

FINAL MINUTES

**VIRGIN TOWN COUNCIL MEETING
WEDNESDAY, March 28, 2018
6:30 pm
114 So. Mill Street, Virgin, Utah**

Present:

Council Members: Mayor, Matthew Spendlove
Jay Lee
Dan Snyder
Kevin Stout
LeRoy Thompson

Others:

Monica Bowcutt-Town Clerk	
Heath Snow-Attorney	Rod Mills-Engineer
Darcey Spendlove	Jean Krause
Dina Moore	Lesa Sandberg
Linda Collet	Cameron Spendlove
Sean Amodt	Gene Garate
Kent Peterson	Stuart Nacht
Jeffrey Herrick	Joey Martel
Ivan Jonsen	Justin Moby
Paul Kroft	

A. WORK MEETING 6:30 PM

a. Discussion of FY 2018-2019 Budget. (BMX Track)

Mayor Spendlove reported that the issues with the FY 2018-2019 Budget (BMX Track) had been resolved, so there was no discussion needed. Jay Lee stated that the Council would be required to do a budget amendment. The Mayor replied that he had already begun working on this amendment.

b. Discussion of Business License Ordinance.

The Council reviewed the proposed Business License Ordinance, specifically the section on Conditional Use Permits. Attorney Snow explained what was a conditional use and what was a permitted use was defined by the zoning district in which the business resided. Most, if not all, uses were conditional, not permitted, in the Commercial and Highway Resort Zones. He felt the paragraph should be left as it was written because it only stated the business did not have to show a CUP in a zone where the use was permitted. This section would not apply in the Commercial Zone because every use was conditional. Monica Bowcutt, reported that the application fee was \$100 and a renewal fee was \$50, once a year. It was explained that a home occupational license had a different ordinance and permit. It was also clarified that agriculture was exempt from a business license.

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c. Discussion of New Appeal Authority and Prosecutor.

Attorney Snow reported that he had spoken to several municipal law attorneys who were interested in acting as the town's appeal authority. Bruce Jenkins, who was acting as the appeal authority in another municipality, was willing to work for Virgin Town on an hourly basis. He had agreed to charge the same amount that Gary Kulhman had previously done, which was \$250 an hour. He had also spoken to another attorney who would take the job, but charged \$300 an hour.

Attorney Snow then reported that he had confirmed that the County would provide prosecution services for all citations written by the Sheriff's department (within town limits) at no expense to the town. He had also spoken to Rachel Becstrum, part-time deputy county attorney, who could provide private prosecution services for town ordinance violations, etc. There would be an independent contract with her for these services for between \$140 to \$150 and hour. Ms. Becstrum also served as a part time prosecution services for Apple Valley.

The Council agreed to have Mr. Jenkins and Ms. Becstrum both provide a resume and a firm proposal. They would also be invited to come to the April Town Council work meeting to be interviewed.

d. Review Approved RHF Ordinance for discrepancy.

The Council discussed the Residential Hosting Facility Ordinance because of a discrepancy dealing with who the Conditional Use Permit was granted by. Attorney Snow explained that an RHF applicant did not have to go through the regular Conditional Use Permit process, but was conditional upon the owner obtaining a permit from town staff. In essence the applicant did not need to go before the Planning & Zoning or Council. The Council agreed with the current wording and no changes were made.

e. Discussion of lot line fee, STR fee, RHF fee and hourly fee for Old Church.

Mayor Spendlove reported that the lot line fee was currently \$500. He felt that the lot line fee was just right for some adjustments, but way too much for other jobs. Monica Bowcutt agreed, stating she did not feel right about charging so much for smaller adjustments. The Council, Attorney Snow, Rod Mills and the citizens discussed the issue at length. They also discussed the fees for Residential Hosting and Short Term Rentals Application at length. Monica Bowcutt reported the amounts that several other towns charged for these permits. It was clarified that the applicants were supposed to have fire marshal approval, along with other approvals, before they came to the town to make application.

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f. Discussion of Rio de Sion Subdivision at it pertains to STR's in new development.

Stuart Nacht was present to discuss the Rio de Sion Subdivision as it pertained to Short Term Rentals in new developments. He stated he lived in the subdivision and would be closing on the purchase of it. Mr. Nacht reminded the Council that Rio de Sion and Sierra Bella had been lying dormant for some time and he wanted to find a way to move them along. He stated he had misunderstood what the new STR ordinance meant, thinking that he could put STR's in Rio de Sion. He explained to the Council what he envisioned for the 68 undeveloped lots, which included: one manager, curfews, less traffic than residences, noise monitors, on-site parking, security guards, electronic identification and home monitors. He asked the Council to consider amending the ordinance to include the possibility, if all six current residents agreed, of allowing the already plotted lots to be used as STR's. The Council answered that a public hearing would need to be held during a Planning and Zoning meeting to change any ordinance. Attorney Heath Snow suggested an Overlay Zone would perhaps be a good option. Mr. Nacht stated he would get on the Planning and Zoning agenda.

g. Discussion of 1.2 Million Dollar Loan.

The Council did not discuss the 1.2 Million dollar loan because of time restraints.

h. Discussion of alternates for P & Z.

The Council did not discuss alternates for Planning and Zoning because of time restraints.

i. Review Home Occupation Ordinance.

The Council did not review Home Occupation Ordinance because of time restraints. Matt Spendlove and Monica Bowcutt both stated they wanted Planning and Zoning to review the ordinance.

B. REGULAR MEETING: 7:00 PM

1. Call to Order- Mayor, Matthew Spendlove

Mayor Spendlove began the meeting at 7:08 pm.

2. Invocation/Pledge of Allegiance

Kevin Stout gave the invocation. Jay Lee led the Pledge of Allegiance.

3. Declaration of Conflict of Interest

No conflicts of interest were declared.

4. Consent Agenda: Possible Approval of Items 5 and 6.

5. February 2018 Checks and Invoices.

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6. February 28, 2018 Town Council Meeting Draft Minutes.

Jay Lee made one small grammatical change. He also pointed out that item number 11 was incomplete.

Dan Snyder moved to approve the consent agenda, items 5 & 6, with the corrections. Kevin Stout gave the second. No roll call vote was taken. The motion passed unanimously.

C. PUBLIC HEARING:

7. Motion to CLOSE Public Meeting and OPEN Public Hearing.

Jay Lee moved to close the public meeting and open the public hearing to accept public input on fee schedule. Kevin Stout gave the second. No roll call was taken. The motion passed unanimously.

8. Accepting Public Input on amendments to the current Fee Schedule:

a. Lot line adjustment, STR, RHF, Heritage Town Square hourly rate.

* Sean Amodt asked if the STR and RHF were the same price. The Council replied that there were no fees assigned yet, which was the purpose of the public hearing. Monica Bowcutt reported that in the two locations she had checked, the RHF was less money than the STR. Mr. Amodt recommended that the Council have the same price for RHF that was set for a Home Occupation Permit. He felt they fell within the same state code category. This fee would not be renewed on a yearly basis and only cost what it took for town staff to administer the permit.

* Linda Collet wondered how a discussion could take place when there were no fees assigned. Dan Snyder asked Ms. Collet to give her opinion on how much she felt the fees should be. Attorney Snow stated that the town could not charge more than the reasonable cost estimate of staff working on the permit. This estimated reasonable cost was discussed at length. Ms. Collet stated she wanted research to be done, so that the permit process did not cost the town money.

* Kent Peterson reported he had heard that Hurricane was the number one growing, per capita, for STR's. He asked if STR's collected a hotel/room tax and where the payment went. Attorney Snow answered that the Utah State Commission holds a portion of it and the rest is remitted to the town.

* Jean Krause stated that all the costs go into compiling a fee. She knew that fees were not

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supposed to be a money-maker for the town, however, she thought that RHF's and STR's were supposed to bring money into the town. She suggested that Council not set the fees too low, especially on fees that were a one time charge. In the past, Ms. Krause stated, that fees had been set in order to fund staff pay raises. She recommended that future raises be considered as the Council made a decision. She also said rates needed to be compared with other towns.

9. Motion to CLOSE Public Hearing and OPEN Public Meeting.

Kevin Stout moved to close the public hearing and open the public meeting. Jay Lee gave the second. No roll call vote was taken. The motion passed unanimously.

10. Discussion with possible approval of Amending current Fee Schedule.

The Council first discussed the fee for a lot line adjustment. Ideas discussed were: letting the zoning administrator decide if the adjustment was simple or not and assigning the price for each, price depending on the engineering fees, price based on how many lot lines were being moved, and charging a basic fee and then the applicant also paid the attorney and engineering fees. The Council discussed what would be considered a simple and what would be a normal adjustment. The Council decided to amend the uniform fee schedule to include a subcategory for simple lot line adjustments to be defined as no more than two boundary lines adjusted with the fee \$250. Anything more than two lines adjusted would be the regular fee of \$500.

LeRoy Thompson moved to amend the uniform fee schedule to include a subcategory for simple lot line adjustments to be defined as no more than two boundary lines adjusted with a fee of \$250. Anything more than two lines adjusted would be the normal fee of \$500. Jay Lee gave the second. Roll call vote: Jay Lee-Aye; Dan Snyder-Aye; Kevin Stout-Aye; LeRoy Thompson-Aye; Mayor, Matthew Spendlove-Aye. The voting was unanimously in favor.

The Council then discussed a fee for Short Term Rental's. Kevin Stout stated that he had spoken with LaVerkin's Mayor a few months ago who reported that they had had no problems with STR's. Monica Bowcutt reported that Hurricane charged \$300 and Parowan charged \$250.

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LeRoy Thompson moved to set the Short Term Rental fee at \$300. Dan Snyder gave the second. Roll call vote: Jay Lee-Aye; Dan Snyder-Aye; Kevin Stout-Aye; LeRoy Thompson-Aye; Mayor, Matthew Spendlove-Aye. The voting was unanimously in favor.

The Council discussed the fee for Residential Hosting Fee, which was a yearly fee, like a Conditional Use Permit or Business License. It was not a Home Occupational Permit. It contemplated that the permit would constitute less administrative needs because the owner was living in the home. The assigned fee would not include any permit or inspection fees (fire department, etc.) associated with obtaining a RHF permit.

Dan Snyder moved to set the Residential Hosting Facility permit fee at \$100 annually. Kevin Stout gave the second. Roll call vote: Jay Lee-Aye; Dan Snyder-Aye; Kevin Stout-Aye; LeRoy Thompson-Aye; Mayor, Matthew Spendlove-Aye. The voting was unanimously in favor.

Lastly, the Council discussed fees associated with renting Heritage Town Square. Monica Bowcut reported that the current charge was \$20/hour for 3 hours, at which time the charge changed to daily use fee, which was \$550. The Council agreed that the day rate should come out less than the hourly rate. The Council contemplated how to deal with non profit groups (such as scouts). Attorney Snow suggested that no exception be made for non profit groups because it open a new "Pandora's box". LeRoy Thompson stated that the town was not even covering its costs when renting the building and he felt that should change.

Joey Martel stated that motels did not set a fixed price, so each rental was different, although, the town should make money. He suggested the town reach out to a catering facility to add Heritage Town Square to their bank of locations, who would give the town a percentage of what money they brought in. Attorney Snow stated that the town had to set a fee, which could not fluctuate depending on who was using it.

Dan Snyder expressed that several local groups used the building and he did not want to take that away from the citizens, but he also understood the \$8,000 payment needed to be made.

Jay Lee stated it sounded like what the BMX Track was doing, which worked very well.

The Council agreed to leave the fee as it was for now, but advertise to have a catering company of some kind take over the booking of the square.

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11. Discussion with possible approval of P & Z recommendation to approve ORDINANCE #2018-13: An ordinance amending virgin town's official zoning map by re-zoning approximately 5.59 acres of real property located at approximately 775 W SR-9 parcel numbers V-2-1-21-2126 and V-2-1-21-2127 ("subject property") from its present designation of rural residential (RR) to Commercial (C).

Mayor Spendlove explained that Stu Ferber had asked asked to rezone two parcels, which were on both sides of the road, near Andy Anderson's property. Mr. Ferber was unable to attend the meeting, so Cameron Spendlove reported that the P&Z had unanimously recommended the rezone to commercial without any special conditions. They had reviewed the commercial zone and the property fit within the restrictions. The property was west of 700 and also butted up against an existing commercial lot.

LeRoy Thompson moved to approve Ordinance #2018-13 as presented by the P & Z Committee. Jay Lee gave the second. Roll call vote: Jay Lee-Aye; Dan Snyder-Aye; Kevin Stout-Aye; LeRoy Thompson-Aye; Mayor, Matthew Spendlove-Aye. The voting was unanimous.

12. Discussion with possible approval of P & Z recommendation to approve Taleka CUP.

Mayor Spendlove explained that the location was near the 101 area. Cameron Spendlove explained that the approval of this item was conditioned on the approval of item 14. He suggested that item 12 be discussed after item 14. The Council agreed.

LeRoy Thompson moved to table item 12 and come back to it after item 14 had been discussed. Jay Lee gave the second. No roll call vote was taken. The motion passed unanimously.

14. Discussion with possible approval of P & Z recommendation to approve Ordinance #2018-12: An ordinance amending Chapter five (5) standards for non conforming buildings and uses.

Attorney Snow explained that a clause had been added so the changes could not further increase the structure's non compliance. Mayor Spendlove asked why the applicant had to come back to the Land Use Authority. He felt that instead, the Zoning Administrator could approve the change because he was the expert and would be looking at it anyway. The Council agreed with Mayor Spendlove. Attorney Snow stated it was not a substantial enough change to require the Ordinance to go back to P & Z.

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LeRoy Thompson moved to approve Ordinance #2018-12 as Chapter 5 amendments with the understanding that 5.2.3.d stated the change has been approved substituting Town's Land Use Authority to Town Zoning Administrator. Jay Lee gave the second. No roll call vote was taken. The motion passed unanimously.

12. Discussion with possible approval of P & Z recommendation to approve Taleka CUP.

Cameron Spendlove, P&Z Chairman, stated that the parcel was already in the Highway Resort Zone, but Mr. Martel was asking for a Conditional Use permit to expand the structure to make it into a Short Term Rental. He reported that he had abstained from the vote, but the P&Z had recommended it if the Chapter 5 amendments were approved. Attorney Snow stated the expansion would not increase the non-compliance.

Jay Lee moved to approve the Taleka CUP. LeRoy Thomspsons gave the second. Roll call vote: Jay Lee-Aye; Dan Snyder-Aye; Kevin Stout-Aye; LeRoy Thompson-Aye; Mayor, Matthew Spendlove-Aye. The motion passed unanimously.

13. Discussion with possible approval of P & Z recommendation to approve Ordinance #2018-11: an ordinance amending chapter four (4) supplementary and qualifying regulations, adding sub section 4.8 car ports to reflect the modification of the restrictions on location of car ports in residential districts and to separate and clarify the definitions of, chapters one, four, and the renumbering of the subsections.

Mayor Spendlove explained that this amendment would allow residents to put car ports (private parking structures that were not completely enclosed by walls or doors) within the set backs. The amendment included the understanding that the structure may need to be removed in the future, at the owners expense, to accommodate future infrastructure.

Rod Mills commented that he liked the changes because it allowed things to happen, but protected the town in unforeseen circumstances.

Jay Lee clarified that there was a building permit issued for anything over 200 square feet. Water and power were not allowed in the types of structures being discussed.

Other requirements that must be complied with were: does not obstruct the view, does not create an unmitigated hardship to neighboring properties, does not connect the structure to any utilities (with the exception of lighting) and a building permit would be required for

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anything over 200 square feet. Also, a signed document would be recorded with the property acknowledging the right of the town to require removal.

LeRoy Thompson moved to approve Ordinance 2018-11 as recommended by the P & Z Commission. Kevin Stout gave the second. Roll call vote: Jay Lee-Aye; Dan Snyder-Aye; Kevin Stout-Aye; LeRoy Thompson-Aye; Mayor, Matthew Spendlove-Aye. The motion passed unanimously.

15. Discussion with possible approval of Resolution#2018-F to hold a Special Election on June 26, 2018 to vote on Ordinance 2018-7 and 2018-9.

Mayor Spendlove explained the resolution was contingent upon the verification of signatures and the required numbers of days. If no special election was held in June, it would be on the ballot in November. Attorney Snow felt that tabling the resolution until the April meeting would still allow the town time to approve the resolution and hold the election in June, after the signatures had been verified.

Jay Lee moved to table item #15. LeRoy Thompson gave the second. Roll call vote: Jay Lee-Aye; Dan Snyder-Aye; Kevin Stout-Aye; LeRoy Thompson-Aye; Mayor, Matthew Spendlove-Aye. The motion passed unanimously.

16. Discussion and possible approval of Ordinance #2018-06 establishing rules, regulations and controls for the licensing of businesses within the corporate limits of Virgin Town.

Attorney Snow explained that the town did not currently have a comprehensive ordinance governing business licenses. Monica Bowcutt stated that staff had two concerns: Conditional Use Permits and giving licenses for alcohol. Attorney Snow stated alcohol licensing was done through the state and must be shown at time of application and he felt the CUP section should be left as written. Kevin Stout stated it was a good ordinance.

Sean Amodt mentioned that the number system needed to be reformatted to be match the rest of the chapters.

Dan Snyder moved to approve Ordinance #2018-06 with the formatting change to make it match the numbering system. Kevin Stout gave the second. Roll call vote: Jay Lee-Aye; Dan Snyder-Aye; Kevin Stout-Aye; LeRoy Thompson-Aye; Mayor, Matthew Spendlove-Aye. The motion passed unanimously.

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17. Discussion with possible approval of Resolution #R2018-G Delegating Monica Bowcutt, the Town Clerk, as Supervisor for Darcey Spendlove, Town Employee due to a family relationship with Mayor Matthew Spendlove.

Mayor Spendlove explained that Resolution R2018-G made Monica Bowcutt the official supervisor of Darcey Spendlove, instead of himself. Attorney Snow felt it was smart to avoid the anti nepotism municipal code by having someone else as Darcey's supervisor.

Kevin Stout moved to approve Resolution #R2018-G. Jay Lee gave the second. Roll call vote: Jay Lee-Aye, Dan Snyder-Aye, Kevin Stout-Aye, LeRoy Thompson-Aye, and Mayor, Matthew Spendlove-Aye. The motion passed unanimously.

Open Forum: Limit 2 minutes per speaker.

* Kent Peterson stated he appreciated what the Council was doing at this amazing time. As he had driven into town that morning, he had noticed all the changes that had happened over the last 40 years. The pressure was coming from the towns to the west to develop. He stated that the Council was orchestrating the future of this village. He knew how much each member wanted Virgin to stay a village to some extent, but also wanted growth to come. Mr. Peterson stated he knew the Council wished to take advantage of the position the town was in, to better their children's lives, to bring jobs to the community and to make the community grow. He was happy they were taking the job seriously. He then stated that what the Council did over the next 10 years would set the pace for what the town would look like when they grew old and their kids grew up and the grandkids came. Mr. Peterson asked the Council what they wanted this town to look like at that time? He stated he would like it to look like the beautiful park by the chapel and a community coming to a town bbq. It would be really hard to create, but with careful thought and persistence, it could be done. It might be in patches, but it could be done. Mr. Peterson stated he did not like STR's. He believed there was a place, in resorts for example, where investors could buy rentals. The resorts would manage them and pull out a fee for themselves. If those investors came, he hoped they would be outside of town somewhere. He did not like the fact that STR's could come into an existing residential community creating traffic. He had moved to Sierra Bella thinking of the neighbors that he would eventually have. He believed that the market would crash again, as it had done twelve years ago, because we were again at the top of the market. The developers were already coming over the twist wanting to build homes. Mr. Peterson expressed hope that the Council would keep the vision of what they would like Virgin to be like for their grandchildren.

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* Rod Mills stated that the town website had a box to make comments about the general plan.

* Dena Moore stated that her subdivision was under attack. She purchased her property in Rio de Sion with the anticipation of values going up (not down), families moving in, and herself not moving out. She would appreciate the STR ordinance staying as it was issued.

Council Comments:

* Kevin Stout stated STR's were good for a new subdivision. He had never liked the idea of putting them in where people already lived because it was not fair. The P&Z had written the ordinance for new development so people knew what they were getting into when they purchased property. There were many options for people who did purchase in these new areas. He felt it was a good ordinance. He then stated that town ordinances did not allow affordable housing and he felt it should be looked at. There was a definite need for it and starter homes for \$250,000 was not affordable housing.

* Dan Snyder liked the new ordinances, especially how STR had been differentiated from RHF. He did not want to open the door to speculation and end up with a bunch of empty neighborhoods and houses. He felt the new ordinances needed to be given a chance before things were amended. He then reported that the Fire District would be taking over Springdale and Rockville's coverage. He felt this was a new can of worms for the Fire District.

* LeRoy Thompson stated he lived in Rio de Sion, so he was perhaps biased against Short Term Rental's. He agreed with what had been said that STR's were in a bubble and we don't know what would happen if there was a downturn in the market. He felt the town needed to be cautious and they had gone as far as they could go. He suggested the Council should watch what happened and then move on from there.

* Jay Lee stated that Kevin had spoken with the Water District about their lot size regulation. Kevin Stout replied that the Water Conservancy District did not approve septic systems or tanks. It said in the agreement that if a Planned Unit Development completed a study which showed their system would handle the sewer without being a detriment to the ground waters, then you could have smaller lots. The Town had an ordinance that restricted smaller lots. The town says it can't be any smaller than one acre. Attorney Snow stated that a project could be proposed with clustered density under the overlay zone. Mayor Spendlove explained that the Heath Department regulated the size of lots and size/type of system for sewage. Anything under 5,000 gallons went to them and anything over 5,000 went to the state. He also stated that the P&Z was working on changing the size of homes that was required. Joey Martel stated that vacation rentals changed everything. He felt if STR's were allowed everywhere,

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there would not ever be affordable housing. He continued that 80% of buyers were speculators and that if the town allowed widespread vacation rentals the town would suffer a demographic change that was irreversible. He felt that whole neighborhoods would be vacant, except when there were strangers living there for short periods.

* Matt Spendlove stated that he wanted the Council to start thinking about selling the Coal Pits property. He then reported that the town had purchased sound board, which would go along the walls. Everyone in the room agreed that there was a noticeable difference in the acoustics.

* Jay Lee stated he had lived next to a STR for nine years (before the town shut them down) and it was well-kept and he got to meet people from all over the world.

Possible motion to hold an Executive Session.

D. ADJOURN PUBLIC MEETING:

18. Approve Motion to Adjourn Public Meeting.

Jay Lee moved to adjourn the public meeting. LeRoy Thompson gave the second. No roll call voted was taken. The motion passed unanimously.

The Meeting adjourned at 8:46 pm.

Monica Bowcutt
Town Clerk

Approved: _____