

Tropic Town Council Meeting

Minutes of the Tropic Town Board Meeting
Held June 8, 2017, at 6:00 p.m. in the Tropic Town Heritage Center

PRESENT: Mayor WaLon Brinkerhoff **BOARD MEMBERS:** Travis LeFevre, Dennis Pollock and Brook Wiseman , Jason Bybee was excused. Marie Niemann – Tropic Town Clerk & Sydney Syrett – Tropic Town Treasurer.

OTHERS: David Church, Riley Roberts, Shiloh Syrett, Danny Brinkerhoff, Tyson Brinkerhoff, Dan Cloud, April LeFevre

CALL TO ORDER: Mayor WaLon Brinkerhoff

PRAYER: Riley Roberts

PLEDGE: Shiloh Syrett

APPROVAL OF MINTUES: Minutes were not reviewed by the Council ~ A motion was made by Dennis Pollock to adopt the minutes of the Tropic Town Board Meeting held May 11, 2017 in July. Second by Travis LeFevre Motion carried.

APPROVAL OF THE AGENDA: A motion was made by Travis LeFevre to approve the agenda. Second by Dennis Pollock. Motion carried.

THE COMMUNITY

Madison Syrett: Placing 5th place in the 2016 UHSAA track and field meet, Madison has been invited to represent the United States in a track meet in Brisbane Australia, put together by Down Under Sports. Though Madison has received donations from family and work, funds have falling short; a donation request was received asking for any financial support from the Town. Available funds in the budget were discussed; a motion was made by Brook Wiseman to donated \$300 in supporting Madison in this adventure – Second by Dennis Pollock. Motion carried.

ULCT Attorney David Church: Water availability, sewer capacity, economic growth; these issues are among the many facing Mayor Brinkerhoff and the Town Council. Included with these concerns is the use of single-family residential homes used as another alternative in nightly lodging; the trend of vacation rentals has placed contention within the community; causing division, residential vs. commercial. To address these issues, Utah League of Cities and Towns attorney David Church clarified laws and answered questions on these issues.

*Vacation Rental/Holiday Homes/STR: Mr. Church gave a brief history of how STR's were created, relating the law suit Sandy City had; it came down to the State's Supreme Court stating, unless specifically stated in an ordinance ~ banning short-term rentals, vacation rentals, holiday homes, home occupations, etc. ~ they are allowed in a residential zone. Discussed terms/definitions of: "home occupations", "rent", "single-family", "single-family dwelling"; time limits: nothing less than 30 days; # of people relate/unrelated; enforcement, etc.

In the 2017 Legislative session, the State passed a bill stating municipalities cannot use internet advertising as evidence against a business that they are violating the town's ordinance; and cannot have an ordinance banning businesses from advertising on the internet; this issue will again be addressed in 2018. It was reported the State also passed a bill that regulated the licensing charge of "home occupations", municipalities cannot charge a business licensing fee for them.

Continuing, Mr. Church discussed “pre-existing non-conforming” use ~ the State law states if it is a legal non-conforming pre-existing use of the property, it runs with the land not the owner. Businesses that did not legally get a business license until approached; this is not a “pre-existing non-conforming use” and the Town does not have to recognize them. Those that were recognized, but were illegal the Town will need to be responsible for their own actions.

Addressing enforcement, how? Travis asked Mr. Church if the Town put in fines and lean properties off the fines ~ David said no. The Council has two choices – the criminal avenue or the civil avenue. Municipalities are going turning to a “civil” processing; by creating a civil fine system, having an administrative citation with a public hearing, law judge/code enforcement officer (local citizen) collecting the debt/fine; without district courts/state courts, attorney, etc. someone to enforce all code/ordinances, etc. Discussed issuing citations; Mr. Church said one doesn’t start issuing everyone that is in violation, you start now; once one citation is giving, everyone else falling in line. If businesses do not comply, they are then charged with a crime; as stated in the business licensing ordinance.

Mr. Church stated not to have ordinances the Town isn’t willing to enforce and be consistent; what should the Council be involved in or not involved in regulating? What is the proper role of the Council/Government? How does the Town regulate those currently in operation so that they are not impacting the neighbors? Mr. Church stated that if the Town is going to allow them, the Town can regulate them; putting up fencing, limit number of people, trespassing, privacy, parking, etc. Mr. Church stated there is no such thing as “grandfathered” in violating the law ~ “non-conforming use” means the use of the land and use of the building. Taking away the business license, doesn’t take away the use of the land/building.

It was asked, what rights do neighbors have when a business/STR are in violation; David stated they have the right to challenge the license. Continuing, arguments concerning the process of and approval of; accusation that a license was given by the clerk without approval of the Council; which the Clerk denied, attempting to explained no action is taken without the Council’s approval, but argument was quieted by the Mayor. Clarification by Mr. Church stated that if the Town made the error in issuing the license, there is a process of re-application, being the worst place the town could be in; if it was a clerk error – it is the best place for the Town to be in. Clarification was given by Sydney and Marie on the process of which business licenses were issued to STR’s a letter was sent to those that were operating without a license, requesting them to come before the town council. Questioned whether or not the process of coming before the planning commission for a business license was in place – Travis and Brook said it wasn’t in place until a month ago. Also questioned was the allowance of a business in a non-commercial zone; the license was revoked because of non-compliance and continues to operate without a license. It was reported the owner is not charging, but taking donations; this is false, he continues to pay resort taxes, which proves the revenue is being collected. Mr. Church was asked because of this issue would it force the Town to allow additional commercial venues in a non-commercial zone; responding, Mr. Church stated – no.

April LeFevre expressed support for STR’s to show case the area, but the Council should also be governing the Town as stated in the Town’s mission statement: “... which provides provide all community needs through strong planning efforts...” In response it was explained that the concern is not allowing them, but rather allowing them in residential zoning taking away the traditional family neighborhoods. Mr. Church addressed zoning, stating ordinances are written regulating specific areas and uses; Mr. Church emphasized **A proper role of government recognized by everybody ~ “is to preserve residential uses of property value”** – which is a good role of government, but difficult to balance. Comments received regarding families trying to make a living in Tropic are finding it difficult because temporary housing, while saving to build a home, are being used commercially and are forced to move; allowing STR’s in residential areas or neighborhoods because of one specific group or person is wrong. Mr. Church agreed, stating that governing body should never make decisions or regulations based on property value; two property owners value property differently, whose property value does the Council choose to increase or decrease base on opinion? You cannot govern both residential and commercial the same way; Mr. Church emphasizing “...strong planning efforts...”

Travis stated if the Town had properly regulated and had properly enforced the rules, how many problems would the Town have had? Comments made reported a list of requirements/regulations were prepared and recommended from the planning commission to the Council, but not implemented.

April LeFevre asked about Bryce Point B&B, which has not been in business for a few years (2007), they want to sell; it was clarified, as stated previously, the “use” of the property stays with the land not the owner. Regarding STR occupancy; Mr. Church clarified that the State’s definition is not less than 4 un-related persons, unless it’s a collage/university.

*Water/Sewer Moratorium

Another item address is the placing of a moratorium on water and sewer. Tropic has more applications than they have availability; Mr. Church cautioned not to discriminate, but not all discrimination is illegal. Placing a w/s moratorium can be justified if it furthers legitimate government interests and it is not based on race, religion, gender, nationality, age, disability, etc.

The moratorium stopped the sale of commercial connections, allowing residential; because there is less impact on the system. Mr. Church stated, the courts will look at the reason behind the moratorium; if it not one of the above reasons, they will approach it from a rational basis ~ does the Town have any good reason for doing it, if so; the courts will uphold the moratorium.

The question was asked; does “commercial” mean all commercial or just lodging and tourism based; because there are businesses that will not place impact on the system. Also, allowing just residential would allow a development of a 50 home subdivision to be built; placing a hold on all w/s connections is the easiest. The Town will need to honor those w/s connections currently paid for, whether activated or not; they have been accounted for in the study. Discussed the purchasing of a w/s connection owned by someone else, but not physically installed, is this legal; yes if the Town wants to allow that. Mr. Church stated what people have in this situation is a “right” not a connection; and it is usually tied to the lot; not the owner. Continuing a “Right-to-serve” document is a guarantee that the Town will provided w/s services.

Another question proposed consisted of the use of a residential connection be used as a commercial connection. Responding, Mr. Church stated no, it’s the size of the meter that is used not the term or how the connection is label; the Town requires a larger meter for commercial; a ¾ inch meter is not equivalent to a 2”, 3” or 4” meter.

Moving forward, Tropic need to identify the number of w/s connections available and then regulating them through zoning not through utility code. The big issue will be based on water, not sewer; sewer can be solved with money, water limits itself by “rights”; water sources are limited. Using the General Plan and its Zoning Tropic identifies how much growth; percentages in commercial vs. residential; allowing or not allowing all the availability to be given to one development(s) whether residential or commercial.

PLANNING COMMISSION

No quorum was present at PC meeting; but the following projects were discussed and recommended to the council for approval.

Tyson Brinkerhoff: Application was presented for the completion of a cinderblock building, which was started by never completed by previous property owners; it will be used for storage. Tyson reported the Garfield County building inspector questioned the depth of the footings; documentation was acquired from Garfield Ready Mix that verified they were 4ft down. All was found in order and in compliance. A motion was made by Travis LeFevre to approve a building permit – Second by Brooke Wiseman. Motion carried.

Dan Cloud: Review of a property adjustment was discussed – No permit was needed, only the Council’s acknowledgment; all was found in compliance to town code. A motion was made by Travis LeFevre to approve the line adjustment – Second by Brook Wiseman. Motion carried.

April LeFevre: A business license was not reviewed by the planning commission, due to April was not in attendance, as well as not having a quorum. April has started a tour guiding business “Canyon Fever Guides”. Town Council review the application, though all was found to be in order the application was not listed on the agenda to approve. Council verbally approved the business license affective July 1, 2017 and to place the item on July’s agenda for official approval.

FINANCIAL/WARRANTS

Budgets Approval: Prior to Town Board meeting, a public hearing was held reviewing the amended 2016-2017 budget and the 2017-2018 Budget; and after reviewing and discussing the warrants a motion was made by Dennis Pollock to approve the warrants and to approve the 2016-2017 amended budget and approve the 2017-2018 budget – Second by Brooke Wiseman. Motion carried.

CULINARY/SEWER

No Report

ROADS/STREETS

The project is a week behind schedule; discussed changes and cuts to meet budget.

PARKS/RECREATION

Following up on enclosing the office area, Brook reported receiving a call from a gentleman in Castledale; but not able to follow up with him. Also, received bid for acid washing the conference room floor; \$4,953.00 ~ the stage area will be removed. Brook also discussed the sidewalk needed by the Veteran’s memorial ~ \$2,000. Also, there are a few shrubs needing to be replaced by the memorial ~ A motion was made by Travis LeFevre to approve the purchasing of shrubs/trees and to move forward with the conference room flooring – Second by Dennis Pollock. Motion carried.

Brook reported sprinklers by the memorial need repaired and adjusted.

The front door to the heritage center continues to have issues; if pulled with a slight force, the bottom latch is not connecting to secure the doors closure. Dennis suggested placing a dead bolt on it as a temporary fix; until the lock smith brings the new keys and can look at the problem.

4th of July celebration was discussed ~ Jr. Class, Booster club and others are over the festivities. Bouncers, Smoky the bear, program participants, etc. are underway; parade arrangements have been made with the scouts and fire department. Brook reported Phebe has agreed to oversee the program – is f

FIRE DEPARTMENT

No Report

ANIMAL CONTROL

No Report

EMPLOYEE REPORT

Bob was not in attendance, but Brett reported Bob is working on his CDL; passing 2 of the required tests.

MAYOR'S REPORT

Skid Steer: Lease is up with Century Equipment on renting the skid steer; discussed the purchasing, leasing, or contract out.

ADJOURN

A motion was made by Dennis Pollock to move into Executive Session – Second by Brook Wiseman. Motion carried.

EXECUTIVE SESSION

After addressing ? the motion was made by Travis LeFevre to move from the executive session to regular town board meeting and adjourn. Second by Dennis Pollock. Motion carried.

Approved this 13th Day of July 2017
Marie H Niemann – Tropic Town Clerk