooding. He wondered what toxins might have been sprayed, and why. If it was weed control, it didn't seem to be killing the weeds. Grand County said they sprayed 24D, they didn't want to use a mower because they were afraid it would spread weeds to the rest of the county. Steve commented that it seemed like a huge risk to put herbicide in our watershed, and it would be too late if (toxins) show up in our water. Steve thought there must be a way to clean the mower. He suggested that the TC ask them not to spray anymore and to get Town approval on such projects.

Damian said he talked to Tim. He knows they have used 24D on the Loop Road in the past, which is a very unpleasant chemical. The knapweed is being controlled with a biological agent. Tim is doing the spraying at the request of Grand County road department. Damian asked if CV could mow with a CV mower; Tim thought that would be a great option. People in Castleton were concerned also with springs up there, etc. Town has something on the books to prevent spraying around the water courses. Damian thought Tom Henry could go up there to mow. Tim Hicks, in the past, wouldn't kick back to CV the money he isn't spending on chemicals. Damian thinks it would cost under \$200 per year and perhaps Castleton would share some of the cost.

Bruce said the Town will have to pursue some options with Tim Higgs and the County Road Department. Ron Drake suggested exploring liability questions with the Town working on the county road. **This item will be placed on the agenda for the next meeting. Damian will talk to Dave Vaughn. Jerry suggested checking with the insurance carrier on possible coverage. Bruce said an interlocal agreement may be required for the County to allow the Town to do mowing up there.**

Jack said someone had reported, two years in a row, to the Sheriff's Department that her grapes have been stolen from her vineyard. Jack found that every clump had been sliced off neatly at an angle with a sharp instrument, not by deer teeth. She said the Sheriff's department just said it must have been deer. This person expressed that they may leave the Valley due to such issues.

Jack reported that there were also had some problems with some sodium vapor lights in her area, but she found it very difficult to complain. Jack suggested that the P&Z might be able to take a field trip around the Valley at night to determine where the lighting ordinance may need to be re-asserted.

Ron Drake said he asked Jeff Whitney about the grapes being stolen, now two years in a row, from that property on Shafer. Jeff said the owner was blaming him for stealing the grapes, but he thinks it was the deer. Jack said found no deer tracks just two days after the grapes disappeared and that every bunch had been perfectly severed by a pruning tool, not nibbled.

25. TREASURER'S REPORT.

Jerry Bidinger presented the Profit and Loss Year to Date statement. He presented the Budget vs. Actual General Fund statement; this is the first set of reports where the General Fund and Capital Fund appear separately. Sales tax has been coming in at a little over \$2,400 per month, which is as expected. Property taxes will come in in December. Nothing unexpected is apparent in income. In expenditures, only insurance is over because we increased our insurance.

Reports for Capital Projects show that \$17,295 was budgeted last year. \$14, 295 remains in the Pavilion funds. A pavilion amount of \$150.75 was approved in the last fiscal year and did not get spent until this fiscal year. \$3,000 in capital funds remain to spend on the community building. \$40,000 in capital projects money is being held for future projects. \$14,193 remains in the roads capital budget. \$79,000 remains in the general fund PTIF account to be used to pay bills, etc. Jerry concluded that this picture looks like the Town is holding its own across the board.

26. PAYMENT OF BILLS.

Jerry reported that the list of bills included \$5,989 in bills, with an additional \$ 1397.02 to cover the credit card amount which was used to cover an overdraft amount incurred when an insurance policy check was posted preceding the posting of a PTIF transfer. **Robert/Darr moved, and Bob seconded the motion, to pay the bills. Motion passed unanimously.**

27. Executive Session. None needed.

Jerry moved, and Bob seconded, the motion to adjourn the meeting. Meeting adjourned at 9:26 PM.