

FINAL MINUTES
VIRGIN TOWN COUNCIL MEETING
Wednesday, October 23, 2019
6:30 pm
114 S. Mill Street, Virgin, Utah

Present:

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

Others: Monica Bowcutt-Town Clerk
Heath Snow, Town Attorney
Leidy Santander, RM² Engineering
Bonnie Timmerman
Bruce Densley
Darcey Spendlove
Lesa Sandberg
Sean Amodt
Gunther Rasmussen

A. WORK MEETING Non-Action Items 6:30 PM

No work meeting was needed; therefore, it was cancelled.

B. REGULAR MEETING Action Items 7:00 PM

1. Call to Order- Mayor, Matthew Spendlove

Mayor Spendlove called the meeting to order at 7:02 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 were declared.

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

5. September 2019 Checks and Invoices

6. September 25, 2019 Draft Minutes

Jay Lee reported he had found one typo near the end of the minutes.

Dan Snyder moved to approve items 5 and 6. 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.

Motion to close the public meeting and open the PUBLIC HEARING accepting comments on the following items:

-Amending the Virgin Town Fee Schedule

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- Implementing a Town Traffic Study**
- Implementing an additional 1% Resort Community Tax**

Dan Snyder moved to close the public meeting and open the public hearing. 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 unanimously approved.

Amending the Virgin Town Fee Schedule

Attorney Snow summarized the proposed changes to the fee schedule. He explained that the water shut-off notice fee became non-refundable. The building permit fees were also made clear to be non-refundable. The excavation permit grading fee became a flat rate of \$100 and a new table was included for commercial grading permits, which was based on estimated cubic yardage to be moved. The business license conditional use permit level 1 was made to be \$200 and level 2 was \$400. Under the temporary use event permit fee, it was made clearer that any money paid was non-refundable, even if the event was not held. A designation was also made stating that late payments of fees would result in penalties of 1.5% a month or 2% annually.

Monica Bowcutt, Town Clerk, stated that the Zoning Administrator had suggested that the levels be removed. However, Maintenance Supervisor Chris Holm, stated the table was state code and should not be changed. Mrs. Bowcutt stated that most cities and towns had a table to assign fees based on yardage.

Sean Amodt asked if the excavation was a separate fee than a building permit. The attorney answered that yes, this permit did not include underground utility, or vertical construction. Mr. Amodt then asked if moving of dirt was defined in the ordinance. The Council answered that the table defined how much the fee was based on how much dirt was moved.

Implementing a Town Traffic Study

Mayor Spendlove stated that UDOT had recently stated the town would probably only have to pay 10% of the total cost, with grants paying for the remainder. The cost was anticipated at about \$40,000 to \$50,000. The study would be good for up to ten years. He felt the town would benefit from having the study done. Attorney Snow stated the study was an academic resource to be cited when applying for grants, loans, etc. Also, developers would know exactly what would be required on the highway.

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Bruce Densley asked the Mayor to expand on what would be studied. Mayor Spendlove explained the study would look at entrances of arterial roads, business entrances, frontage roads, turning lanes, passing lanes, safety issue (like the dip), and number of lanes. Attorney Snow also stated that it would classify every road in town based on width and surface. They would also count how many cars and traffic circulation on SR-9, then give the town the analysis.

Lesa Sandberg asked if the study would take place during the peak traffic months. Mayor Spendlove responded that the date was unknown. The study would also address speed limits.

Gunther Rasmussen stated that he had heard the highway would be expanded to four lanes within the next year. He had seen that the stripes had been repainted and wondered why UDOT had spent that money just to redo the road. The Mayor replied that UDOT had said the upgrading of lanes would probably not happen this year, as was previously planned. Mr. Rasmussen wondered why the highway was two different speed limits at the entrance to Desert Gardens. Mayor Spendlove stated he did not know, but that issue would be addressed in the traffic study.

Sean Amodt stated the Sheep Bridge Road should be included in the study, but the state should know that it was going to be paved very soon. The Mayor said that the part of Sheep Bridge Road inside the town limit would be included in the study. Mr. Amodt asked if sidewalks, paths, ATV trails, and bike trails would be included in the study. The Mayor replied yes.

Attorney Snow stated that UDOT was ready for a motion and approval from the town to begin trying for the funds. He also suggested that when this motion (to approve participation in the town traffic study) was made, it should be made with a capped amount to be spent by the town.

Implementing an additional 1% Resort Community Tax

Monica Bowcutt stated that the Town Council had approved an ordinance several months ago which enabled the town to collect at extra 1% of transient/lodging/room/resort tax. Afterwards, the state had called telling her that Virgin had been collecting this tax since 2006. The state had suggested that the town approve the Resort Community Tax instead. Attorney Snow further explained that Virgin qualified for this tax based on the town had 66% of total population in high occupancy lodging units (hotel, RV Parks, vacation rentals). This tax would charge an additional 1% to sales and use sales. Cars, trailers, boats, mobile homes, etc. were exempt from the tax.

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Bruce Densley stated that those passing through should pay for the things they use. He was for the tax.

Mayor Spendlove clarified that the tax, if passed, would not go into effect until April 1, 2020.

Sean Amodt stated that it was a sales and use tax, not just a room tax. This meant that taxes would go up on any purchases made in town. Attorney Snow agreed, stating that the residents would also bear the tax burden. Mr. Amodt did not agree with the new tax until the town had a tourist and business base large enough to cover the cost. Perhaps down the road, but not right now. It did not make sense to make him and other residents pay more taxes. He felt the tax would make sense when more people stopped in town to spend their money.

Bruce Densley stated, as a citizen, he would be willing to absorb the 1% until more businesses were open in town.

Motion to close the public hearing and open the public meeting

LeRoy Thompson moved to close the public hearing and open the public meeting. 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 unanimously approved.

7. Discussion with possible approval to Amend the Virgin Town Fee Schedule

Kevin Stout clarified that the applicant paid \$100 flat rate for the permit and then paid for how much dirt was moved. He felt the price was reasonable. The Council discussed the permit and table. It was confirmed that agricultural uses were exempt based on State Code. The Mayor stated he was not in favor of the proposed changes. He suggested it be tabled until more research could be done.

The Council reviewed the other changes: non-refundable water shut off fee, conditional use permits raised and broken into tiers, non-refundable temporary use permit fee, and late fee charges.

LeRoy Thompson moved to approve the fee table, except for the excavation and grading portion. 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 unanimously in favor.

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8. Discussion with possible approval to implement a Town Traffic Study.

Jay Lee moved to approve implementing a town traffic study, with the town's share of the cost not going over \$25,000. 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 unanimously approved.

9. Discussion with possible approval of Ordinance 2019-35 to implement an additional 1% resort Community Tax.

Jay Lee questioned if the town really needed the extra money right now. He had reviewed the budget and found that \$10,000 had been budgeted, and after only one third of the year, had received \$12,000 from the transient room tax. LeRoy Thompson explained that the budget had been set up that way, based on the previous year and to be conservative. Council Member Lee also stated that the census would be coming out in 2020, so the population would be updated.

Attorney Snow explained that the tax would be imposed on everything that was purchased in town: gas, heat, coal, food, admission fees, repairs, and renovations, for example. He also suggested that maybe businesses would not want to come to town if it cost them more to sell their products.

LeRoy Thompson stated he looked at it from the point of not having enough money to replace town infrastructure that desperately needed replacing. He saw the tax as a way to slowly start doing that. Yes, it would cost him more to purchase products in town, but he was willing to contribute in order to help the town's general fund.

The Council continued to discuss the pros and cons of approving this tax. Kevin Stout, Dan Snyder and Mayor Spendlove all agreed that the town needed to fix the infrastructure and the citizens had to be the ones to do it, especially until more businesses were in town.

LeRoy Thompson moved to approve Ordinance 2019-35 to establish the Resort Community Tax within the town of Virgin, Utah at 1%. Dan Snyder gave the second. Roll call vote: Jay Lee-No; Dan Snyder-Aye; Kevin Stout-Aye; LeRoy Thompson-Aye; and Mayor, Matthew Spendlove-Aye. The motion was approved with one no vote.

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10. Discussion with possible approval to adopt the Utah Uniform Fine/Bail Schedule.

Attorney Snow explained the town was trying to get in place a process by which they could handle prosecutions of criminal violations of town ordinances. The council had previously appointed Rachel Beckstrom to serve as the town prosecutor, but a formal agreement had never been entered into. This agreement was item number 11. The town also needed an agreement with Washington County to use their justice court to prosecute. Attorney Snow had spoken with the court administrator, who was working with the County Commissioners to find out what the fee split would be. The County needed to know what the town's fine amounts were, but it would be helpful if the town would mirror the state bail schedule. Attorney Snow suggested that the town should adopt the uniform bail schedule, which was included in this item.

Mayor Spendlove added that the town could not enforce its own ordinances, as opposed to any violation of state or county code. Attorney Snow continued that, if this was approved, town staff could observe a violation and Ms. Beckstrom could mail a charging document to citizens.

Gunther Rasmussen stated it was ridiculous that the county could not enforce town ordinances.

Attorney Snow stated that Ms. Beckstrom was ready to take on the town's prosecution cases and would add all town court to her docket automatically.

Jay Lee stated that he felt the town was trying to act like a big town by raising taxes and sending letters out telling citizens they were being taken to court. He said there was no communication between neighbors anymore. Attorney Snow clarified that this would give the town the teeth to enforce ordinances that had been violated for years.

Attorney Snow stated that the fee schedule was very long, so only the URL had been cited in the ordinance. He would continue to work the County to be able to use their court.

LeRoy Thompson moved to approve Ordinance #2019-34, an Ordinance adopting the Utah Uniform Fine/Bail Forfeiture Schedule (as amended from time to time). 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 unanimously approved.

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11. Discussion with possible approval of Prosecuting Attorney Agreement.

Attorney Snow stated he had reviewed the Contract and added standard language for all independent contractors.

LeRoy Thompson moved to approve the professional criminal prosecution service agreement and authorize the Mayor to execute the agreement. 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 unanimously approved.

12. Open Forum: Limit 2 minutes per speaker

- * Bruce Densley reported that the Fire District had had the grand opening for the Coral Canyons Fire Station, along with the updated LaVerkin Station. The Chief had saved the department over \$70,000 on a new fire engine by purchasing a truck that had been used for display only. Seven new department members had been hired, after going through a rigorous interview process.
- * Monica Bowcutt stated that the election ballots had been mailed. There were many options to get ballots into the ballot box. The count would be at the old church on election night.

13. Council Comments:

- * Jay Lee stated that taxes always went up and they never came down. The County had just implemented a new tax. He was against taxes.
- * Dan Snyder stated that the Red Bull private internet network was affecting the Red Coyote network. There had been no call back from Red Bull. He then reported that Republic was still working on the transfer station for recycled materials. Mayor Spendlove added that he had met with Neil Schwendiman, who had said the recycling should begin again very soon.
- * Matt Spendlove reported that a letter had come from the BLM on the land sale by the BMX Track. They would be offering 65 acres. The comment period would end on November 16.
- * Dan Snyder stated that a few people had asked if Under Canvas had asked to annex. The Mayor replied no, but the property owners just below had asked if they could. There was 240 acres there.

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* Matt Spendlove reported that the town staff and officials had taken a field trip with the BLM officials to view the proposed water tank location and the road to get there. The town was still in the process of getting the easement. An Environmental Assessment or Scope still needed to be completed. The Mayor then said that the newsletter format had been revamped. There had been some complaints in town, so it had been changed.

14. Possible motion to hold an Executive Session.

LeRoy Thompson moved to close the public meeting and hold an executive session regarding pending litigation. 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 unanimously approved.

Executive session began at 8:25.

The Council opened the public meeting at 9:02 pm. They discussed several general topics.

C. 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 vote. The motion was unanimous.

The meeting adjourned at 9:18 pm.

Monica Bowcutt
Town Clerk

Approved:_____