

Minutes of the regular meeting of the Town Council of the Town of Apple Valley, Washington County, Utah that was held on the 19<sup>th</sup> day of May, 2011 at the Smithsonian Fire Department Building, 1777 N. Meadowlark Dr. Apple Valley, Utah.

1. The meeting was called to order at 7:00 PM.
2. The Pledge of Allegiance was lead by Mayor Moser.
3. Roll Call: Evan Brown, Trevor Black, Dale Kingsley, Kevin Sair, Mayor Moser, and Code Enforcement Officer April Ruesch were present. Legal counsel, Gary Kuhlmann was present. Town Clerk Nathan Bronemann took minutes.
4. Declarations of conflict of interests.

None Stated.

5. Public Comments.

Jack Davis asked for an update on the Two Bears Special Service District. Mayor Moser stated that there was a public hearing scheduled next Thursday, May 26<sup>th</sup> at 7:00 pm for the creation of a special service district needed in order to provide sewer, water, and natural gas. Two Bears representatives will be in attendance and will make a presentation during the first 20 minutes of the meeting. After which, the floor will be open to questions and comments from the public until 9:00 pm. Jack Davis then asked what their (Two Bears) position was with regard to financing. Mayor Moser replied that he still needed to meet with them to discuss financing, but that they had paid for the fee (\$1,695.28) to publish the public hearing in The Spectrum newspaper for the three week prior to the hearing. Also, they have agreements in place to purchase the Cedar Point and Apple Valley water companies; however, he stated that he was not privy to the details of those agreements.

Margaret Ososki asked if the Town's legal counsel had answered back with regard to the storage containers and what was defined as the rear of the house. Mayor Moser responded stating that the storage containers met the Code with the exception of the fact that there needed to be a 10-ft. space between them and the violating parties would be notified of that. Margaret Ososki asked for more clarification on the definition of "rear yard" and the Mayor said that he would have to read the Code to provide further clarification. Margaret Ososki asked about the 1% limitation with regard to accessory buildings and the Mayor clarified that the storage containers were not counted as accessory buildings as they were not considered permanent.

Ann Beddo asked if there was a need to purchase all the water companies in the Town in order to create a special service district. Mayor Moser said that, no, that was not necessary.

Charlie Greco asked Evan Brown about a comment he had made in a past Town Council meeting concerning the storage containers with regard to the definition of the rear of the house. Evan Brown replied that he was unsure what was currently in the Code, and that is what governs the Town.

Dale Beddo stated that other sections of the Town Ordinances side yard setbacks were addressed as "side yard" and rear yard setbacks as separating those two, and that the rear yard should be considered to be behind the back two points of the house. Mayor Moser stated that he was unable to clarify as he did not currently have the Code in front of him to review. Dale Beddo continued stating that since other areas of the Code defined side and rear as such that those references would lead to suggest the same definitions elsewhere in the Code.

Jack Davis asked why this issue of the storage containers could not just be settled by the legal counsel and put to rest. Mayor Moser stated that the issue had been clarified as much as it is going to be clarified and that the Town was taking action to ensure that the Code was being

followed. Jack Davis continued stating that he really didn't see that it was a big issue, but that he thought is needed to be resolved.

Richard Ososki stated that it seemed as if anyone could move storage containers in now. Mayor Moser confirmed that since the ordinance was passed last year, anyone could, in fact, bring in a storage container. Richard Ososki expressed concern that the containers were not all painted as required. The Mayor confirmed that they had all been painted as required by the Code.

Gary Kuhlmann stated that this portion of the Town Council Meeting was to be for "public comments" and not "question and answer" as it was currently being used. He continued that if the public had a specific issue that they wanted to address, such as the storage containers, that they need to request to be placed on the meeting's agenda.

Gloria Charles asked what the process was to make sure that the Town residents were taking care of their weeds. Mayor Moser answered that if there was a complaint that the Town was to be contacted and the Town would then send out a notice giving the resident 15 days before legal recourse was taken.

Lillie Maclean requested that the Mayor send more sunshine then she would get the weed killer out and take care of all of her weeds.

Kevin Sair explained that his weed eater was in the shop and that his lawn mower was broken, but that he would take care of his weeds soon.

Motion made by Mayor Moser to close public comments. Trevor Black seconded the motion. Vote: Trevor Black-yes, Evan Brown-yes, Dale Kingsley-yes, Kevin Sair-yes, and Mayor Moser-yes. The motion passed 5/0.

6. Public hearing for the proposed changes for the 2010/2011 fiscal year Town budget.

Copies of the budget were distributed to all those who wanted them for review.

Jack Davis asked about the progress of the road maintenance in South Zion Estates with regard to getting the cracks filled. Mayor Moser explained that the Council position in charge of roads had just been changed and that the Town was still looking for community members to volunteer for the Roads Committee as there has not been any participation from the prior roads Committee during the last several months. He stated that as soon as the Committee was established, they would set priorities and continue the road work.

Jarry Zaharias asked why there was a big change with the capital outlay fees. Mayor Moser explained that the capital outlay expenses were in direct relation to the impact fee collections, and that those funds needed to be spent on specific projects within a seven year period from the collection of those fees.

Jay Kleinfeldt asked about solid waste income was less than the expense for solid waste. Mayor Moser responded that the Town has \$6,000-\$8,000 in uncollected trash bills. The Town Council will be meeting with the attorney to figure out the best way to collect on those funds.

Motion made by Dale Kingsley to close the public hearing for the amended 2010/2011 fiscal year Town budget. Kevin Sair seconded the motion. Vote: Trevor Black-yes, Evan Brown-yes, Dale Kingsley-yes, Kevin Sair-yes, and Mayor Moser-yes. The motion passed 5/0.

7. Public hearing for the proposed 2011/2012 fiscal year Town budget.

Linda Pierce asked about payroll being \$29,000. Mayor Moser explained that this last year, there were other areas being misclassified that are now being classified as payroll expense. Last year the Town had used a lot of contract work and this year individuals have been hired to do that work. Linda Pierce also asked why the Code Enforcement budget was lower. Mayor Moser explained that it had been cut back during the slow months of the year.

Jack Davis asked where is the weed control was supposed to take place. Mayor Moser said that they have been maintaining certain bar ditches throughout the town where there have been weed problems. Jack Davis asked about the vacant lots that are full of weeds. Mayor Moser said that if anyone sees a problem with weeds, they should contact the Town and the code enforcement officer will notice and if necessary, cite the owners. Jack Davis asked about the possibility of burning the weeds. Mayor Moser explained that the EPA is trying to stop burning all together and burning is getting harder. Jack Davis continued asking why the Town couldn't use prison workers to take care of weeds. Mayor Moser explained that when the Town had tried that before, things didn't get accomplished as expected.

Margaret Ososki joked that the weeds hide some of the stuff on people property that others don't want to see and that it might be nice to leave them growing.

Dale Beddo if they were spraying in front of the lots in the ditches. Mayor Moser said that unless the owners requested to not be sprayed, all roadside ditches should have been sprayed the week prior.

Jarry Zaharias asked about the culinary and wastewater under the impact fees and what it was for. Mayor Moser said that if the Town does not have a water of sewer system to operate, that those funds will be refunded to those who have paid into it. But, if the Town creates a special service district those funds will be used for their intended purpose. The Mayor also explained that the special service district will be governed by the body politic and not by Two Bears.

Kevin Sair asked Margaret Ososki if she had seen the weeds being sprayed.

Linda Pierce asked about the road funds and why it had changed so drastically. Mayor Moser explained that last year the Town had received extra funding and that the Town was not anticipating receiving that funding again this next year. Linda Pierce also asked if the impact fee income and expenses were just offsetting each other. Nathan Bronemann clarified that yes, all the income from the impact fees is directly offset by the impact fee expenses denoting that those fees cannot be spent on general budget items.

Ann Beddo asked if the impact fees could be spent on road improvements. Mayor Moser said that they could be used for road improvements, but that they had to be earmarked to a specific project on road improvements and that there are rules and guidelines that need to be followed to ensure that the whole community is benefited.

Motion made by Kevin Sair to close the public hearing for the proposed 2011/2012 fiscal year Town budget. Dale Kingsley seconded the motion. Vote: Trevor Black-yes, Evan Brown-yes, Dale Kingsley-yes, Kevin Sair-yes, and Mayor Moser-yes. The motion passed 5/0.

8. Miss Apple Valley award certificates.

Mayor Moser presented award certificates to the Miss Apple Valley royalty from the 2011 Miss Apple Valley Pageant.

9. Discussion and possible action on Resolution No. 2011-18 appointing Dick Naylor as a new member of the Parks and Recreation Committee.

Motion made by Mayor Moser to accept Resolution No. 2011-18. Evan Brown seconded the motion. Vote: Trevor Black-yes, Evan Brown-yes, Dale Kingsley-yes, Kevin Sair-no, and Mayor Moser-yes. The motion passed 4/1.

10. Discussion and possible action on retaining Jethro J. Barlow as a grant writer for the Town.

Mayor Moser explained that Jethro Barlow operated as a consultant for small towns in searching for grants to help the towns with necessary expenses. His consulting fee is \$65/hour. His travel time is one half of his hourly rate. If the Town needs him to travel the Town is required to pay expenses as well. His mileage reimbursement is 49 cents/mile. He has a very good track record in obtaining grants. Other than the fire department, the Town hasn't been very successful in obtaining grants. Mayor Moser also said that if the Council wanted that they could set up a work meeting where the Council could meet and talk to Mr. Barlow.

Kevin Sair asked if he specialized in any particular field. Mayor Moser said that he didn't specialize in any particular field other than writing grants.

Trevor Black requested that the council hold a work meeting to learn more about the services that Mr. Barlow provides.

Evan Brown expressed concern about the expenses involved in paying a grant writer and where the money would come from. Mayor Moser explained that the administrative expenses were usually built into the grant and reimbursed with the grant after they are incurred.

Kevin Sair also expressed a desire to meet with Mr. Barlow to ask questions.

Chief Denny Bass stated that there weren't as many grants available as were in years past and that a lot of them were matching grants.

Mayor Moser agreed and stated that a lot of grants allowed in kind time to count as money put toward a matching grant.

The Council agreed to have a work meeting on June 23<sup>rd</sup> at 6:00 pm.

11. Discussion and possible action on closing the bank account with Zion's Bank and creating a new account with State Bank of Southern Utah.

Mayor Moser explained that the Town was being charged \$35-\$40 per month with Zion's Bank despite having over \$70,000 in the account. They have no better options for the Town. State Bank of Southern Utah has an account with an \$8 monthly charge that pays interest that will more than offset any fees that are incurred. The current checking interest rate is 0.5% and 0.625% on the money market account. They also offer online credit card capability so that when it is set up, the Town residents will be able to pay for solid waste online.

Motion made by Kevin Sair to close the bank account with Zion's Bank and create a new account with State Bank of Southern Utah. Dale Kingsley seconded the motion. Vote: Trevor Black-yes, Evan Brown-yes, Dale Kingsley-yes, Kevin Sair-yes, and Mayor Moser-yes. The motion passed 5/0.

12. Fire Department Report.

Chief Denny Bass reported that the document has been signed with the state to pick up the two new water tenders. He said that he is still negotiating to get the engine in California. He is waiting for the supervisor to sign off on it. The crew will be tested for wild land 1 certification this Saturday. Then they will be able to be called out to any Federal or State fire in the country. Since they can make a lot more money, the Town could potentially lose some of the

crew. The Town also gets paid for the use of their equipment, to that could be a source of income in the future.

13. Report and recommendation from the Code Enforcement Officer.

See attached.

14. Report and recommendation from the Citizen Corps Council.

See attached.

Mayor Moser added that Washington County will be introducing three new advanced levels to the CERT training. They address caring for animals during a disaster, structural assessment of buildings, and an advanced first aid course. They will notify the Town when they are available.

15. Roads Report and consideration of continuing improvements.

Trevor Black stated that they need more applicants for the road committee in order to get more projects going.

16. Report from the Community Events Committee.

Kevin Sair reported that the next event was July 4<sup>th</sup>. Mayor Moser added that the State of Utah had changed fireworks laws making some aerial fireworks legal. The Town is drafting an Ordinance that will prohibit the use of all fireworks anywhere other than the fire station.

Kevin Sair added that Founders Day is scheduled for October 22<sup>nd</sup>.

Kevin Sair also stated that the Parks and Recreation committee would be having some fundraisers in the near future to help to pay for the new park.

17. Consent Calendar-Income and Expenses - Town Treasurer.

Motion made by Evan Brown to accept the consent calendar. Trevor Black seconded the motion. Vote: Trevor Black-yes, Evan Brown-yes, Dale Kingsley-yes, Kevin Sair-yes, and Mayor Moser-yes. The motion passed 5/0.

18. Consider approval of minutes:

a. May 5, 2011 Regular Meeting Minutes.

Motion made by Kevin Sair to accept the minutes from May 5, 2011 as presented. Trevor Black seconded the motion. Vote: Trevor Black-yes, Evan Brown-yes, Dale Kingsley-yes, Kevin Sair-yes, and Mayor Moser-yes. The motion passed 5/0.

19. Request an executive session.

None requested.

20. Adjournment.

Motion made by Kevin Sair to adjourn the meeting. Trevor Black seconded the motion. Vote: Trevor Black-yes, Evan Brown-yes, Dale Kingsley-yes, Kevin Sair-yes, and Mayor Moser-yes. The motion passed 5/0.

Meeting adjourned at 8:20 PM.

Date approved: \_\_\_\_\_

ATTEST BY: \_\_\_\_\_  
Nathan Bronemann

\_\_\_\_\_  
Richard Moser

**May 19, 2011 CODE ENFORCER'S REPORT TO TOWN COUNCIL**

Since May 5, 2011:

I've sent out a notice with the solid waste bill regarding the weed situation, which is quickly getting out of control causing health and safety hazards. I've left several red warning tickets and I've mailed at 2 violation letters. I've notice a lot of thistles coming up and have notified people to spray them or dig them up to keep them from spreading.

I've written 1 citation for No Sign Permit.

(Reminder to all elected officials to take NIMS courses ICS-G402, 100 & 700. If you need assistance let me know.)

*April Ruesch*  
*Code Enforcer*

**CITIZENS CORPS COUNCIL REPORT May 5, 2011**

We plan on having a Citizen's Corps Meeting and CERT training on May 24<sup>th</sup> starting at 6:30pm.  
Thank you.

*April Ruesch*