

Cedar Highlands, UT Town Council Meeting August 1, 2019

Minutes of the Cedar Highlands Town Council meeting which was convened at 6:00 p.m. on August 1, 2019 at 252 N 200 W, Cedar City, Utah.

Council Members in Attendance:

Jim Byler, Mayor
Paul Starks, Council Member
Linda Stetzenbach, Council Member
Beth Gaines, Council Member
Susan Allman, Council Member - not present

Pledge of Allegiance

Conflicts of Interest: Paul Starks has submitted receipts for reimbursement.

Approval of Agenda: Beth Gaines makes a motion to move the action items to immediately after the public speakers. Second by Linda Stetzenbach. Voting: Paul Starks, aye; Linda Stetzenbach, aye; Beth Gaines, aye; Jim Byler, aye. Motion passed 4 aye, 0 nay.

Minutes Approval: Beth Gaines makes a motion to approve the minutes of July 25, 2019, with corrections as noted on the record. Second by Paul Starks. Voting: Paul Starks, aye; Beth Gaines, aye; Linda Stetzenbach, aye; Jim Byler, aye; Motion passed 4 aye, 0 nay.

Paul Starks makes a motion to approve the minutes of July 22, 2019. Second by Beth Gaines. Voting: Paul Starks, aye; Beth Gaines, aye; Jim Byler, aye; Linda Stetzenbach abstains. Motion passed 3 aye, 0 nay, with 1 abstention.

At the suggestion of Webmaster and resident Jim Hilton, for transparency, Beth has prepared two documents that explain why three council members were present at an unannounced private gathering. Beth Gaines makes a motion to approve these documents. Second by Linda Stetzenbach. Voting: Paul Starks, aye; Beth Gaines, aye; Linda Stetzenbach, aye; Jim Byler, aye. Motion passed 4 aye, 0 nay.

Past meeting minutes from November 12, 2018, January 24, 2019, April 12, 2019, May 9, 2019, May 23, 2019, June 10, 2019, and June 20, 2019 have not been approved and posted. No minutes exist from the June 20, 2019 meeting, but Town clerk Jeanne Shelton has a recording of the proceedings and will create minutes. The other minutes noted above will be posted on the town website and utah.gov as Draft minutes and be addressed at the next council meeting.

Public Speakers: Cedar Highlands HOA member Reggie Tashjian states resident Jim Newberry was charged \$1800.00 for building permit fees for a small room addition under the Town's original fee schedule before the fees were revised. Per Reed Erickson and Chad Nay of Iron County Planning Department, Iron County would have charged between \$250 - \$350 for the same job. Reggie feels this is unfair and the fees should be recalculated using the Town's current fee schedule, and a refund should be issued to Jim Newberry. The counsel agrees and this will be addressed at the next council meeting.

Linford Nelson inquires how much his building permit fees will be under the Town formula for three projects he has planned. Planning Commission member Larry Miracle suggests the Town needs to have a fee schedule accessible so people can easily determine what the building fees will be. Beth Gaines states the Town needs to have a liaison named so Bradi Frei of mycityinspector.com has a contact person with the Town. The Council will have Ms. Frei address the Council at the next work meeting. In the meantime, Linford should enter his data into mycityinspector.com to get the process started and the Council will then follow up. Mayor Byler states he will contact Ms. Frei tomorrow.

Resident Nick Palanza asks why Iron County cannot take over the building permit process. The answer given is that when Cedar Highlands was incorporated, building permits became a service for the Town to provide. Nick suggests the Town use the county formula; that may be addressed in the future.

Resident Rob Shelton states the new ordinances are more restrictive and while the Town is looking at the fees, why not modify some of the more restrictive setback guidelines? Larry Miracle states applicants can always ask for a variance.

Mayor Byler promises that when issues are brought up, they will be followed through.

Approval of Bills to be Paid:

Enfusion Technologies - 2 invoices, April 1, 2019 and July 1, 2019	\$ 930.00
Hilton Hosting	276.79
Paul Starks (reimbursement, materials Wildfire Preparedness Day)	44.52
Rob Yates (reimbursement, fuel for backhoe)	153.91
Pelorus Methods	375.00
CICWCD (water bills on municipal lots)	62.00
James Newberry (reissue of check never received nor cleared)	93.56

Clerk Jeanne Shelton makes a suggestion to have a blanket approval to pay the water bills to avoid any late fees. Linda Stetzenbach makes a motion for blanket approval for payment of CICWCD bills. Second by Paul Starks. Voting: Paul Starks, aye; Linda Stetzenbach, aye; Beth Gaines, aye; Jim Byler, aye. Motion passed 4 aye, 0 nay.

The clerk also notes that she purchased a color ink cartridge for \$69.98 on the Town's debit card.

Linda Stetzenbach makes a motion to pay above noted bills. Second by Paul Starks. Voting: Paul Starks, aye; Linda Stetzenbach, aye; Beth Gaines, aye; Jim Byler, aye. Motion passed 4 aye, 0 nay.

Treasurer Beth Gaines reports there is no Pelorus financial report ready because today's meeting is on the first of the month and there was not sufficient time to send Pelorus the required information. Beth states the PTIF fund has a balance of \$65,777.02. The Town has opened a new checking account at the State Bank of Southern Utah, and that balance is \$2,529.91. The old checking account at Mountain America Credit Union (MACU) remains open until all checks have cleared. The current balance is \$12,637.01, but once the two remaining checks clear, the balance will be \$4,877.98. The MACU savings account balance is \$5.44.

Mayor Byler explains why there was a need to open new bank accounts. To recap, the former mayor, Steve Swann, wouldn't change ownership of the Town's bank accounts at MACU until a new mayor was appointed. He made accusations that the members of the council were breaking the law, illegally using the debit card, and he reported this to the Utah State Auditor Seth Oveson. Mr. Oveson agreed that the Town Council was within their right to access the accounts to pay the Town's bills. Mr. Swann took his name off the accounts on July 19, 2019, but had former Treasurer Zelpha Taylor named as the primary account holder. With the approval of the State Auditor, on July 22, 2019 Mayor Byler, Beth Gaines, and Susan Allman had Zelpha Taylor removed from the accounts. July 25, 2019, Mayor Byler accessed the accounts online and discovered the Town's accounts were commingled with Mr. Swann's personal accounts. He immediately called the State Auditor to alert him, and after the Town Council meeting that day, went back to the bank with Susan Allman to have the accounts unattached. A couple days ago, Mr. Oveson called Mayor Byler and told him that the bank accounts were still being accessed through a mobile app. A screen shot of the account was sent to County Auditor Dan Jessen by the former Treasurer, Zelpha Taylor. Mr. Swann had called the State and County Auditors alleging the Town officials do not have any right to make any transactions because the Town officials do not own the accounts. Both Auditors Oveson and Jessen dismissed the accusations by Mr. Swann and assured Mayor Byler the Town Council has complete authority to access the accounts. Mayor Byler, Beth Gaines, and Susan Allman returned to MACU, and they were told that there were multiple accesses through the mobile app, but it could not be determined who it was. On the advice of the State Auditor, the council members opened a new account at the State Bank of Southern Utah, leaving the MACU accounts open until the final checks clear. Mayor Byler then sent a detailed email to both State Auditor Oveson and County Auditor Jessen with a timeline of events, showing that Zelpha Taylor was no longer the treasurer as of July 1, 2019. Resident Rob Shelton looked up the computer crimes section of Utah statute and discovered that it is a criminal violation to access the Town's accounts and to transmit any information from those accounts without

permission. Linda Stetzenbach wants to be clear if it was Zelpha Taylor who sent the screen shot; Mayor Byler states a third party may have to study that. Paul Starks questions if any transactions were made, and it appears none were. Town Clerk Jeanne Shelton performed a basic audit and found no missing funds from the time the MACU accounts were opened.

Mayor Byler reports the PTIF fund was suspended for non-compliance. The Town received a notice in February, 2019 stating the Town was not in compliance with mandatory reporting to the State of Utah, giving the Town 60 days to come into compliance. The Town failed to comply and the PTIF fund was suspended from April 5, 2019 until May 1, 2019. The Town Council was unaware of this. The Town's Sales and Use Tax permit was also close to being suspended due to returns that had not been filed timely. Mayor Byler filed the necessary paperwork to rectify that issue. The Council is working to get the Town's finances in order. At numerous council meetings in the past, the Council and community members inquired of the former mayor about the state of the Town's finances, with no satisfactory answers. Mayor Byler states he will keep the community informed as to the state of the Town's finances.

Road Agreement: Town Council members Beth Gaines and Susan Allman have been working on a contract with Cedar Highlands Homeowner's Association (CHHOA) representatives Mike Brask and Reggie Tashjian to allow the Town to work on roads owned by the CHHOA. This agreement includes road maintenance, drainage issues, and snow removal. Susan Allman, Paul Starks, and equipment operator Rob Yates are named the persons responsible to identify which sections of road are in the most need of repair. Paul suggests a CHHOA board representative be included, the Council agrees. Linda Stetzenbach makes a motion to approve the Cedar Highlands Town/CHHOA Road Agreement. Second by Beth Gaines. Voting: Paul Starks, aye; Linda Stetzenbach, aye; Beth Gaines, aye; Jim Byler, aye. Motion passed 4 aye, 0 nay.

Snow Removal RFP: Request for Proposal to be prepared and sent to potential contractors for a snow removal contract for this winter. RFP should be specific as to type of equipment needed, manpower, on-site storage, and on-call availability. Paul Starks states there is an issue in keeping equipment heated in freezing weather. Mayor Byler will coordinate with CHHOA President Mike Brask for RFP details. CHHOA Board member Reggie Tashjian indicates the possibility of a long-term contract that may be assumable by the CHHOA, if needed.

Wheeler CAT Contract: The backhoe contract with Wheeler CAT was found during the transition after the previous mayor resigned. Mayor Byler had backhoe operator Rob Yates review the contract and he found the contract is completely insufficient. The usage hours are limited to 300 annually, industry standard is 176 hours per month. At the current rate the backhoe is being used, factoring in overage charges, it will cost the Town between \$2500.00 - \$3,000.00 per month. The Town is also responsible for any damage sustained to the backhoe; and the bucket, which Mr. Yates says is an inferior quality, hollow bucket, is already cracked after only 86 hours of usage, and will cost \$550.00 to repair. It was also discovered that the backhoe was delivered to the Town in

May, before the contract was signed by the former mayor, and it is still unsigned. Beth Gaines states there was considerable pressure to lease this backhoe on a one year trial basis, knowing there would be a limit on hour usage, but that the Council was not informed of the details. Per Rob Yates, Wheeler CAT is going to forward the contract to Mayor Byler for his signature. Mayor Byler and Paul Starks intend to renegotiate the contract with Wheeler to get more favorable terms, or return the backhoe. Paul stresses the importance, however, of getting rock material laid on the portion of road that Rob Yates has already worked on.

PTIF Account Resolution: Beth Gaines reports the Council needs to pass a Public Entity Resolution, which is required by the Office of the State Treasurer, for the new mayor, Jim Byler, and the new treasurer, Beth Gaines, to have access to the PTIF account. Linda Stetzenbach makes a motion to approve the Public Entity Resolution. Second by Paul Starks. Voting: Linda Stetzenbach, aye; Paul Starks, aye; Beth Gaines, aye; Jim Byler, aye. Motion passed 4 aye, 0 nay.

GoCivilEngineering: Susan Allman, Paul Starks, and Planning Commission member Larry Miracle met with Dallas Buckner of GoCivilEngineering about engineering standards for drainage issues. He had previously prepared reports for Cedar Highlands while he was with Sunrise Engineering. Mr. Buckner can prepare a report initially addressing two issues, check dam and culvert inlet protection detail, for a total of \$300.00. Beth Gaines makes a motion to go forward with the GoCivil Engineering report. Second by Paul Starks. Voting: Beth Gaines, aye; Linda Stetzenbach, aye; Paul Starks, aye; Jim Byler, aye. Motion passed 4 aye, 0 nay.

Paul Starks states scours are needed in the deeper ditches. Resident Rob Shelton suggests this information be sent to all residents so they can check their own properties for areas of concern.

Planning Commission Vacancy: Planning Commission member Dan Taylor resigned a couple months ago, leaving one vacancy. Larry Miracle relates the status of Planning Commission issues. The Planning Commission would like to have a set time of one meeting per month. Larry states the subdivision ordinance is ready for the Council to review. Mayor Byler states he feels it is potentially an ethical violation for a builder to be on the Planning Commission, as they may have financial interests that could influence decisions made by the commission they sit on. Paul Starks agrees. Town ordinance states planning commissioners must be residents of Cedar Highlands. The mayor will speak to Planning Commission member Roger Thomas about his possible dismissal from the Planning Commission, as he is a builder and is not a resident of Cedar Highlands. Resident Rob Shelton may be interested in joining the Planning Commission but wants his position known that he is in favor of returning to county standards. The Council will ask for residents interested in filling one or two vacancies on the Planning Commission. Webmaster Jim Hilton will post on the website. The ordinance may need to be revised if not enough interested residents come forth.

Mayor Byler spoke to the realtor who had a client that was interested in subdividing his property inside the Town limits. The realtor related that her client was no longer considering that.

Beth Gaines would like to schedule a work meeting to have Bradi Frei of mycityinspector address the Council. The meeting will tentatively be set on August 13 or 14, subject to the availability of Ms. Frei.

The next Town Council meeting is set for August 22, 2019 at 6:00 p.m. in the Rare Book Room of the Cedar City Library, 303 N 100 E, Cedar City, Utah.

At 7:47 p.m. Beth Gaines makes a motion to adjourn. Second by Paul Starks. Voting: Linda Stetzenbach, aye; Paul Starks, aye; Beth Gaines, aye, Jim Byler, aye. Motion passed 4 aye, 0 nay.

Clerk's note: Prior to commencement of the meeting, Linda Stetzenbach gave one of the Town's post office box keys to Treasurer Beth Gaines. Clerk Jeanne Shelton is in possession of the second key.

Minutes submitted by Jeanne Shelton, Town Clerk