

PLACE: Cedar Fort Town Hall, 50 East Center, Cedar Fort Utah

TIME: 7:00 P.M.

MINUTES TAKEN BY: Vonda Cook

TOWN EMPLOYEES PRESENT

Autumn Blackner – Treasurer, Jerry Lamoreaux – Water Systems Manager, Vonda Cook - Recorder

COUNCIL MEMBERS PRESENT

Mayor Howard Anderson, Chris Murphy, Ellen Cibula, Richard Stark, David Gustin

VISITORS PRESENT

Lori Adams, Glade Berry, David Busk, Christine Busk, Gary Cook, Joelene Soper, Wain Soper, Erin Soper, Bart Berry, Kelly Berry, Sara Berry, Lyndee Berry, Julie Sorenson, Jeorgian Hacking, Fire Chief Steve Bowen, Teresa Beck, Claudia rose, David Rose, Heidi Mitchell, Paula Cook, Marlene Allen, Charlynn Anderson, Darrell Cook, Sharon Cook, Josel Lamoreaux, Cara Lyon, Heber Hyde, Donna Gail Hyde, Harry Draper, Brian Cook, Verlynn Cook, Janiece Commichaux, Falcon Commichaux, Deputy Nathan Harris, Mike Bussch?, Mallory Norris, Jason Cook, Calvin Cook – didn't sign in

CALL TO ORDER

Mayor Anderson called the meeting to order at 7:00 P.M. All members of the Town Council were present. Deputy Harris led the Pledge of Allegiance and Harry Draper offered the prayer.

REVIEW/APPROVE PREVIOUS MEETING MINUTES

Mayor Anderson made a motion to approve the meeting minutes for October 24, 2017 at presented. Councilwoman Cibula seconded it. Motion passed unanimously.

BUDGET REVIEW

The Council reviewed the budget. They are on track for the year.

REVIEW/APPROVE TOWN BILLS

Mayor Anderson made a motion to accept checks as presented. Councilman Stark seconded it. Councilwoman Cibula asked what check #2066 for \$6,000 was for. Fire Chief Bowen said it was to Fire Apparatus to fix the big [fire] engine. Councilwoman Cibula also asked about the check to Longridge Excavating. Mayor Anderson explained that was a series of things. One was for water, an interment, etc. It was for several invoices that will be logged into different categories. Mayor Anderson called for a vote. Motion passed unanimously.

REPORTS FROM ZONING/BOA, FIRE DEPARTMENT, TOWN EMPLOYEES

Chief Bowen reported that the new recruits were signed up and doing good.

Chairman Dave Rose of P&Z reported that they had approved a business license application for Stephen Miller, building permits for Jason Cook and Doug Chesley, minor subdivisions for Steve and Bart Berry and Falcon Commichaux.

REPORTS FROM COUNCIL MEMBERS

Councilman Gustin reported that Scott Christensen received his final inspection on his house yesterday. Kevin Christensen is moving along slowly. He reported that he had an inspection request for underground plumbing from Ron Steele. He said Ron is trying to get as much done as he can before the weather turns.

Councilwoman Cibula reported that since the State can't send prisoners out to pick up trash along the highway any more, she contacted Deputy Harris and he lined up someone from the County to do it.

Mayor Anderson reported that they are stalled on the building itself on the restroom project. The contractor is having a hard time getting materials for the building but all the plumbing is complete.

He also reported that they are ready to sign the contract with the engineering and design firm that will be doing the community center remodel. Councilman Gustin asked if they had received the funds yet. Mayor Anderson said they had. He also reported that they had another CDBG grant underway. He said they have to do another LMI survey this year and that they will be coming around to each house asking them to fill out a one page survey to see if the Town qualifies for a low income grant. Councilman Murphy stated that on the last survey, three years ago, it was close.

AGENDA ITEM #1 – CORRECTION TO AUGUST 22 TOWN COUNCIL MEETING MINUTES

Mayor Anderson said that there was a correction on the August 22 minutes [Agenda item #6] due to a miscommunication and the approval date of July 11 should have been August 8. The correction is so stated in these minutes and a note will be attached to the August 22 minutes as well.

AGENDA ITEM #2 – PRESENTATION ON PRV REMOTE MONITOR – LEGO LEAGUE TEAM

The Lego League Team is a group of local young people consisting of Ryan and Kaden Stark, Cedar Johnson, and Emma and Rachael Ruff who find solutions to real life problems. The Team presented a plan to use a Raspberry Pi computer to monitor the water pressure of the Town water system and warn the Town if the water pressure gets too low or too high. They came to the Town because, to run their system, they need an energy source such as a second solar panel. They have made a budget, but are short on funds and asked the Town if they could contribute \$100.00. The Town and the Team discussed different options. The Team will come back in December and report on their progress.

AGENDA ITEM #3 – VOTE TO APPROVE GENERAL ELECTION CANVASS – TOWN CANVASS BOARD

Vonda presented the Canvass of the Cedar Fort general election. The final results were:

Mayor – David Gustin 87 [winner], Kelly Berry 80,

4 yr. Councilman (2) – Wyatt Cook 110 [winner], Ellen Cibula 83 [winner], Wendy Lojik 72

2 yr. Councilman – will serve the remainder of Larry Mohler's term – Harry Draper 137 [winner], uncontested.

Vonda then addressed some questions about the election, citing election code references and explained the process they followed. [See attached]

Mayor Anderson asked the Council if they had any questions. Councilman Stark asked if, based off the recommendations [from Vonda], the Town is going to use 2 people and who would they be. Mayor Anderson said the election official would be one and the chairman of the poll workers would probably be the other. He said if we think we need 3 we might as well go for 10. Vauna said that there is a cost to go to Provo and they are not usually reimbursed.

Mayor Anderson asked if there were any more questions from the Council members or the audience. Kelly Berry said she wanted to read a statement. Mayor Anderson told her she could. She said she never accused anyone of wrong doing, she only wanted information. She said she had statements from people who voted provisionally that were confused as to why their vote didn't count. She said she had reached out to the Town several times and never got the answers she needed. She said she contacted Councilman Richard Stark to talk with Vonda and the poll workers. Vonda told Kelly that she (Vonda) had never once been contacted by Kelly. Kelly went on to say that she had also contacted Councilman Stark about talking to him and the Mayor.

Kelly also said that there is a State law that states that any election that is 25% or less of the votes has every right to ask for a recount. She went on to say that citizens have a right to ask questions of their leaders. She also said they just found out that there was a law passed in January that says if you are not a registered voter and you vote, your vote will not count [in that election] and no one told them about this law.

She said they went to the County and the County told them to talk to their local leaders. She said they tried to work with local leaders and then went back to the County again and the County said they should contact the Lt. Governors' office with their concerns. She said they talked to the Lt. Governors' office and they said they had never heard anything like it. She said there were many things that were discussed between them and the State.

Kelly stated again that it was not about accusing anyone of wrong doing but that citizens have a right to question local leaders and get information. She said she ran her campaign to be the voice of the people. She said she was proud of her campaign and spent most of her time correcting lies about herself and her family. She accused the Mayor of going to a private citizen and making her take down a campaign sign that was on his property, and she accused the election officials who have been running the election of being openly biased toward one candidate. She went on to say she has a right to ask questions and that she was within her rights to send a petition according to State law and it was just a concern that every effort was made that the voice of the people be heard. She said the State said it was a violation of State Law to not release the results of an election for 48 hours. She said that sending her petition was according to State law.

At this point, Mayor Anderson stopped Kelly and told her that obviously there was a conflict in what she was hearing and what the Town Council was hearing. He told her that it is not 25% of the vote but 0.25% of the vote. Kelly told him that he had done this to her before and he needed to let her finish. Mayor Anderson said he didn't need to let her finish because that was a Town Council meeting and not a public demonstration. She said it wasn't a public lashing either. He told Kelly that she got all of the answers she asked for in the canvass and statement of explanation.

Mayor Anderson told Kelly that there were two people there that had been trying to contact her for two weeks. She said that was not true. Mayor Anderson said he had an email record. Kelly said he had contacted her last Tuesday night and she sent an email back telling him that the State had talked to him about controversial issues. Mayor Anderson said there was one before that and two phone calls.

Councilman Murphy told Kelly that for her to say that she has not had an opportunity to sit with the Town and discuss her issues was false. He said they tried to contact Bart Berry and Kelly Berry through email, to meet with them after the P&Z meeting on Tuesday and at other times, to discuss the controversial issues stated in her letter. Bart said that he had an email from Derrick at the State saying

that was a violation of the code. Mayor Anderson said that was not what the State was telling them. Bart said Derrick said he told the Town that. Councilman Murphy asked Bart if he had received an email from the Town. Bart said he did. Councilman Murphy said that was put to rest then. Councilman Murphy told Kelly that for her to state that she has not had the opportunity to discuss those facts with the Town was not true.

Mayor Anderson said this was done. Kelly said she had the right defend herself. He told her she had the right to say whatever she wants but not in Town Council meeting. He told Kelly that this was not a public meeting for her to present her point of view and if she had information that she needed to share with the Town, she should share it with the Town Council members. Mayor Anderson asked Kelly if she had anything in the rest of her presentation that wasn't covered in the canvass. She said she would just finish up.

She went on to say she hoped the new administration would set aside bias and listen to the people. She said questioning should not be looked down upon. She concluded by saying she hoped the divided Town would come together and she congratulated David and the new council members.

Mayor Anderson said he wanted to clarify again that the reason the State is not doing a recount is that it is 0.25%, not 25% of the vote and one vote difference is what the code requires. He said the difference in the votes is 7 and that's why they were not recounting. Bart said they are doing an audit. Mayor Anderson said the Town has handed this information over to the Lt. Governors' office and they have no issues for us. Bart said they never accused any one of wrong doing, and the initial statement was false.

Vonda made the clarification that the County set the time for her to bring the provisional and remaining absentee ballots down to be verified and the time they gave her was 3:00 p.m. on Thursday afternoon. She further explained that since Christine was out of town and wouldn't be back until Friday, poll workers Vauna Allinson, Eileen Ashley and alternate poll worker Carolyn Berry proceeded with the counting of the ballots at 5:30 Thursday so they could get the results out as fast as possible.

Councilman Stark said he was hearing two things on releasing the results; don't release for the integrity of those who voted provisionally and the other was to release the results regardless of the number of provisionals. Mayor Anderson said they will follow the recommendation and get in writing what the Town should do. Councilman Murphy said one opinion was not to release them. The other was to release them. He said the Town needs to know which one is more important, getting the numbers out or safeguarding the secret ballot.

Mayor Anderson made a motion to accept the canvass as presented. Councilman Murphy seconded it. Motion passed unanimously.

AGENDA ITEM #4 - DISCUSSION AND VOTE TO APPROVE STEPHEN MILLER BUSINESS LICENSE

Stephen said he wants to start a software company. He said no one will be coming to his house. The Town Council reviewed his application.

Mayor Anderson made a motion to approve Stephen Millers' business license for a home business called Venture Software, LLC. Councilman Murphy seconded it. Motion passed unanimously.

AGENDA ITEM #5 – DISCUSSION AND VOTE TO APPROVE JASON COOK MISCELLANEOUS BUILDING PERMIT

Councilman Gustin said Jason Cook wants to build an open air carport with no utilities. He said it was approved by P&Z. The Council reviewed the application and plan.

Councilman Gustin made a motion to approve Jason Cooks' outbuilding #1268. Councilman Stark seconded it. Motion passed unanimously.

AGENDA ITEM #6 – DISCUSSION AND VOTE TO APPROVE DOUG CHESLEY OUTBUILDING PERMIT

Councilman Gustin said that Doug's previous building permit had lapsed because the fees weren't paid within the 60 days allowed after the approval of the building permit. He said P&Z had approved a renewal of that building permit.

Councilman Gustin said that he had found a couple of issues with the building permit. First, the proposed barn is not on property deeded to Doug but on property deeded to his wife. He said the second issue was that in the ordinance that was passed after Doug got his building permit, it addresses the width issue of that portion of the road on 100 West. It talks about property being turned over to the town before any "construction" takes place.

The Council discussed the issue and Councilman Murphy read that part of the ordinance and it was pretty clear that it was talking about construction. They discussed the fact that construction is a way to eventually get the needed road width.

Councilman Stark made a motion to approve #1266 outbuilding permit for Doug Chesley. Councilman Gustin said they would have to change the ordinance to get approval. Councilwoman Cibula agreed. Dave Busk suggested they amend the definition.

Mayor Anderson seconded the motion. Councilman Stark said they need to clarify that construction means residence. Mayor Anderson asked what the intention was when they started out. Councilman Murphy said he didn't think the ordinance reflected the intent. Dave Rose said his intent was that it was residential only and it wasn't right to keep people from putting a shed on their property.

Mayor Anderson called for a vote on the motion. The motion didn't pass by a vote of 3 to 2. Councilman Gustin, Murphy and Councilwoman Cibula voted no and Mayor Anderson and Richard Stark voted yes.

Councilman Gustin said the next step is to get that clarified. David asked if it was feasible to do by December 19. Doug said he thought it was just about residential. He said if they can't do it by the end of December he thinks it will move it way back. He said the builder would get a bonus if they could get it done by December 31. He said he will talk to the builder tomorrow.

Dave Rose said there is ambiguity in the ordinance and it shouldn't cause a hardship on a person. Councilman Gustin said they can't always blame everything on ambiguity when it doesn't go the way we want. Councilman Murphy noted that Doug brought the hardship on himself because he didn't pay for the building permit in time.

AGENDA ITEM #7 – DISCUSSION AND VOTE TO APPROVE BART AND STEVE BERRY MINOR SUBDIVISION

Councilman Gustin said this is the last minor subdivision under the grace period. He said the Town has already approved the subdivision for Tyna Anderson. He continued saying that Tyna's subdivision had already been approved and when it was approved they were under the assumption that the strip of land had already been fixed. He said Bart recorded a new deed on Monday. He said they had to have the correction done. Bart said it was the Shrivvers who recorded it but the County couldn't agree on the recording so he said that the Shrivvers deeded it back to them and they corrected it and deeded it back to her.

Councilman Gustin said that Mayor Anderson went to the County today and they said it should be resolved now and the strip should be gone. He continued saying that Bart is technically applying for parcel #0091. He said another parcel they are fixing is #0087 and it will get a new parcel number when they fix it. Councilman Gustin said the property was subdivided in 2013 and that is the parcel they are really approving now. He said the parcel number is #0078 and that will get rid of the confusion of approving a parcel number that won't exist. He said it's just clarifying what was subdivided in 2013 and is a buildable lot.

Councilwoman Cibula asked about the deadline for the grace period. Councilman Gustin said it was applied for within the grace period. Mayor Anderson told Bart that Jason is the one to talk to at the County and he told Bart that he and Steve still have a problem because they have two different parcels and they need to combine them. Councilman Gustin said that is why he is not comfortable approving any number but the original #78. He had Bart correct the parcel number on the application to #58-049-0078.

Councilman Gustin made a motion to approve Bart and Steve Berrys' application for a minor subdivision under the grace period included in our subdivision ordinance. Councilman Stark seconded it. Motion passed unanimously.

AGENDA ITEM #8 - DISCUSSION AND VOTE TO APPROVE FALCON COMMICHAUX SUBDIVIDING

Councilman Gustin said that Falcon was applying for a minor subdivision approval for 59-038-0184 and/or-0194. He said Falcon has provided the town with a timeline along with this application. He said he reviewed it and there was an attempt to subdivide the property on Feb 4, 2015. The initial deed was inadequate and got rejected and a new deed was filed in March that actually created a subdivision in 2015. That property split was a 3.59 acre split from his home. Later, there was an attempt to subdivide the 3.59 acres with a deed filed in March 2017 and that subdivision was made during the moratorium the Town placed on all subdividing. Councilman Gustin said that all information he was giving came from Falcon and he had not researched it.

Councilman Gustin continued stating that prior to the expiration of the moratorium the Town passed a new subdivision ordinance with a 5 year waiting period, if people don't want to do a major subdivision. Those two properties were later combined back together again making a 3.59 acre parcel. Under the Grace period the Town approved the subdivision that was made in 2015. Because the subdivision was made in 2017 during the moratorium, he said if the Town

did act unlawfully, Falcon may be able to have that approved. He contended that the moratorium and ordinance are lawful and the request should be denied.

Falcon said he provided the Town with documentation for all dates. He said June 13 is an important meeting and he sees this case headed to court. He talked about the 5th and 14th Amendment and said that Mr. Jacob had a right to purchase the land and split it into 2 pieces.

Falcon referred to remarks that Councilman Gustin's made in the June 13 P&Z meeting and he contended that was the underlying reasoning for the moratorium. He said he thought that by going from 2 to 5 years, the intent was to stop subdividing. He said they all signed the documents to be truthful and that is an equal protection issue. He said if the underlying reason for the moratorium was to prevent subdividing, then this is a constitutional issue and involves the 5th Amendment.

Falcon also said that putting in curb and gutter is ridiculous out here. He said one house in town has a sidewalk. Falcon also talked about retroactive ordinances. He said this is the second time this has occurred. He said he could tell they weren't going anywhere. He asked for an up and down vote and said they would go from there.

Councilman Gustin said the conditions the town has put on Falcons' ground are not unreasonable. He said the moratorium started when the town passed it and they accepted no applications for building during the moratorium and the new ordinance began after the moratorium ended.

Councilman Gustin said when he attends P&Z meeting he is attending as a citizen. He said the ordinance is not discriminatory. Councilman Murphy said they have no sway of the decisions the P&Z make.

Councilman Gustin said the conditions the Town has put on Falcons ground are not unreasonable and he also pointed out that lots of towns require curb and gutter. He also said there was nothing retroactive about the moratorium and the Town did not accept any applications during the moratorium and the new ordinance began after the moratorium ended and they were not retroactive.

Falcon said he thinks that the moratorium says one thing but the intent was another and he thinks it was discriminatory. Councilman Murphy said this isn't a court of law. He told Falcon that he presented his side of the story and the Council members feel that what they've done is correct. Councilwoman Cibula said he could subdivide tomorrow if he follows the subdivision laws.

Dave Rose said there are exceptions in the land use subdivision ordinance page 4, 1.5.1. Mayor Anderson asked what the hardship was. Dave said they divided in 2015 under the 2 year rule and now they have put in during the grace period to have 2 buildable lots.

Councilman Gustin said they subdivided in 2015 and then in March 2017 they divided that again. He pointed out that the subdivision was not eligible under the old ordinances to divide again before the moratorium. The Town couldn't approve anything during the moratorium. He [Falcon] filed the subdivision [March 2017] even though it was unlawful. It was the opinion of the Council to undo the illegal subdivision made during the moratorium so they could approve a legal subdivision that was made in 2015. He pointed out that now he has a buildable lot [3.59 acres]. Falcon can still subdivide the 3.59 acres and do a major subdivision or he can wait for 5 years to subdivide. He said there have been 2 issues in this meeting that the solution has been to just issue a variance. He pointed out that variances are unique and rare and they can't be economic. They have to be unusual circumstances such as a taking.

Gary said if he does a major subdivision, he doesn't have to do curb and gutter on lots larger than one acre. Councilwoman Cibula looked it up and there is no requirement for curb and gutter [on lots larger than one acre]. She said they do have to provide a plat map.

Falcon said to just give him an up or down vote and that he would be filing an appeal. He suggested the Town look into it and see if that is what they really want to do. Mayor Anderson asked Falcon if he understood that the Town was not denying him a subdivision. Falcon said he was asking for a minor subdivision.

Mayor Anderson then asked Falcon if he had read the major subdivision requirements. Falcon said he hadn't. Mayor Anderson asked him to read the subdivision ordinance and see what would apply to him.

Councilman Murphy said that may be the resolution before it goes to court. He said that may cost less than going to court. He suggested that Falcon look at his options.

Mayor Anderson asked Falcon if he was willing to put it off one month and look at the major subdivision ordinance. Falcon agreed.

Mayor Anderson made a motion to table agenda item #9, [correction- agenda item #8] Falcon Commichaux application for a minor subdivision, until the December Town Council meeting. Councilman Murphy seconded it. Motion passed with 4 yeses and 1 no. Councilman Murphy, Councilman Stark, Councilwoman Cibula, Mayor Anderson voted yes. Councilman Gustin voted no.

AGENDA ITEM #9 – Adjourn Meeting

Councilman Murphy made a motion to adjourn the meeting. Councilwoman Cibula seconded it. Motion passed unanimously. Meeting adjourned.