

Lake Point City Council Special Meeting Minutes

Date: Wednesday, Nov 1, 2023

Place: Lake Point Fire Station 1528 Sunset Rd Lake Point, UT 84074

Time: 6:00 PM

1. **Call to Order-** 6:00 pm
2. **Prayer-** Ron Thomas
3. **Pledge of Allegiance-** Tina Garrard
4. **Presiding Officer-** Jonathan Garrard
5. **Attendance Roll Call-** Jonathan Garrard

Lake Point Council & Staff (C=Council)	Public	Public
Jonathan Garrard (Chair)	Tina Garrard	Willis Adams
Ryan Zumwalt (Vice Chair)	David Walbeck	Rachael Homer
Dan Crawford (C.)	Alan VonHatten	Lori Chigbrow
Kathleen VonHatten (C.)	Ronald Thomas	Jordan Taylor
Doyle Garrard (C.)	Norene Thomas	
Jamie Olson (RCDR)	Darrell Adams	
Rob Patterson (Attorney) arrived at 6:17 pm left at 10:50 pm	Karla Adams	

6. Legal Training – Rob

- A. Motion- Doyle to table until Rob arrives (stuck in traffic). Jonathan 2nd
 - i) Motion passed unanimously
- B. Council moved to 7. Public Comment
- C. The Council came back to legal training (19:50 recording)
- D. Trails safety
 - i) (Rob) reviewed conditions of trails and the possible liability to the city.
 - 1) (Rob) Ask, did the city know about it and did they take action on a danger they were made aware of?
 - 2) (Rob) Example-Posts signs on asphalt trails that they are not maintained during the winter
 - 3) (Rob) The city can choose to maintain it or not.
- E. Questions Ryan had for Rob (25:04 recording)
 - i) (Ryan) If there has been a nuisance that has happened before the nuisance ordinance is established. Can it be backdated?
 - 1) (Rob) it depends. If it is a land use items would be grandfathered.
 - ii) (Ryan) State law nuisance regulations and why the city needs to have the ordinance?
 - 1) (Rob) explained the state lays down requirements for notice of a nuisance
 - 2) (Rob) the state regulates illegal activities, such as gambling and prostitution, and the police can deal with people involved, but the city might want further regulations so they can address the nuisance activity being done on the property.
 - iii) (Ryan) Renter property- why the city contacts the owner and not a renter
 - 1) (Rob) explains one of the recourses is an abatement process, where after the appropriate procedure, the city could come in and fix something and then charge the cost. The owner of the property is who they charge because they are responsible for the property.

- 2) (Rob) Ideally, the city can work with the renter, but if it needs to escalate the city typically can get more done working with an owner because they have a more vested interest.
- iv) (Ryan) asked about Rob's experience, and his opinion of this ordinance (35:43 recording)
 - 1) (Rob) This is the most lenient ordinance he has seen on Nuisance.
- v) (Ryan) asked to explain why the ordinance went from 14 pages to 21 pages
 - 1) (Rob) Items that were added were the criminal law, voluntary compliance, notice requirements, and addressing the enforcement process that required voluntary compliance.
- vi) (Ryan) What happens to past legal nonconforming?
 - 1) (Rob) If something becomes illegal because of a new ordinance and is lawful, it can still be maintained.
 - 2) (Rob) If it wasn't lawful in the first place then it's not grandfathered.
- F. (Doyle) Concerning the enforcement officer, is that something Rob sees predominately in other cities of our size?
 - i) (Rob) Most of the time a city of this size doesn't have a code enforcement officer. At this level, it would fall on the chair, but as it is written it could be an appointed person
- G. (Ryan) How would appointed volunteers be protected?
 - i) (Rob) Volunteers are covered by workers comp and governmental immunity
- H. (Karla Adams) asked Rob about the Renters Law 57.22.5 concerning it being the renter's responsibility vs. the landowner's responsibility to take care of the nuisance.
 - i) (Rob) will get the reference to it being the landowner's responsibility.
- I. (Jonathan) would like an example of a nuisance being enforced as a Council.
 - i) (Jonathan) If a council member drives through town and notices a nuisance, are they obligated to report or do they report as a citizen?
 - ii) (Rob) Yes, they could and as a resident, they could file a complaint to the city
 - iii) (Rob) If they are the appointed code enforcement officer this ordinance would not allow them to drive around and report nuisance.
 - iv) (Jonathan) If one council member reported a nuisance, could they then call up other council members and have them report the nuisance to get the three reports?
 - v) (Rob) Yes, the same way a neighbor could call up 2 other neighbors and report the same nuisance.
- J. (Karla) asked if they would need to recuse themselves if they reported the problem if it was being appealed to the Council.
 - i) (Rob) no they wouldn't, the way it is written.
 - ii) (Rob) explained the conflict of interest rules.
 - iii) (Rob) The final appeal would be going to court.
 - iv) (Ryan) brought up the ethics and conflict of interest that the city council has signed.
- K. (Lori Chigbrow) expressed that she was concerned it tied the hands of the City Council that they can't address safety issues
 - i) (Lori) if you read it from the context that the council is not out to get them. Read it with an open mind with the intent that the city is trying to protect your freedoms and your neighbor's freedom.
 - ii) (Lori) They need to protect property rights.
 - iii) (Lori) Read the county's code and this code and compare them.
- L. (Karla) we have seen it lately where great intentions turn into the Patriot Act. The city is getting this because of where we have come to as a country in the last couple of years.
 - i) (Ryan) The complaint and complainant section explains that there is no entitlement, just because the city receives a complaint, doesn't mean it will be investigated or enforced (ex. the complaint isn't valid)
 - ii) (Rob) State Code addresses a city going on to the property to clean or inspect something on a property. (58:11 recording)
 - 1) (Rob) explained the notice requirement requires notice to the property owner.

- 2) (Rob) A city would still need an Administrative Search Warrant to go onto someone's property for inspection. However, this option has not been authorized in Lake Point's ordinance.
- 3) (Rob) explained a city can ask permission, but typically if they can't see a problem from the view of public property (ex. sidewalk) then it doesn't move forward.
- 4) (Jonathan and Rob) discussed public view and privacy
- 5) (Rob) explained, if you/it can be seen by the public you can't expect it to be private.
- M. (Jonathan) asked about appraisers and county assessors in regard to "personal interest"
 - 1) (Rob) they both have strict rules, and it doesn't apply to the "personal interest" topic mentioned earlier and he explained further.
- N. Motion- Jonathan to open public comment. Ryan 2nd (1:07:04 recording)
 - i) No public comment or follow-up questions for Rob.
- O. Motion- Kathleen to close Public Comment. Dan 2nd
- 7. Public Comment- (3:18 recording)**
 - A. Motion- Doyle to open Public Comment. Dan 2nd
 - i) Motion was unanimously approved
 - ii) Tina Garrard (3:43 Recording)
 - 1) Questioned the weekday hours and Sunday hours being different and doesn't think there should be a difference
 - 2) In Section 2.D. two or more persons instead of 3, where it is listed everywhere else.
 - 3) Voluntary correction-Section 5.5.b. says if you don't agree or comply, you're being forced into it anyway. It felt odd.
 - iii) She wanted clarification on the fines.
 - iv) Affording to remediate- how is that being handled?
 - B. Karla Adams (8:27 recording)
 - i) Questioned why items in this were already in state code, so why is it needed?
 - 1) (Ryan) understand it is because the state doesn't enforce nuisance, but he will ask legal to explain.
 - ii) Social media posts
 - 1) (Karla) Asked who was responding to the FB posts and if the whole council was okay with how someone responded?
 - (a) (Ryan) was responding, but any council member could
 - 2) (Karla) Asked if those posts could be signed so they know who stands on what and who is talking?
 - (a) (Karla) They would like to know who is talking.
 - iii) (Karla) requested the Council's notes on the Nuisance Ordinance so she knew where they stood.
 - iv) Renter's agreement and she was questioning it being the owner's responsibility and not the renters.
 - 1) (Ryan) this is another question he is ready to ask legal.
 - v) (Karla) If the Council chooses not to have a code enforcement officer, it's giving the council the authority and not an officer. She suggested getting an officer, so there is another voice outside of the council.
 - 1) (Ryan) there was a lot of pushback when they had an officer listed before.
 - 2) (Dan) asked for a suggestion
 - 3) (Karla) would like LP not turned into an HOA it is a rural environment.
 - 4) (Karla) Those of you who moved in, you accepted it the way it is. A code enforcement officer gives the council another viewpoint.
 - 5) (Karla) As long as the code enforcement officer is not badge-heavy.
 - 6) (Karla) Social media posts were disturbing- that is not LP mentality and we are a community helping each other.
 - 7) (Karla) Excellent community and good at taking care of our own and don't need the thumb of authority
 - C. Tina Garrard (16:43 recording)

- 1) (Tina) Asked about the Fines and reference "every day of the fine".
 - (a) (Ryan) we can look at that verbiage.
- D. Motion- Doyle to close Public Comment. Kathleen 2nd (17:45 recording)
 - i) Motion passed unanimously
- E. Council moved to Legal Training Item 6.

8. Action/Business Items

- A. Nuisance Ordinance 2023-16 (1:08:30 recording)
 - i) (Ryan) summarized the creation and process of this ordinance.
 - 1) (Ryan) Thanked the citizens committee that has helped with creating this draft and all the public feedback.
 - ii) The council brought up some general concerns and worked through their concerns (time stamps included on the topics discussed below, not all topics discussed are listed) (please reference the adopted ordinance for minutes time stamps) (1:15:00 recording)
 - 1) Time and Day adjustment (1:25:00 recording)
 - 2) Code Enforcement officer (1:29:18 recording)
 - 3) Conflicts and appeals (1:37:50 recording)
 - 4) Enforcement Officer (1:45:28 recording)
 - 5) Beginning of the Ordinance titled "Now, Therefore, be it Ordained" (1:57:29 recording)
 - 6) Section 1.3. Agriculture (2:09:40 recording)
 - 7) Section 1.11. Excessive Noise or Sound (2:12:30 recording)
 - 8) Section 1.20. Unsheltered adding a definition of "Public View" (2:19:00 recording)
 - 9) Section 2.1. Statement (2:25:40 recording)
 - 10) Section 2.2.d.v. Acts which affect three or more persons (2:40:30 recording)
 - 11) Section 2.3.h. Access to City Easement (2:47:00 recording)
 - 12) Section 2.3.n. Garbage Accumulation (2:57:11 recording)
 - 13) Section 2.3.s. Dead or Diseased Trees (3:06:00 recording)
 - 14) Section 2.3.t. Abandoned Structure (3:12:07 recording)
 - 15) Section 2.3.w. Trash and Debris Storage (3:19:10 recording)
 - 16) Section 4.4. Compliance Officer (3:32:00 recording)
 - 17) Section 5.1. Abatement Procedure (3:37:00 recording)
 - 18) Section 5.5.b. Voluntary Corrections (3:45:00 recording)
 - 19) Section 6.3. Appeal Fee (4:03:40 recorder)
 - 20) Section 6.5.F. Burden of Proof (4:11:25 recording)
 - 21) Section 8. Civil Action (4:33:00 recording)
 - iii) Motion-Kathleen to approve Ordinance 2023-16 as amended tonight by council and legal counsel. Dan 2nd
 - 1) (Dan) expressed appreciation for the work done on this ordinance
 - 2) (Charla Law) Apologized for her last post on Facebook it was meant for a constitutional group and she thinks the council is wonderful.
 - (a) (Charla Law) She had a traumatic experience and this ordinance triggered her.
 - (b) (Charla Law) The Council does not get enough thanks
 - iv) (Jonathan) appreciated being able to go through everyone's concerns about the ordinance
 - v) The Council discussed the positives that have happened while working on this ordinance.
 - vi) The Council discussed the procedure of using the two sheets organizing the council concerns.
 - 1) Roll Call Vote-[Jonathan-Nay] [Ryan-Yea] [Dan-Yea] [Kathleen-Yea] [Doyle-Yea]
 - (a) Record (Dan) is grateful for the council members, the community and we worked together and everything I said before. (4:44:16 recording)

- (b) Record (Jonathan) I like where we came to. I'm not sure if we got everything right. If this passes unanimously there is no chance for rebuttal from the citizens. I'm in favor but I'm going to vote Nay.
- (c) Passed 4 to 1
- (d) Council wanted clarification
- (e) (Jonathan) explained that there is legislation that if something passes unanimously there is no chance for a referendum from the citizens.
- (f) (Rob) explained that applies to land use laws.
- (g) (Jonathan) with the understanding from Rob that that only applies to land use. Jonathan rescinds his vote from nay to yay.
- (h) -[Jonathan-Yay] [Ryan-Yea] [Dan-Yea] [Kathleen-Yea] [Doyle-Yea]
- (i) Motion passed unanimously

9. Attorney Clarification- No attorney clarification (4:47:40 recording)

10. Council Updates

- A. Ryan Zumwalt
 - i) (Ryan) asked if the city could send a letter to Oquirrh Mountain Water to push more for the Franchise Agreement
- B. Kathleen VonHatten
 - i) Update on Site Plan Review
- C. Doyle Garrard
 - i) Mailbox plan
 - 1) Kathleen would like a new mailbox instead of the one they removed.
 - 2) Doyle will look into the what Mosquito Abatements plan is for the mailbox
- D. Dan Crawford
 - i) Planning and Zoning update on trying to fill the vacancy and getting recommendations. (4:53:40 recording)
- E. Jonathan Garrard

11. Public Comment

- A. No public comment

12. Adjournment-10:58 pm

Note-The minutes may include a summary of what was discussed and are not intended to be verbatim. All public meetings have an audio recording, time stamps are included in the minutes to help the public find where certain topics were discussed. Please see the audio recording of this meeting for a full audio record of the meeting.

Note- Additional information concerning meetings including agendas, minutes, recordings, written/typed public comment, other distributed materials, ordinances, resolutions, public notices, and how to sign up for notifications on the Public Notification Website, can be found at <https://lakepoint.gov> under Departments-Recorder.

PASSED AND APPROVED but the Council this 3rd day of Jan, 2024


Jonathan Garrard, Chair

ATTEST:


Jamie Olson, City Recorder