

FINAL MINUTES

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

Mr. Zabriskie also reported Five Counties was planning on having a workshop in September 2019.

B. REGULAR MEETING 7:00 PM

1. Call to Order- Mayor, Matthew Spendlove

Mayor Spendlove called the meeting to order at 7:04 pm.

2. Invocation/Pledge of Allegiance

The Pledge of Allegiance was led by Dan Snyder and the Invocation was given by Kevin Stout.

3. Declaration of Conflict of Interest

Kevin Stout declared a conflict of interest with the K & K zone change to commercial.

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

5. November 2018 Checks and Invoices

Jay Lee questioned the check written to Chris Holm, Maintenance Supervisor. Monica Bowcutt replied that it was for Zoning Administrator duties and inspections. The dates and process for paying the Zoning Administrator was discussed.

6. November 28, 2018 Draft Minutes

No discussion.

LeRoy Thompson moved to approve items 5 and 6. Jay Lee gave the second. Roll call vote: LeRoy Thompson-Aye, Jay Lee-Aye, Kevin Stout-Aye, Dan Snyder-Aye, and Mayor Matt Spendlove-Aye. The motion was unanimously approved.

7. Discussion and possible approval of Capital Improvement List-1 year and 5 year.

The Council discussed the Capital Improvement Lists (one and five year). It was stated that last year the town had listed relining the water tank and looping the water lines in Desert Gardens. Relining the water tank had been completed, but because of the cost of boring under the highway, the looping had not been done. The Mayor stated it needed to be done.

Jay Lee felt that the replacement of the rock sidewalk under the park pavilion should be removed from the lists. Items discussed to be on the lists were: looping the water lines in Desert Gardens, bringing the water from Gooseberry Mesa, installing a box culvert on main street, paving a few streets, a fire station/town hall and replacing the water lines in the old part of town south of the highway. The Mayor stated that he did not know if the Gooseberry water was worth the cost it would take to complete the project.

It was mentioned that the town had already applied for a grant to purchase a new water tank.

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The notice of acceptance or denial for this grant would be known sometime in January, so the Mayor felt this project should not be listed.

The Council gave discretion to the Mayor to complete the one year list and submit it by January 4.

The Council also decided to discuss the five year list during the January 2019 Town Council Work Meeting. They agreed that the fire station/town hall should be on this list.

8. Discussion regarding uses allowed for property located at 1941 E 50 South (Old 101)

Mayor Spendlove stated that Mr. Gene Garate wanted to speak to the Council about the 101, what they planned to do, and what they felt the town had said when they bought the location.

Gene Garate was present to discuss the uses allowed on his property. He stated he had sent a letter to all Council members prior to the meeting. He then read a prepared statement to the Council, which explained the history of the issue beginning in 2017. (This statement is included with the minutes.) Mr. Garate and the previous owner had been told that all the uses were grandfathered in because the business license had been kept up to date, even though the business was not in use for about 9 years. This statement also reviewed town ordinances showing that they were unclear and did not specify who issued the non use. He requested that the Council allow him to rezone to Highway Resort Zone, but waive the \$1,000 fee, and allow them about three to five (or more) years to complete the project.

Mayor Spendlove stated that he had spoken to former Mayor, Bruce Densley, who agreed with what Gene had said happened. Mayor Spendlove had then spoken to the Town Attorney, who stated that according to state code, the uses had not been grandfathered because of non use.

Gene Garate stated that town ordinances specify that all uses must be used, not just some.

After speaking to all parties, the Mayor felt the best solution was to have the property rezoned to Highway Resort, but give a time extension as a condition. Heath Snow had also stated that parking two dry RV's on the pads could also be a condition. Mr. Garate's main concern was the one year time frame, having been told that he already had the uses. The Council agreed that the town should not have been issuing the business license when there was no business, and giving no warning for losing the uses.

The Council agreed that the conditions mentioned above should be met. Planning and Zoning could write the conditions for the Council to review. Mr. Garate stated he only wanted the uses that Sharon Lee had with the former 101, which they thought were grandfathered. LeRoy Thompson stated that the nice thing with a conditional use permit was that if the conditions were not met as approved, the Town could revoke the permit. The Council agreed that Mr. Garate and his partner could ask for a zone change to Highway Resort, while waiving

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the fee and allowing more than one year to complete the project.

9. Discussion and possible approval of Ordinance 2018-31: Disconnect of Mesa Road. A Ordinance to disincorporate a parcel of property under the ownership of the Bureau of Land Management (BLM).

The Mayor reported that the mylar maps would be available on Monday, so all the Mesa Road de-annexation documents could be submitted as required. He explained that the Council needed to pass the ordinance again, then Ron Whitehead from the County would sign off, followed by the state. It was anticipated that within ten days it would be completed.

Monty Lutz asked where the town boundary would then be located. Mayor Spendlove answered that it would be right above the water tank. The tank would still be located in town limits.

LeRoy Thompson moved to approve Ordinance 2018-31: Disconnect of Mesa Road. 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 was approved unanimously.

10. Discussion with possible approval of P & Z recommendation to approve ORDINANCE 2018-34: An Ordinance restating Chapter 9 Division of Land of the Virgin Uniform Land Use Ordinances ("VULU").

Mayor Spendlove explained that this was the ordinance which the Council had sent back to the P&Z during the November meeting, in order to fix a few things. The P & Z had sent it back to the Council at their December meeting. Cameron Spendlove, P&Z Chair, clarified that the only major change was to the Development Yield section. He explained further that one house per acre was used as the base, with bonuses for certain other things. This allowed a more dense development.

Mayor Spendlove asked that, in the future, the P&Z send a red line version (along with the final version) of corrected documents, which would make reading and checking easier.

Mark SaVee asked if previous and original versions were archived. Monica Bowcutt, answered that they were.

Chairman Spendlove stated that he believed walkways, trails and septic systems were considered part of the open space formula. LeRoy Thompson stated that 9.6.2 (page 14) was the Development Yield section.

Jay Lee questioned page 1 section 9.1.2.a which stated that P&Z was the Land Use Authority. The Council agreed to alter the sentence by taking the words "Land Use Authority" out.

Jay Lee discussed 9.1.4.c, purposes, stating he got heartburn because of that section. He felt

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it gave neighbors too much right. The Council disagreed because the ordinance only "encouraged" the items listed. Cameron Spendlove added that the section gave justification to the bonuses that were given in the Development Yield Formula.

Cameron Spendlove stated that paths were included in the open space formula, but roadways were not. Streets and roads were considered part of the Development Yield Analysis, but not open space, meaning they would not receive a bonus for streets as the ordinance was written. The Council reviewed items that could be used to receive bonuses. Each item was worth up to 5% with only a total of 20% being allowed. The Council discussed whether roadways should be included in the open space bonuses, ultimately deciding to include them. Dan Snyder stated it was a numbers game, especially with a large subdivision. He felt they should not be included because of the impact roads would have in a large subdivision. All Council members, except Dan Snyder, agreed the word "not" should be taken out of the roads section. After the change it would read "Road right of ways shall be counted towards the required minimum open space".

Monte Lutz suggested that the ordinance include a ratio for roads to only be a certain percentage of open space.

LeRoy Thompson moved to pass item #10 Ordinance #2018-34 with the change to 9.6.4.b.2.5.b taking the "not" out of the sentence. Also on 9.1.2.a should read "Planning and Zoning" by deleting "Land Use Authority" from the sentence. 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 was approved unanimously.

11. Discussion with possible approval of P & Z recommendation to approve ORDINANCE 2018-35: an Ordinance restating Chapter 8 Conditional Use Permits ("VULU").

Mayor Spendlove read the findings submitted from Planning and Zoning. It was clarified that all weather pads, restaurants in compliance with state codes and proper back flow devices had been the only additions to the document. All weather pads meant that compacted, road-base gravel pads would be accepted.

The Ordinance also required that restaurants must comply with the state, health and fire department regulations. Adequate back flow devices were also required at all pads and hookups.

Jay Lee questioned the section on electrical outlets or use of a generator. There was discussion about the use of generators, not during quiet hours, and whether they should be allowed. Cameron Spendlove explained the thought was to allow generators for campgrounds far away from other areas. The RV could hook onto power or use a generator

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before 10:00 pm (not during quiet hours.) After discussion, the Council decided to leave the section as written.

Jay Lee pointed out that one section required trails to be included, but that later it stated the trails may be included. Cameron Spendlove explained that the section about fronting the highway must include a trail or walkway in the buffer. The other section was about a buffer between an RV park and a different zone and a trail may be included in this buffer. The Council then discussed trails in the SR-9 right-a-way and the side buffers in relation to the words shall and may.

LeRoy Thompson moved to approve item number 11 Ordinance #2018-35 as presented by the P & Z. 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 was unanimously approved.

12. Discussion and possible approval of a P & Z recommendation to approve ORDINANCE NUMBER 2018-36 – A zone change for Parcel Number V-2-1-21-20001 located at approximately SR9 and Mesa Road Virgin, Utah from the Rural Residential Zone to the Commercial Zone.

Monte Lutz stated he had been present for the Public Hearing and felt that the Planning and Zoning had been very nice about answering questions. He had also had a very informative discussion with Chuck and Carolyn Matsler after the meeting. He thought everyone's concerns had been answered.

The Mayor explained that K&K had applied for a rezone from Rural Residential to the Commercial Zone. The property was located next to Monte Lutz fronting the highway. Mayor Spendlove read the statement of approval from P&Z, which stated that the zone change fit the location and the General Plan.

Cameron Spendlove, P&Z Chair, clarified that two small parcels would be deeded as the town-right-of-way or taken care of some other way as part of the zone change process. The Planning and Zoning felt it would be a good time to get them cleaned up.

Dan Snyder mentioned that the corner across the highway was also zoned commercial, which led to a discussion of definitions for adjacent and adjoining.

LeRoy Thompson stated he felt good about the zone change, in part, because the Planning and Zoning and the public had gone over it very diligently.

LeRoy Thompson moved to approve Ordinance number 2018-36 to change the zone from Rural Residential to Commercial on parcel

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number V-2-1-21-20001 located at approximately SR9 and Mesa Road. Jay Lee gave the second. Roll call vote: Jay Lee-Aye; Dan Snyder-Aye; Kevin Stout-Abstain; LeRoy Thompson-Aye; and Mayor, Matthew Spendlove-Aye. The motion was approved with one abstain.

13. Discussion and possible approval of Ordinance Number 2018- abandoning parts of, and re-aligning, 150 South to extend the bell turnaround of the cul-de-sac from its present location.

Mayor Spendlove reported that the County would not record the cul-de-sac when Heath Snow, Town Attorney, had tried. Danyale Blackmore explained that because phase I had been abandoned, the cul-de-sac also needed to be abandoned also. The new cul-de-sac was part of Phase II. The Council viewed a map of the old and new cul-de-sacs in relation to each other.

Mayor Spendlove stated that Heath Snow had written the ordinance to abandon the old cul-de-sac.

Dan Snyder moved to approve ordinance 2018-37. LeRoy Thompson 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 was approved unanimously.

Town Clerk, Monica Bowcutt, stated she would let the town attorney and the county know of the approved change.

14. Discussion and Possible approval of 2019 Meeting Calendar.

No discussion.

LeRoy Thompson moved to approve the 2019 Meeting Calendar as amended in the work meeting. 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 was approved unanimously.

15. Open Forum: Limit 2 minutes per speaker

* Chuck Matsler stated he felt if Sharon Lee had paid the business license fees for the 101 Tavern without the uses being retained, the fees should be reimbursed.

16. Council Comments:

* Mayor Matt Spendlove stated that the Post Office would be installing an outgoing mail collection box near the park and church sometime after the new year. He also reported that Mark SaVee had written a very good letter to the Post Office officials, which included a

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petition. All citizens, no matter the age, were invited to come to the town office to sign the petition. It would be available until the end of January.

* Moncia Bowcutt, added that she was trying to find a new posting location for town information. She was hoping to get a new kiosk as a new posting location.

* Jay Lee mentioned that Larry Amodt had also written a very good letter to the Post Office Officials.

* Kevin Stout thanked the Planning and Zoning for fixing the ordinances. He felt they were doing good job. He had been reviewing the Commercial Ordinance and felt it did not fit the town's needs anymore. Some work needed to be done on that zone. He felt the town's job was to help someone do a project, not make people leave who wanted to invest in the town. Jay Lee agreed, stating the town should not be in the business of kicking people out, but helping with the process.

The Council agreed that the Mayor had the final say on the CDBG lists that were coming due. LeRoy Thompson volunteered to attend the staff meeting on Monday morning to assist in the decision.

17. Possible Motion or CLOSE Public Meeting and ENTER into Executive Session.

No executive session was needed.

C. ADJOURN PUBLIC MEETING:

18. Approve Motion to Adjourn Public Meeting.

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

The meeting adjourned at 8:42 pm.

Monica Bowcutt
Town Clerk

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Approved: _____