

**FINAL MINUTES**

**VIRGIN TOWN COUNCIL MEETING**

**WEDNESDAY, July 25, 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  
April Peppitto, Prospective buyer of Jack Ruggles property  
Amy McGarry, prospective buyer of Jack Ruggles property  
Lesa Sandberg  
Bruce Densley  
  
Jack Ruggles and wife  
Cameron Spendlove  
Cindy Escude  
Niles Ritter  
Rod Mills, Town Engineer  
Chuck Matsler  
  
Darcey Spendlove  
Rosemary Marchi and guest  
John Ely  
Ernell Thayne  
Kenny Cornelius  
Sean Amodt

**A. WORK MEETING**

**6:30 PM**

Mayor Spendlove called the meeting to order at 6:35 pm.

**a. DGE Discussion**

Mayor Matt Spendlove reported that because of the large amount of rain that had fallen in such a short time, there had been some flooding issues in Desert Gardens. The Boisenaltt home had been flooded because the road was lower than the culvert. The new Baccis home had been flooded because the neighbor's ground had not been level correctly. The Council had looked at the problems and were working to fix the issues that were town related.

**b. Mesa Road Disconnect**

Mayor Spendlove stated that the Council needed to pass an ordinance to begin the de-annexation process, which would be done later on the agenda. A public hearing would then need to be held. Rod Mills, Town Engineer, showed the Council a map of the proposed town boundary, if the de-annexation was completed. He also reported that the town would lose about \$18,000 in B&C road funds, but this amount did not come close to the amount needed to fix and maintain the Mesa Road. It was clarified that the County could reject the de-annexation, but the Council was hoping, instead, that they realized the town was serious about receiving grants and other kinds of help for the road.

**c. Chapter 21 Discussion**

The Mayor explained that P & Z had made some changes to Chapter 21, which was on the

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agenda to be discussed and possibly approved. However, the referendum sponsors had turned in repeal papers just before the office closed earlier in the day, so now the town needed to make this repeal official. He was unsure of the exact process and had not had time to research it before the meeting.

The Mayor stated he wanted to talk about the BLM before the sign Ordinance was discussed, so items d and e were reversed.

**e. BLM Update**

Mayor Spendlove reported that he had met with the BLM regarding the 70 acres by the BMX Track. The BLM was in favor of letting Virgin keep 20 acres for the Town. They were going to start the environmental impact study, which was a very large portion and cost of the process. The land must be acquired within one year, or the study must be completed again. Rod Mills, Town Engineer explained that the town must also submit a plan of how the land would be used (physically and financially) to the BLM. Following this, the town had three years to complete the project, although, it could be broken up into phases. Mr. Mills was checking for money that could be used to help complete the project.

**d. Chapter 26 Sign Ordinance-Size Chart**

Mayor Spendlove told the Council that sign companies wanted upwards of \$2,000 do a presentation, so the town had declined to invite one. He had reviewed sign ordinances from Hurricane, LaVerkin, and Springdale for various zones. He asked the Council if they had any ideas on what sizes they wanted to fill in on the maximum sign size table, which was divided by zones. Discussion followed.

Linda Collet asked what kind of signs would be allowed in a residential area. Mayor Spendlove replied that any sign that needed to be put up, like a for-sale, yard sale, home occupation, subdivision name sign, or campaign signs. Cameron Spendlove, P & Z Chairman, explained that different types of signs could not be segregated and that no distinction could be made for temporary signs either. Whatever maximum size was set would be applied to all signs in the zone.

The Council continued to discuss what size(s) they felt would fit each zone.

Chuck Matsler explained that signs needed to be large enough to be visible for safety reasons. He also explained that normally signs were measured by square footage (not dimensions), which allowed signs be different shapes.

**B. REGULAR MEETING**

**7:00 PM**

**1. Call to Order- Mayor, Matthew Spendlove**

Mayor Spendlove began the meeting at 7:00 pm.

**2. Invocation/Pledge of Allegiance**

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The Invocation was given by Kevin Stout and the Pledge of Allegiance was led by Jay Lee.

#### **3. Declaration of Conflict of Interest**

Kevin Stout declared a Conflict of Interest with item number 11: K & K American Legacy Preliminary Plat.

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

##### **5. June Checks and Invoices**

##### **6. June 27, 2018 TC Draft Minutes**

No changes were made to the minutes or Checks and Invoices.

*Dan Snyder moved to approve items 5 and 6. Kevin Stout gave the second. No roll call vote. The motion was unanimously approved.*

#### **7. Review and possible approval of Determination of Whether a Nonconforming Use Or Noncomplying Structure Is Legal and Thus May Continue.**

Matt Spendlove reviewed the history of Short Term Rentals. He stated it appeared to him that those who had money (and had taken the town to court to fight the decision) were able to continue the use. Ms. Marchi was not one of them and had been required to suspend the use.

Cindy Escade stated that three people had begun that lawsuit and two were granted the use for some length of time. One was Monte Lutz and the other was someone in Rio de Sion. She felt there was a misconception that some were grandfathered in, which was not true. Only those involved in the court case were allowed to continue. She felt Ms. Marchi had written a nice letter, but did not understand what had happened.

Dan Snyder stated it was a question dealing with business licenses, which were legal and then became illegal. Some people who had asked permission were denied, while other people had just begun the use without making application for a business license.

Kevin Stout stated that during that time the town had been collecting and accepting taxes from the use, whether they knew it or not. Mayor Spendlove stated, that at that time, it was prohibited to a point. Dan Snyder stated the use had not been included in any of the residential zone conditional uses, and the ordinance stated if the use was not listed it was prohibited. Mayor Spendlove explained that Ms. Marchi was asking the Council to make a decision whether the use should be grandfathered in, which he felt would open the door for the other homes that had also been affected by past policy changes. The Council agreed that Monte Lutz would now be considered as a Residential Hosting.

Mayor Spendlove stated that the town attorney, Heath Snow, was out of town, but had said it was the Council's decision and they could vote on the request. Jay Lee felt the application and proof were very thorough and felt it was significant that the judge had dismissed the case against Ms. Marchi.

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Cindy Escade stated that there was a long period of time after the ordinance was changed that Mayor Densley wanted to give people time to adjust before the town started implementing the new policy. After that point, the town began going after people who were illegal.

Jay Lee mentioned that that Ms. Marchi had a continuous use until the town forced her to stop renting as a STR. He liked that the town attorney pointed out that she was still considered as a continuous use because it was the town who had forced her to stop the use.

Niles Ritter asked if grandfathering something in was a legislative act or an administrative act, because knowing this would help avoid any risk of being arbitrary and capricious. Mayor Spendlove stated that Attorney Snow had said the decision did not need to go to Planning & Zoning, nor did it need a public hearing. He also reported that Attorney Snow had recommended also grandfathering all of the others who had been involved at the time, in order to avoid more lawsuits, however, they would need to make application as Ms. Rosie Marchi had done. The Council confirmed that the only homes which would apply would be Ms. Marchi and the one in Sierra Bella.

The Council discussed at length the proper wording for a motion.

***Mayor Matt Spendlove moved that the Council had determined that Rosemary Marchi's non conforming use was legal and may continue. Kevin Stout 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.***

**8. Review and possible approval of Ordinance #2018-26 to Disconnect (De Annex) Mesa Road.**

Mayor Spendlove explained the disconnect ordinance must be approved before the de-annexation process could be started.

***LeRoy Thompson moved to approve item number 8, Ordinance #2018-26 Disconnect or De-Annex Mesa Road as outlined in the map, "Proposed Town Boundaries" as furnished to the town by ENS Engineering. 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.***

Mayor Spendlove stated the public hearing would be held at an August meeting.

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**9. Review and possible approval of Ordinance #2018-27 to repeal Ordinance #2018-10 amending Chapter 21.**

Mayor Spendlove stated that this was an ordinance canceling the ballot initiative, which was the referendum vote on Chapter 21. Now, because the referendum sponsors had repealed their referendum, the Ordinance really did not apply. The Council discussed several different ways the ordinance could be verbally amended to allow it to be approved correctly. If the ordinance was passed as written it would repeal the entire Chapter 21. Now, only the referendum needed to be repealed.

Linda Collet clarified the Town Attorney, Heath Snow, had written an ordinance which would repeal (or take away Chapter 21). Mayor Spendlove replied yes, and then Chapter 21 was later on the agenda with new changes. Ms. Collect stated that the referendum had been rescinded by the sponsors because the Mayor had answered their concerns. Mayor Spendlove stated he knew that, but the town still needed to do their part of the appeal, so the referendum did not end up on the ballot.

Bruce Densley stated that he felt the ordinance could be verbally amended and then approved.

The Council and citizens discussed what the motion should be in order to accept the referendum repeal and cancel the proposed ballot. Monica Bowcutt, Town Clerk, felt it was not time sensitive. After much discussion, the Council decided to table the ordinance until Attorney Snow could be present.

***LeRoy Thompson moved to table item number 9 until next month. Dan Snyder 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.***

**10. Possible approval of P&Z recommendation to approve Ordinance #2018-20 Chapter 26 Sign Ordinance. (Tabled last month)**

The Council reported that only the size chart needed to be filled in. The rest of the document was satisfactory to the Council. They decided on acceptable square footage for signs in each zone. Each zone was discussed separately. The sizes the Council agreed on were: Residential-24 square feet (4x6), Commercial-300 square feet (15x20), Highway Resort-300 square feet, Resort-300 square, Light Industrial-Not Applicable, Open Space-32 square feet, Camping-300 square feet, Highway Commercial-300 square feet, and Agricultural-32 (4x8) square feet.

Cameron Spendlove, P & Z Chairman, stated that trail heads and/or park signs would be needed in the Open Space Zone.

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***Kevin Stout moved to set the size of signs as: Residential Zone-24 square feet, Commercial Zone-300 square feet, Highway Resort Zone-300 square feet, Resort Zone-300 square feet, Light Industrial Zone-Not Applicable, Open Space Zone-32 square feet, Camping Zone-300 square feet, Highway Commercial Zone-300 square feet, and Agricultural Zone-32 square feet. Jay Lee gave the second.***

Dan Snyder clarified that the entire ordinance was being approved, not just the size table.

***Roll call vote: Jay Lee-Aye; Dan Snyder-Aye; Kevin Stout-Aye; LeRoy Thompson-Aye; and Mayor, Matthew Spendlove-Aye. The motion passed unanimously.***

**11. Possible Approval of P&Z recommendation to approve K&K American Legacy Preliminary Plat.**

The Mayor stated that the Plat had been sent on from P&Z with conditions that several items be completed. Kevin Stout stated he had met with his engineer and completed all the items. These items were reviewed: new subdivision name (Mesa View Estates), title insurance, letter of management plan, access and right of ways, street names, cross sections, set backs, drainage retention pond, and a letter certifying of sewage system maintenance.

Mayor Spendlove explained that the town ordinances called for two different total right of way widths, 50 feet and 60 feet. Monica Bowcutt, Town Clerk, stated that in the definitions of 9.11 it was 60 feet. She also stated that Chris Holm felt it should be changed to 50 feet. Mayor Spendlove agreed, stating it would give the town less maintenance to worry about. Kevin Stout reported that the town website quoted the width at 50 feet, so the plans had been drawn up that way. The Council agreed that it should be made uniform across the board at 50 feet. They asked that a public hearing be held in August to make this change.

Chuck Mastler presented a letter which stated that American Legacy would maintain the sewer treatment system until a home owner association was created, at which point they would take over the treatment system. The sewage treatment system and who would operate and inspect it, the health department or state department of environmental quality, was discussed in detail because the answer was unclear at this point of development. Rod Mills, the town engineer, reminded the Council that sewer jurisdiction was based on flow.

Mayor Spendlove stated he would like to see changes be made dealing with the retention pond which would help the drainage problems on all of Pocketville Road (especially by Bob Clark and Brandon Olds), not just this one development. Rod Mills agreed, stating that it may mitigate the entire problem, but he needed to see final plans to know for sure.

Dan Snyder clarified that the development was clustered, but had 12 acres and 12 lots.

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Mayor Spendlove stated he felt they had met what P&Z had asked them to do for the Preliminary Plat.

***Jay Lee moved to approve K & K American Legacy Preliminary Plat.***

Rod Mills stated that all the conditions needed to be carried to the Final Plat. He felt the motion should include "subject to the completion of the discussed improvements on the construction drawings and the final plat". Cameron Spendlove stated that all those things were included in the final plat and must be signed off by the town engineer town, so there was no need to included them in the motion.

***LeRoy Thompson gave the second. Roll call vote: Jay Lee-Aye; Dan Snyder-Aye; LeRoy Thompson-Aye; Kevin Stout-Abstain; and Mayor, Matthew Spendlove-Aye. The motion passed with one abstain.***

**12. Possible approval of Ordinance #2018-25 to re-open and amend Chapter 21**

No discussion took place on this item.

***Dan Snyder moved to table item number 12. Kevin Stout 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.***

**13. Possible Approval of P&Z recommendation to approve Ordinance #2018-24 Amending Chapter 8 Town Standards, Conditions, and Conditional Uses.**

Mayor Spendlove explained that the P&Z had taken away and added from the old Chapter 29 in order to update this chapter. It was the standards for RV's and campgrounds. He read from the P&Z reporting form, which stated that a Public Hearing had been held, but no comments had been made. The RV sites would be larger while the tent sites would be smaller.

***Kevin Stout moved to recommend and approve Ordinance #2018-24 Amending Chapter 8 Town Standards, Conditions, and Conditional Uses. LeRoy Thompson gave the second. Roll call vote: Jay Lee-Aye; Dan Snyder-Aye; LeRoy Thompson-Aye; Kevin Stout-Aye; and Mayor, Matthew Spendlove-Aye. The motion passed unanimously.***

**14. Possible approval of P&Z recommendation to approve Jack Ruggles CUP (with the conditions as stated by the attorney and that it also complies with requirements of the pending Chapter 8 amendments.)**

Mayor Spendlove explained that Mr. Ruggles was asking the Council for an interpretation of the town ordinance to decide whether RV's should be allowed in Chapter 22, Highway Resort

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Zone. P&Z had recommended the CUP with several conditions. He continued that the Highway Resort Zone did not specify RV's, but it did call for tourist based businesses.

LeRoy Thompson stated that P&Z had placed good conditions on the CUP, an RV Park was a nice addition to the area, and it was located in the part of town many people thought RV parks should be in. Jay Lee agreed.

Dan Snyder clarified that the Ruggles property had recently been zoned Highway Resort. He felt that if Chapter 21 was amended, it would include RV Parks, and the Ruggle's property would fit a rezone to that. He felt including campgrounds and RV's would be a hard fit in Chapter 22.

Mayor Spendlove stated he felt it did fit and should have been included Chapter 22 from the beginning because it included motels and hotels. Jay Lee pointed out that the beginning of this Chapter stated it was written to replace Chapter 21, which allowed RV's. Kevin Stout stated that in trainings, they had been taught that if the use was not specifically prohibited and it fit all the guidelines and definitions, then the town would have a hard time not permitting it.

LeRoy Thompson pointed out that during the public hearing, there had been very few, if any, objections to the CUP. He felt the attorney was comfortable with granting the CUP. Rod Mills elaborated on conditional uses and permitted conditions as set forth by state code. Conditional use by law was a permitted use, subject to the applicant meeting certain conditions. Mayor Spendlove stated that everyone could see the camping around town and it was obvious to him that the town needed one more RV Park, but not 100.

Bruce Densley stated that he felt an RV Park was definitely a tourist based business.

Mayor Matt Spendlove felt that if the CUP was approved, the Council should only allow the permit to be granted after all the proper documentation, details, and conditions set forth in Chapter 8 were followed. He also felt a time limit should be put on the project, which was already a condition in Chapter 8.

Dan Snyder felt that it would open up the Highway Resort Zone to RV Parks and then Chapter 21 would not be needed. He felt, to be fair, RV parks should be added to the Highway Resort Zone, so that applicants had to complete the entire process. Cameron Spendlove, P&Z Chairman, replied that the P&Z had discussed that issue, and decided that Chapter 22 had enough specific language that lodging should be allowed even though it was not listed in the Condition Use, even though it was not expressly prohibited. LeRoy Thompson felt that the town should not make Mr. Ruggles wait while they sorted through these issues and perhaps amended the ordinances. He stated that the attorney felt comfortable enough with the project to help the P&Z set the conditions.



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*LeRoy Thompson moved to approve Jack Ruggles CUP (with the conditions as stated by the attorney and that it also complies with requirements of the pending Chapter 8 amendments) and give the project 12 months to complete. Jay Lee gave the second. Roll call vote: Jay Lee-Aye; Dan Snyder-No; LeRoy Thompson-Aye; Kevin Stout-Aye; and Mayor, Matthew Spendlove-Aye. The motion was approved on a split vote. 4-1 in favor.*

#### **Open Forum: Limit 2 minutes per speaker**

\* Rod Mills explained to Mr. Ruggles that UDOT would be very involved with the project and would most likely require a traffic study. He also thought turning lanes would be required. Some of the property was in the FEMA flood plane, which would have to be dealt with in the proper way.

\* Bruce Densley advised the Council to address the lighting issues in the sign ordinance. Mayor Spendlove replied that P&Z would be addressing lighting next.

\* Sean Amoldt voiced appreciation for the good time had at the 4th and 24th of July celebrations. He thanked those who had helped and supported the events. Monica Bowcutt reported that \$1,550 had been raised to upgrade the town park kitchen.

#### **Council Comments:**

\* Jay Lee reported Red Bull had donated \$3,500 to the BMX Track. Monte Lutz and Vince and Danyale Blackmore had each donated \$500. He thanked all those who had assisted in any way. It was suggested that a thank you note be sent to all donors.

\* Mayor Spendlove asked Mr. Bruce Densley to report on the fire district. He did not have anything new to report.

\* LeRoy Thompson reported that the town had actually made more money and spent less money than projected during the last fiscal year. He thanked Bruce Densley for setting up such a good budget and stated that the current Council would follow his example.

#### **C. Possible motion to hold an Executive Session.**

The Mayor stated there was no executive session needed.

#### **D. ADJOURN PUBLIC MEETING:**

##### **15. Approve Motion to Adjourn Public Meeting.**

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

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The meeting adjourned at 8:24 pm.

\_\_\_\_\_  
Monica Bowcutt  
Town Clerk

Approved: \_\_\_\_\_