



march

2014

Virgin Town



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TOWN INFORMATION

Office Address: 114 S. Mill Street
P.O. Box 790008
Virgin, UT 84779

Phone: 435-635-4695

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Email: clerk@virgintownutah.com

Website: virginutah.org

Office Hours: Monday-Thursday
9:00 am - 2:00 pm

Town Clerk: Monica Bowcutt

Maintenance Supervisor: Chris Holm

Cemetery Sexton/Town Historian:
Lenny Brinkerhoff

Town Council Members:

Bruce Densley (Mayor)

William Adams, Danyale Blackmore,

Jean Krause, and Jay Lee

Planning and Zoning Members:

Steve Maisfield (Chair)

Lori Rose, Dan Snyder, Kniesha Grow, and

Valerie Wenz,

DATES TO REMEMBER

Mar 12: P & Z Meeting 6:30 pm

Mar 20: Office Closed for Training

Mar 26: Town Council Meeting
7:00 pm

WHAT'S INSIDE

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The following is a general summary of Town Council proceedings. It is NOT an approved set of minutes.

Summary of the Special Town Council Meeting held February 19, 2014

1. Mayor Bruce Densley was excused. Council Member Jean Krause explained that because the Council was so new, a Mayor Pro Tem had not been appointed, but was needed in the absence of Mayor Densley. The Council unanimously voted Jean Krause to serve as Mayor Pro Tem for the special meeting.

2. Pledge and Invocation.

3. No Conflicts of Interest were declared.

New Business:

4. The Council heard explanations and rebuttal statements from the applicant's attorney Russell J. Gallian and Town representative Lee Ballard on applications of determination of legal Non-Conforming Use (Nightly/Short Term Rental in a Residential Zone), on the property of Aaron Smith, Scott Hill, and Monte Lutz.

* The applicant's position was that because town zoning ordinances restrict the right to do what you want with your private property, the ordinances must be interpreted to be as least restrictive as possible. Utah courts have struck down ordinances containing blanket prohibitions against "any uses not listed as permitted" by the ordinances. For the same reasons, Virgin's ordinance containing such a blanket prohibition must also be struck down. And no other provision of the Virgin Uniform Land Use ordinance ever specifically prohibits short-term rentals—at least prior to the 2013 amendments. But even though the new amendments now prohibit short-term rentals, those provisions cannot be enforced against residents who were already using their property for short-term rentals, and have not abandoned that use, because they are "grandfathered in" under the old provisions. If the town enforced the new amendments against those who were "grandfathered in" because of their prior use, it would be considered "private property...taken for public use, without just compensation" prohibited by both the United States Constitution and the Constitution of the State of Utah. Applicants' have made significant investments to make their property attractive to potential renters and some may lose their property to foreclosure if they are prohibited from renting it. Also, these rentals are providing the town regular tax revenue.

* The Town's position was that although there was a Utah case to the contrary, the Town had relied on its ordinance which states: "Any uses not listed as permitted or conditional in this ordinance shall be deemed prohibited" to do the work of what other sections of the ordinance and the 2013 amendment do expressly, because it was advised to do so by the Utah League of Cities and Towns in the mid 2000's. To promote the goals of the Town General Plan the Town does not allow any commercial use, including lodging uses, in its residential zones with one exception, Home Occupations. Because the continuity and stability of a residential neighborhood is disrupted by the transitory nature of temporary residents, only permanent residential facilities are permitted in these zones, including congregate living facilities. Groups larger than 5 unrelated people that do not share the entire house, do not have one or more adults domiciled in the residence, or have not been designated by the Planning Commission are not deemed to be families. VULU does not define a duration for short-term vs. long term occupancy, however, short-term/transient lodging uses have been interpreted by the Town to be occupancy for periods less than 30 days as described in Town Ordinance. Short-term lease of homes or parts of homes are considered to be a type of lodging use, which qualifies as open, tourist based, temporary, tax contributory congregate living facilities as defined in VUZU. The Land Use Authority for the Town is not the clerk, nor any council member, nor any number of planning commissioners, but is defined as the Virgin Town Council with the advice of the P&Z Commission. The Town receives a transient room tax report, but it does not list names for sources, as a result town officials assumed the entire income was from the RV Park. The Town adopted clarifying language regarding short term leasing to make future startup short term rentals less likely while the discussion continued.

* Mayor Pro-Tem, Jean Krause, stated that the Council would review all the information and take it into account. The Council would then send their written findings to the applicant's attorney.

5. The Council unanimously adjourned the public meeting.

Summary of the Town Council Meeting held February 26, 2014

Work Meeting:

a. Jason Smith, Town Engineer, was present to update the Council on the Kolob Road re-alignment, the Capital Facilities Plan and Impact Fees. He reported that the Kolob Road had been advertised for bid, with a mandatory pre-bid meeting being held on March 6. The bids would be opened on March 13, with work beginning after the Council awarded the bid. He also reported that the stream alteration would be complete before the bid was awarded and the BLM paperwork was essentially complete. Mr. Smith stated that he had spoken with UDOT, submitted a missing form, and the Town should be seeing the first reimbursement money very soon, with checks coming monthly. He also explained that the realignment of the new Kolob Road with the Rio de Sion entrance was included in the bid documents, but could be taken out if the bids are over the allotted amount. Jason Smith stated that he had thought the Capital Facilities Plan was complete, but had noticed that the numbers had not been adjusted for inflation. He stated that he would also make sure that the Plan took into account that the Fire District was now collecting the taxes for fire protection, not Virgin Town. He was sure the Plan would be completed and ready to be approved at the March meeting.

b. Matt Gunn with the Zion 100 Trail Run was present to discuss the event, which will happen on April 4 & 5. Mr. Gunn stated that the Town Park had been reserved, but he wished to discuss the fee. He explained that the race would have more than 300 people, but never at the same time. Mayor Bruce Densley stated that Mr. Gunn had always done a great job and the Town had never had any problems. The Council agreed to work off last year's fee schedule. Mr. Gunn thanked the Council and informed them that he would again make a contribution to the Heritage Town Square fund.

c. The Council stated they were still looking for a name for the new park. It was suggested to hold Arbor Day at the new park along with the dedication. The Council agreed that a name would be chosen at the March Meeting.

d. Gina Amodt asked the Council their opinion on the Town hosting an Easter Egg Hunt. She stated that it would be an expense, with no money being made. It was suggested that Arbor Day, the park dedication, and the Easter Egg Hunt could be held together, possibly on April 19. This will also be decided during the March Meeting.

e. After discussion, the Council agreed that more research was needed to be decided on what fee should be charged to use the Town Hall as a meeting place. They also agreed that a fee schedule should be written up before a decision was made. Mayor Densley stated that Desert Gardens Home Owner Association would like to use the Town Office before the March Meeting, but he would be there to monitor.

f. Mayor Densley stated that the Council would be raising the water rates. To do this, they would be considering several different scenarios, deciding which one was best for the Town. Council Member Jay Lee stated that the Coal Pits Property could be used as a water fund bank.

g. Council Member Jean Krause read an email from Council Member Danyale Blackmore, which stated that the re-bid for Heritage Town Square would be advertised very soon.

h. Mayor Bruce Densley stated that many people had suggested that the Town Newsletter go back to being mailed in the water bills. He suggested that it be discussed at the March Meeting.

Regular Meeting:

1. Mayor Bruce Densley called the meeting to order. Danyale Blackmore was excused.

2. Mayor Bruce Densley led the Pledge of Allegiance and Jay Lee offered an Invocation.

3. No Conflicts of Interest were disclosed.

4. Mayor Bruce Densley presented John Grow and Lee Ballard plaques of appreciation. He thanked them for their years of service to the Town.

5. Mayor Densley presented Shelley Bulloch and Jake Lee the Citizens of the Month Award for the work they do with the Cub Scout program.

Old Business:

6. The Council unanimously approved the January 7, 2014 Town Council Special Meeting draft minutes with the changes.
7. The Council unanimously approved the January 22, 2014 Town Council draft minutes with the changes.
8. The Council reviewed the January, 2014 Invoices and Checks. They were unanimously approved.
9. Mayor Bruce Densley stated that the following committee assignments had been made: Jay Lee-Trails, Parks and Recreation; Danyale Blackmore-ZC3, Trails, Parks and Recreation; Bruce Densley and Bill Admas-Fire District Representatives; Bruce Densley-Washington County Solid Waste, Southwest Mosquito Abatement Representative, and Police Liaison; Jean Krause-P&Z Liaison and Town Treasurer. It was mentioned that Danyale Blackmore was also serving on the Heritage Town Square Committee.

New Business:

10. McKay Hall, from Hinton Burdick, was present to discuss the Agreed Upon Procedure Report (Audit), which Savage, Esplin had performed. He explained that State law had changed so that towns with a population of 500,000-100,000 did not have to have an audit, but instead an Agreed Upon Procedure Report. He stated that the findings summary from this Report was where the Town was found out of compliance for the year ending June 30, 2013. These findings included: 4 hours in a week that had not been recorded as over-time; a few disbursements that were over the \$100 threshold, which did not have the appropriate approval; two items that should have been recorded in the fixed assets group, which were not; the unrestricted fund balance was still a problem, but continued to get better; GRAMA Training requirement that had not been met; Open and Public Meeting Training requirement that had not been met; General Fund budget in three departments where the actual expenditures exceeded the budget by a small amount, although the General Fund in total was still in budget; and budget number was not included when budget was filed. Mr. Hall reported that most of these problems had been corrected. Mayor Densley asked if the trainings would qualify even if they had been received through other assignments. Mr. Hall's answer was yes, as long as the Town files have some notation of having that training. Town Clerk, Monica Bowcutt, stated that she would like the budget on the March agenda to make sure the Town was not late to file again. Jean Krause asked what part of the purchasing policy they were asking the Town to change. Mr. Hall stated that it was the \$100 threshold limit because it seemed very low, especially considering the amount of work it takes to make a purchase. He recommended a \$500 limit, but stated that it basically came down to Town's level of comfort.
11. The Council discussed changing the language in VULU: Section 1-6 Definitions: to remove the phrase "the word" building shall include the word "structure" from this paragraph and also add the word "Introduction" to the title "definitions" in the same paragraph. The Council agreed that the topic had been thoroughly discussed at P&Z and Town Council Meetings. The Council unanimously approved the changes as worded.
12. The Council discussed the recommended changes in VULU Section 4.15.7 to read: Fencing and/or walls six feet in height, including protective gates, shall be required around swimming pools and similar structures. Spas and hot tubs that have a safety cover which complies with the ASTM F-1346 of the International Residential Code, are EXEMPT. The Council unanimously approved the changes.

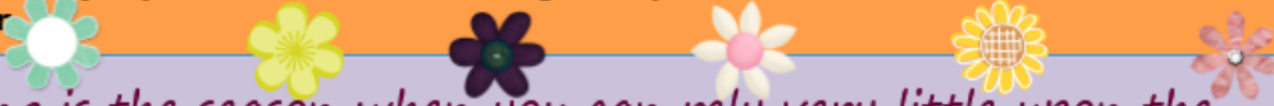
Open Forum:

- * Sean Amodt stated that people had been dumping branches into the dumpsters, leaving no room for trash. He suggested that the Town purchase a chipper or have a separate location for branches. The Mayor stated that chippers were too expensive, but another solution could be discussed.
- * Larry Amodt apologized for continuing to insist that the Cemetery Road must be paved to Fae Ellsworth's property. He stated that he had assumed all the paper work had been completed, but it had not. According to VULU the property must have a minimum of 100 feet on a dedicated road. He continued that the land in front of Fae's home still belonged to someone else, making her property landlocked. Mr. Amodt stated that she needed to take care of that issue first. Mayor Densley stated that it was being taken care of because the property owners had agreed to dedicated the property to the Town, it was just a matter of getting the process going.

Council Comments:

- * Jean Krause informed the Council that she had met with Simply Mac to talk about a bid for a new computer, which would be mostly be purchased with a federal grant. She stated that she would be submitting the grant next year, with the assumption that the Office would be located in the new fire station. Mayor Densley stated that there were strong feelings associated with using federal grant money, but he felt that if the money was available, the Town might as well be using it, not someone else.
- * Jay Lee suggested that the Recreation Committee should be used to draw the concept plan for the BMX Park. He did not feel that the Town should be paying the engineer to do something that could be done by citizens. The Mayor agreed, but asked that it be done in a professional manner, so it could be presented to the BLM.

The Council unanimously adjourned the Public Meeting and opened an Executive Session to discuss imminent litigation



Spring is the season when you can rely very little upon the weather, and even less upon the weatherman. -unknown



Spring is the silly season when men plant grass in order to slave in the summer keeping it cut. -unknown

It's Dumpster Days!!!

March 21-24

Dumpsters will be located at:

Town Office, new fire station lot, and
225 North/West end of St. Francis.

It's spring cleaning time!!!



The Town Council will discuss increasing water rates. If you would like your opinion heard, please attend the March Town Council Meeting. Contact the Town Office for more information.



VIRGIN TOWN CITIZEN OF THE MONTH

The Town Council would like to honor citizens who help our town....behind the scenes! Here's how it works: 1- Watch for people who are positively affecting our town. (being friendly, sweeping sidewalks, smiling, encouraging youth, volunteering at Town functions, ANYTHING that is positive) 2- Let the Town Clerk, Monica, know who it is and what they did. 3- The Council will invite this person to the Town Council Meeting to be recognized. *IT'S THAT SIMPLE!* When multiple names are submitted in one month, all persons will be recognized! So keep your eyes open and do some good yourself.

The Town Office will be closed March 20. Monica will be attending a training.

**SORRY...
Closed**

Kim Spendlove will be teaching a DWR trapping class beginning on March 8. Contact Kim at 635-4098 for more information.

Please submit your ideas for a name for the new Town Park, located in Sierra Bella, to the Town Office.



Would you like to receive this newsletter on paper and in your water bill? Or do you prefer to receive it the digital way? Please let your Council Members know.



COUNCIL CORNER

First, I would like to say once again that it is an honor to live in such a great community. I believe that there is no better place in the world to live than in Virgin, Utah. I don't know of another town that works harder to make sure that everyone feels like they are part of the community. Our citizens work diligently to make sure that there are opportunities, activities, and support for each one of us. An example would be the hard work and dedication to provide our youth with variety of positive activities that they can participate in right here in town. With that I would like to thank everyone that donates their time and effort to make Virgin a great place to live.

As we move into Spring I look forward to all of the great things that will be happening in our town. We are continuing to move forward on the restoration of the old church and auxiliary building; which will be a great addition to the town. The BMX Track is open and the season has started. The Kolob Road project is coming together, and as a council we continue to look for opportunities that will improve our community.

I would also like to remind everyone that as a Council it is our job to listen to all of our citizens and their concerns. Each one of us has our own perspectives and it is important to respect this. One of my favorite statements is, "To be is to be perceived. And so to know thyself is only possible through the eyes of the other. The nature of our immortal lives is in the consequences of our words and deeds, that go on and are pushing themselves throughout all time. Our lives are not our own, from womb to tomb, we are bound to others, past and present, and by each crime and every kindness, we birth our future." (David Mitchell, Cloud Atlas). In my opinion we each have the responsibility, to do the very best we can to our fellow human beings. I am grateful for the citizens in our town that always take it upon themselves to do this. Thank you again for those of you that find harmonious solutions to problems that may arise in our town and for continuing to work with us as a Council to maintain a wonderful place to live.

Danyale Blackmore

Planning & Zoning Commission Updates

Staying Connected to Community Priorities

Last month, Steve explained how the Planning and Zoning Commission works; that it is our job to make recommendations to the Town Council, (who makes the rules), and then to apply those rules evenly. Planning and Zoning Commission members are committed to helping the Town Council tailor our ordinances to fit our town and the shared vision of our community. We can't do this without your input! We ask for your thoughts through questionnaires or town visioning events, and we listen when you make the effort to come to town meetings. Usually, revisiting and refreshing a town's shared vision—adopted as the Town's General Plan—is a process that occurs every 5-10 years. Virgin Town last updated our General Plan in June 2005. The Town Questionnaire has been the guiding pulse of the desires of the Community since 2005. It is time to send out another questionnaire and to listen again to the direction the community desires to go. This information is vital to developing ordinances that take us in a shared direction, helping us create the community we want to be.

We all want the rules we have adopted to be reasonable and relevant. However, in the application of our ordinances, we sometimes find confusing language, inconsistencies, complicated processes, and other things we need to fix so that our rules fit our town. The Planning and Zoning Commission is trying to improve sections of the ordinances that need it, and to make it easier for you to find sections of the ordinances that apply to you and your circumstances. You can already access and read our ordinances online—no need to go to the Town office or ask for a copy. And at the top left hand corner of the webpage is a basic search feature that makes it easier to find sections in the ordinances that contain key words you are looking for.

We want our ordinances to provide reasonable limits that help us be good neighbors; meeting our individual needs while respecting those of our neighbors. We don't want them to choke the freedom, individualism, and creativity that makes Virgin a great place to call home. Please help us....we welcome your input.

Lori Rose

