

FINAL MINUTES

Virgin Town Council Meeting

August 24, 2022, 7:00 p.m.

114 S. Mill Street, Virgin, UT, 84779 * 435-635-4695 * clerk@virgin.utah.gov

MEETING WILL END PROMPTLY AT 9:00 PM.

ANY UNFINISHED BUSINESS WILL BE CONTINUED TO NEXT MONTH'S MEETING.

Present:

Council Members:

Mayor Jean Krause

LeRoy Thompson

Mistie Baird

Paul Luwe

Gene Garate

Others:

Krystal Percival, Town Clerk

Monica Bowcutt

Heath Snow – Town Attorney

Cameron Spendlove – Planning Commission Chair

Chris Hall – UDOT

Darlene Pope

Sandy McClurg

Chad McCleary

Stan Burt

John Ely

George Rodinos

Valerie Wenz

Bill Swensen

Drew Scheltinga

Bill & Lori Baughman

Lee Ballard

Mark Ingersoll

Jay Lee

Skip & Carol Boissonnault

Sean Amodt

Pat & Becky Galvez

Wanda Leverett

? and Ivan Jensen

Claudia Anderson

Kent Peterson

Mala Ci Baird

A. REGULAR MEETING/Action Items:

7:00 PM

1. Call to Order –

Mayor Jean Krause called the meeting to order at 7:00 PM

2. Invocation/Pledge of Allegiance

Mayor Krause read words for the invocation/Mayor Krause led the Pledge.

3. Declaration of Conflict of Interest
No conflicts were disclosed

4. Council Comments -

Mayor Krause explained she had come across a grant for the Town Hall, stating we put in the budget this year to repair the roof of the Historic building and potentially put in air conditioning since there is no heating and air conditioning upstairs. We are working on that, and we have 2 weeks to get this in.

Mayor Krause announced that we received the approval from the BLM for the easement for the East water tank. It is in everyone's folder for them to look at. They chose the entrance off Dalton Wash out of the 3 choices, that's the one they chose. There's yet again a 30-day appeal period, until sometime in September but once that's past we can go forward with going back to the state and getting the money you guys had before.

The mayor stated that she attended another grant workshop at the County building, Congressman Stewart's office was presenting that they had money for community funding, but it's for wider community not just Virgin. She said she has talked to Ashcreek about the sewer system and if we would potentially apply for grant to cover at least part of the fees to cover residential connection fees to relieve some of the objections to sewer. Mike Chandler from Ashcreek said it would be at least 2 years from now before we would be ready to apply for a grant. No harm in trying. While I was there someone from the county came up and said they were applying this year for a grant to pave Sheep Bridge Road and would like a letter of support from Virgin. The mayor stated that before she does anything she will hold a town meeting to get the feeling of the town about if she should write a letter of support or not.

The mayor announced Bingo night on Friday September 9, 2022.

Paul Luwe said he wasn't sure about raising this or not but after dispelling 2 calls today about a conspiracy theory about 2 items that were put on the agenda, I'm going to use the formal title so there's no confusion of who the people are, were placed on by Council member Gene Garate to pave the way of getting rid of the mayor. He stated he met with Council Member Gene Garate on Monday and that Gene had explained the reason for the 2 agenda items, which we'll get to when they arrive, and he assured me that getting rid of the mayor was not the purpose behind putting the 2 items on the agenda. Gene agrees that this would tear the town apart if that was the purpose. Paul continued saying he looks forward to a spirited debate and passion on some items tonight, that's great but he wants to dispel, if any, incentive behind that it was a conspiracy theory to place those items on the agenda. After talking with Council Member Gene Garate, the answer is no, that was not the purpose. Paul Luwe asked Council member Gene Garate "Am I accurate in my conversation with you, is that correct?" and Gene Garate responded, "That's correct." Paul stated nothing further.

Mayor Krause asked if there were any other comments from Council?

No more comments were made.

5. Consent Agenda:

- a. Discussion and possible approval of July 2022 Checks & Invoices.
- b. Discussion and possible approval of July 27, 2022, Town Council Minutes

Gene Garate asked to have checks & invoices on paper from now on as it's hard to review them on a computer screen.

Leroy moved to approve the consent agenda. Paul Luwe gave the second. Roll call vote: Gene Garate-Aye; Paul Luwe-Aye; Gene Garate-Aye; Jean Krause-Aye; LeRoy Thompson-Aye; Mistie Baird-Aye. ALL AYES. The motion was unanimous.

Mayor Krause stated she wanted to have UDOT first while Chris Hall from UDOT was here, but she was asked by a couple of people in the audience to move item H (streetlights) up to the 2nd item after UDOT amendment on the agenda. Nobody objected to moving item H up on the agenda.

OPEN FORUM: Limit 2 minutes per speaker

Mark Ingersoll asked who wants to pave sheep bridge road and Mayor Krause replied that it's the county commissioners.

Pat Galvez can never hear the voices online so please speak clearly into your mic to make it clear to us listening. Mayor Krause replied we just got 2 more microphones today.

Jay Lee gave a Mosquito Abatement report that they approved the pesticide (inaudible) plan and it's quite expensive. Jay also stated he would leave a copy of the report with the secretary. We're having a few more mosquitoes this year and challenges with horse troughs. People tend to leave water in there all the time and people can go down and buy tablets to put in there to keep the mosquitoes away. Or the district has some that work better.

Bill Swensen asked if we are still working on getting a Post Office back in Town? He has some new ideas from Wayne County where they closed the Post Office in Torrey, UT and the Town took the lead and just built a post office. The Postal Service furnished them with a Postmaster. They were 8 miles from their post office for a year or more, we're 7 miles from our post office. The citizen's helped build that post office and there is record of it. If they can do it, why can't we do it. A post office is a nucleus in a small town. Bill then mentioned the dark sky we're hoping to secure or regain here in town. There's a 2022 SW Astronomy Festival coming in. It goes from St. George to Cedar Breaks, Kanab, Apple Valley, Pipe Springs, might even be Hurricane, but not Virgin. Please support this festival. There's a value in dark skies. Bill Swensen then requested an update on our Town Website and the status on it. Also, a large commercial project, even up to 2 hours ago, at Sheep Bridge Road and SR 9 aren't they required to have a project information plan sign with information, there is a requirement for residential, such as contractors name, permit number, phone number, it would be helpful for people to contact them with concerns or to give kudos to developers when they are doing a good job. Bill Swensen stated paving Sheep Bridge Road, that's huge but there are pluses and minuses. If it gets paved falls park will be inundated. Paving Sheep Bridge Road will greatly impact Falls Park. Hopefully you'll take that into consideration. Bill asked if the Town Council would consider starting meetings at 6 pm, 7 pm is.... You already shortened it to 9, please take that under advisement and thank you for what you all do.

John Ely added to pick up on Bill's comment on the LaBrie site they are doing excavation and he believes their excavation permit should be posted. And if they are also going to be doing the piping for the water treatment system there is a permit required by the Department of Environmental Quality that should also be posted, maybe it's not in this phase.

Sean Amodt stated he had a quick comment that it has come to his attention from someone in LaVerkin that there is a trails committee and I wonder who is on it? The mayor raised her hand and said and Bill Swenson. Sean asked if those meetings could be noticed for the public. Mayor Krause says she will look into it, but some are executive committee and are not open to the public.

George Rodinos asked about an update from UDOT on the accident on SR 9 and Kolob Road because it's been a couple of months already. Mayor Krause responded that our UDOT guy Chris Hall was sitting right behind him and would give an update in a minute, but they did say before that the driver ran a stop sign.

No more open forum comments.

Mayor Krause said it was time to move into the Public Hearing and would take a motion to close the public meeting.

6. CLOSE PUBLIC MEETING AND OPEN PUBLIC HEARING:

Mistie Moved to CLOSE the public meeting and OPEN the public hearing, Leroy gave the 2nd, Roll call vote. ALL AYES.

- a. Take Public comment on Resolution 2022-K amending 2022-2023 Town Budget to include \$25,000.00 for Virgin's contribution to UDOT's Transportation Master Plan for Virgin Town.

Lee Ballard comments she wants to make sure there are some open public events to discuss the plan design and that the public has more say in how our highway looks than they realize. It's important to encourage people to give input about it.

Paul Luwe suggested Chris Hall answer any questions from Council.

Paul Luwe stated he saw the new scope of services, but he thought it would include a potential addendum for doing recommendations with respect to traffic calming on residential streets and SR 9, but he does not see it in this scope.

Chris Hall says it just didn't get added in there before tonight's meeting, but it will be added before the final contract.

Paul asked what the price will be for that? Chris Hall from UDOT responded the cost is \$1,000.

In response to George Rodinos request for an update regarding the fatal accident on SR 9. Chris Hall says that's really our traffic and safety group to comment on this, but the mayor alluded to it that they assessed it and concluded the stop sign was not adhered to. There are other places that have a much higher fatal and serious injury crash history so that's not something UDOT can address. So, there is nothing planned for that intersection at this time.

Mistie Baird says she liked Lee Ballard's comment, would there be open public comment?

We get a stake holder group together with multiple people, 10-15 people with business owners, town council and residents, have a meeting then the stake holders take it back to the neighbors and explain the process and then hold at least one public comment meeting will be held. We will have quite a few points of public comment periods.

Mistie Baird asked Lee Ballard if that answered her question? Lee Ballard commented that normally a comment period is a time when people can write letters, but she would hope there's presentations where people can ask questions and understand the plan.

George Rodinos says regarding your response Chris about the accident, he wanted to point out that people come in from Springdale, you are at a 65 mile an hour speed zone, and just right before that it's 55, but they are going 70 or more and to place the burden on existing laws and say it's a law enforcement thing is wrong. Those speed limits should be addressed.

Mark Ingersoll says the same thing that we are creating a hazard there.

Mayor Krause says this hearing is about amending the budget for the \$25,000 for the traffic study.

Paul added that the addendum he requested is for recommendation for traffic calming devices for residential and SR 9.

Wanda Leverett when you mentioned stake holders, it would be very beneficial to have people from various parts of town. Jean Krause had a meeting with Pocketville people to hear their issues, so I attended it, and every section of town has their own issues and preferences.

Mistie Baird Moved to CLOSE the public hearing and REOPEN the public meeting LeRoy 2nd, ALL AYES.

7. CLOSE PUBLIC HEARING AND REOPEN PUBLIC MEETING:

- b. Discussion and possible approval of Resolution 2022-K Amending Virgin Town's 2022-2023 Town Budget for Virgin's \$25,000.00 contribution to UDOT's Transportation Master Plan for Virgin.

Accept public comment, motion, and vote

Gene Garate states that if we move forward with this that the entire council be at all 5 of those meetings. I would like to request that the council help in the decision of that. This town has very strong emotions on growth, and I want a nice balanced and an unbiased study.

LeRoy Thompson says if you review the budget, we budgeted more income, than we have expenses, so we have the ability to increase it by \$25,000 without being detrimental to our income and expense.

LeRoy explained where to find this in our budget and that we still have \$197,000 in reserves according to our budget for the coming year.

Paul Luwe referenced the offer of a \$5,000 donation by John Staples, if we have the \$1,000 increase we're still within budget.

LeRoy and Jean think we should budget the whole 26K just in case John doesn't come through.

Paul Luwe moved for approval of Resolution #2022-K changing the Budget amendment from \$25,000 to \$26,000 and changing section 2 to read the mayor's authorized to sign the cooperative UDOT agreement performing work for Virgin and other necessary documents to implement study and budget amendment to include the scope of work changes for recommendations on traffic calming measures on residential collectors and other streets and SR 9. LeRoy gave the 2nd,

Gene Garate asked for more detail on what the mayor is authorized to do without the council.

Paul explained in the original resolution the mayor was authorized to sign any agreement to implement the budget amendments. And what she's doing is signing a cooperative UDOT agreement to do this study and any other necessary documents to implement the study and the budget amendment. So, I just expanded on her language in section 2.

Gene asked if it's specifically for this project and Paul responded for this project only, yes.

Gene asked the town attorney if this sounded above board. Heath said yes.

Mayor Krause said that means the second stands and we can vote. Roll call vote, Paul Luwe-Aye; Gene Garate-Aye; Jean Krause-Aye; LeRoy Thompson-Aye; Mistie Baird-Aye. ALL AYES. The motion was unanimous.

Mayor Krause stated before moving on to item 8, we are going to move 9.h. discussion, and approval of the lighting resolution up on the agenda to now.

9.h. Discussion, and possible approval of resolution #2022-M a resolution adopting a policy for replacement of luminaries (that's misspelled) and maintenance of existing streetlights with the town until the town has researched and adopted new standards and specifications for streetlights and the town has sufficient funding within its budget to retro fit existing streetlights.

Mayor Krause wants to discuss before taking public comment.

Gene Garate stated: We discussed in meetings 4 months ago that we were looking at doing some sort of LED system, throughout the town with Rocky Mountain Power, like a grant, they give us the fixtures and they put in LED lights that will lower the cost over time. It's an upfront cost, about a 10-year commitment you pay a little more, at the end of 10 years your bill drops dramatically, the concern I have is we let this go. We have fixtures that need replaced and it's the town's responsibility to keep those fixtures maintained. We voted on this with the prior mayor, but it wasn't done correctly, nothing's happened with it, and we've had 3 months now with lights burned out in town and they just need to be replaced. So, that's why Leroy and I petitioned the attorney to write this so we can maintain the lights we have until we can decide on something else.

LeRoy Thompson said the town has a real liability there since there's light poles there, if there's not a light in it and if something were to happen to someone so Gene and I felt we needed to have this until

the mayor, or the town comes up with another alternative to lights in those fixtures. He says he's not against the changes, but he just wants to protect the town.

Paul states that it appears that the basis for this is the potential liability for failure to replace the lights and asks Heath if Utah adopted the public duty doctrine haven't, they? Heath says "yes". So, an omission by us for replacing the lights there's no liability with respect to them. Am I missing something Heath?

Heath Snow said yes you are. (Inaudible, no microphone) there's exceptions. If someone was in an accident with streetlights out, knowingly out, conceivably that person could look to the town and try to serve the town with a notice of claim and bring an action for failure to properly maintain roadway lighting. That is an exception under the Utah Governmental Immunity Act. There's like 37 exceptions and that's one that's specifically set out. As the city attorney I would recommend that we maintain all our streetlights and have them in working order. I understand that everybody wants to get better light standards, more shielded, less lumens that cast downward but in the interim until we have that in place, we probably need to be replacing our streetlights and not knowingly have streetlights that aren't working.

Paul Luwe reiterates that those exceptions to a waiver of the solvent governmental Immunity act is trading the special relationship document with our sections to the public duty doctrine so in an essence that hasn't probably been litigated but that's the fear is that it would be considered a special exception. He just wanted to understand the process but didn't have a chance to research the lighting issue.

Heath Snow pointed out that it is articulated in the statute, it's clearly a listed exception under the Utah Governmental Immunity Act, I've never researched if there's any case law in Utah where someone made claims against a municipality for failure to change street lighting, but I do know that it's one of the 37 specific exceptions to the Governmental Immunity act.

Inaudible comment

Mistie Baird stated she feels like safety is paramount in our town, and our dark skies are beautiful and wonderful however we need to replace the lights at this time because we need to come up with a responsible plan that doesn't just benefit one part of town that will benefit our entire town. So, we can have similar lighting for beautification as well as protecting our dark skies. I feel like we need to start this and finish it for safety and liability reasons and then pursue finding a reasonable and safe way to do our dark skies.

Mayor Krause stated that the Dark Sky ordinance that Paul and Kent want to work on is not really for streetlights but for landscaping, house lights, residential commercial lights and what this is talking about is streetlights.

Mistie responded that those are part of our dark skies because they will affect everything, we see but maybe in fixing these Rocky Mountain power will have a suggestion of how we can do that to down shield them.

Mayor Krause said they do have a suggestion that she got yesterday but she will wait until after public comment to tell her.

Public Comment

Stan Burt said he's been real involved in Desert Gardens, and I'd like to clarify we are only talking about 4 lights in DGE, the rest of the lights in town are working according to Rocky Mountain. These lights have been a problem from day one. The rest of the lights in town are hung by an arm, straight down. In Desert Gardens they stand up and they have 4 windows. When you're trying to sleep at night and your house is illuminated at night it causes real problems. That's been going on and on and on. So, we got a group together and we came up with some ideas and some solutions and nothing has happened, it's been dropped. I wonder where we are going from here. What has the Town done? It says here the town

is in the process of analyzing, but have they come to us to ask what we want. We did research and we did everything else. There are only several streetlights that need it. If this was your house, you would feel differently. Safety, if safety and welfare about this community with streetlights is so big to the Town of Virgin why doesn't the new subdivision require streetlights? We're talking about 4 lights here. We in Desert Gardens really want to work with this, we want to help to repair this thing without causing an inconvenience to these homeowners but on the other end it's really been pushed to try to ram this down and try to get these lights going. Not fair to us. Thank you.

Claudia Anderson stated that she didn't know it was just 4 lights in DG, Mistie when you spoke it sounded like it was all throughout town when I find out its just 4 lights in Desert Gardens that's a completely different story. That makes me very disappointed. If we're going to commit to 10 years of then the money drops off but meanwhile, we don't have the dark skies, we don't have the night skies, we don't have downlighting but we're committing to 10 years while we decide. That doesn't seem fair, that doesn't seem right. It sounds like we did all the work, we went around and talked to everybody we made our wishes known it's not throughout the town it's in just one part of town and it really is disappointing that I have to feel negative in this town when I admit I live in DG. and that's really disappointing. I just wanted to share that because that's how it comes across to us. So, if you don't mean to target us then we need to it to change and we need you to be part of us and let us to be part of you. They've done a ton of work, you're not interested, you are just going to take 10 years' worth of this is what we're going to do, and we'll make some decisions later. And that just doesn't seem right, and it doesn't seem fair. Someone in the audience clapped.

John Ely Observation, I can hear Jean real clearly but can hardly hear Gene Garate. He says he was thinking if the mic was right in front of Gene, he could hear him. A 10-year commitment to lighting that would be temporary seems like a waste of money. When there is LED, down lighting, shielded you could even use like at a gas station, canopy, no glare but the pumps are well lit. If you're thinking of doing something do something that's permanent LED downlighting is cheaper than regular lighting. If you're making a 10-year commitment, make it worthwhile. Thank you.

Mayor Krause asked what is this 10-year commitment 2 people have mentioned?

Gene Garate said from Claudia & John's comments, they're not understanding what he's saying. He explained that Rocky Mountain Power offers a program where they will come in and replace all the fixtures in town with lowlighting, they're LED downlit and shielded, like in Toquerville but Toquerville determined they were way too dim, so they put in brighter LED, but that's the fixtures. To do that you pay a lot more money as a town for about 10 years to pay off those fixtures, but then the cost of the LED is so significantly lower we save money in the long run. He says he hasn't looked at the numbers, we still haven't seen any data on this. It's worth investigating that would give us the option to have lower lighting where we want it higher lighting in other places and all fixtures are the same throughout the town. It beautifies the town. He's saying until such a time as that is brought before the council, we need to repair the lights that we have. He knows the study was done and is not being cast aside. He said when they were fixed the first time, residents came down their driveway and said thank you it's been a long time since this has been replaced. I don't think as a town it's our job to maintain what we have.

Mistie Baird clarified that if you read this resolution, # 1, it does say in all of the town, I have a broken light by my home, we do want the whole town to benefit from the fixture of these lights, it is not just directed at one area of town.

Pat Galvez, on the 2022-M resolution, under #1, streetlight maintenance policy to replace or repair within 30 days. What happens if that's not done, who decides if it's not done and what happens to whom is supposed to get it done? Who's enforcing it?

Heath Snow stated it's a policy not a law.

Pat Galvez commented that it's a pretty open policy.

Jean Krause explained that if it was a law, we would say all the things you're talking about, when the town has formally adopted a new standard and spec for luminaries and shielding when that do that, that's when that will be adopted. Not right now.

Kent Peterson expressed a couple thoughts, I absolutely agree with everybody, we have a responsibility as town government to maintain our streetlights and they should be replaced much sooner than 30 days in my opinion. Seems pretty simple. Jean just talked to Rocky Mountain Power and got ideas of what they provide. We need to decide which light we like going forward in town and that should be able to be replaced tomorrow by Rocky Mountain Power once we decide, if there's 4 or there's 6, then we replace them when they're needed. and that's part of the maintenance emergency budget of the town. It's as simple as forming a committee with a date that says for maintenance of existing lights. He doesn't have a problem with the old yellow halogen lights. Once or if the town adopts an official night sky ordinance, there should be a process of instead of replacing everything in town at once make sure we're replacing what needs to be done today with what we decided we want for the future. It seems like the Town Council can go forward with that, but the lights need to be done so that we're safe. It might not work with Rocky Mountains Powers pitch to replace everything, and it might be more expensive to get it all done today. But let's get the streets safe whoever's fault it is.

Lee Ballard stated I don't live in DGE, but a lot of the heartburn might be resolved if you put a date in the resolution as to when those two things would be completed. Unless and until the town has formally adopted or somewhere in there say you will do this by such and such a date or within a certain amount of time, because she thinks there's a worry that it just won't happen.

Mistie Baird said to keep in mind that when we're adopting a dark sky situation it takes a lot of research and it does take a lot of time to fill those in. She does agree with the date but it takes a lot of asking citizens what they want, it takes a lot of research on the councils part as well as our attorney and engineer all those things need to come into play, because it's not just affecting streetlights, this is just a step forward to get those completed so that we can go ahead and have what we all desire which is protecting Virgin and keeping our skies beautiful.

Darlene Pope, Desert Gardens, a few points, thanks to some work by Bill Swenson the Rocky Mountain proposal I saw recruit (Inaudible mic problems) also I can account, and I have the data here I have the actual surveys here for every voice in Desert Gardens, we have 58 property owners, 3 of those chose not to respond, 2 of those 3 said they weren't affected by the lights, there were none around them, 1 was very busy and out of town and couldn't do it, 1 and I still have proof of contact had no response. We have 8 lot owners, 5 of those did not respond. Out of those responses 84% wanted no lights or shielded down lights and even those who wanted no lights the other responses were to remove some of the poles and one person wanted traditional vapor lighting, halogen lighting like we had. This is an appeal from someone who looks at 5 of those. She has photos of daylight when they were on and one doesn't glow on the street very much, it shields an easement of the nature conservancy and that light the safety issue is a stop sign that illuminates (inaudible) that can have a simple reflective strip. So, in Desert Gardens, maybe one reason I'm passionate about this, as I sat on the roof and wondered if this was the last time I'll see the Milky Way, because when those lights go on I don't see stars, I look at 4, the one in the street, the one on the corner 1420, and my street the one in front of my house the one in front of my neighbor's house, right around the bend. they're not evenly spaced; and as a result, I'm flustered, it is going to affect my quality of life. It affects, 2 of my bedrooms, my kitchen. We had talked about leaving it up to the next administration, I invited Council members of the former council to my house, I was told one came. No one got in contact with me. Can they be shielded, can they be a lower lumen, because I'm severely impacted. I just ask for consideration for that. I've said to several city members that I'll do whatever you need. I want to be involved in this town whether it's a social event that I can

attend or finding people's input, but I have to concur with some of my fellow residents in Desert Gardens, and whether it's true or not, we feel targeted, and we wonder why if safety's such a big issue why a better safety study wasn't done on 1420 W. for the LaBrie project?

Paul Luwe asked Darlene since she and 2 others did the survey for Desert Gardens, if Council decided tonight to exclude them from this resolution and turn all the lights off in Desert Gardens would people be upset or in agreement? For a month.

Darlene stated at least 2 want their lights on. She says she can't speak for them.

Paul asked what were the majority of the response for removal of the lights?

Darlene explained specifically No lights was 37% and shielded downlights was 47%. That's how we got to 84%. She feels like compromise has become a dirty word and it shouldn't be. Shielded downlighting meets the safety and it meets the night sky.

Mark Ingersoll said his company for years has handled liability for 2 of the largest cities in the state and we see all kinds of claims filed against municipalities and the lighting issue is extremely rare. It's an issue of where do you need the lights? If someone trips and falls. Are they as negligent as the city? What were they doing? What was the weather? What were the conditions? Do we really need all these lights in Desert Gardens? Are there streetlights in Rio de Sion? What are the requirements for streetlights in a sub-division?

Jean Krause responded that no there are not streetlights in Rio and it's not a requirement in town. The developer put them in Desert Gardens.

Mark Ingersoll asks do people walk the streets a lot, if the majority of the people don't want the lights, and we can save a few bucks if we can eliminate them, why not consider that?

Discussion continued as to if the lights are removed then there is no liability to maintain the lights.

Paul said that's what he was getting at. Could we reduce the number of lights in Desert Gardens? He thinks we should exclude Desert Gardens from this resolution being voted on tonight.

Jean Krause read a letter into the record from Gerhardt & Renee Plenert who couldn't be at the meeting stating they voted in the survey to have shielded low lighting. We want to preserve the quiet non conspicuous atmosphere of our life.

Stan Burt stated he was for shutting all the lights off but the 4 that are the broadcast lights. The others are all down shielded. He had spoken to Rocky Mountain to find a solution. When I was involved in the survey, Rocky Mountain guy said he would come up and do anything we need that was possible.

George Rodinos I am a resident of Desert Gardens and I also have a restaurant in Virgin and have a telescope on the roof and am in favor of the night sky. I think we can come to an agreement. Take nothing to the extreme, removing all the lights is extreme, having bright lights is extreme, having lights does beautify the neighborhood. The proper lights will not pollute the night sky. Security is important. My own wife who is in her 70's, has a dog, and likes to walk the dog and if they eliminate the lights all together, I have a concern on my hands, it's dark, and I would not want her to be out there without any lights. Part of the atmosphere of our neighborhood is to have those lights. A compromise would be the proper lights that don't contaminate the sky and would bring a little bit of beauty to the place and a little bit of safety. Compromise is the way to go.

Jay Lee said he doesn't know how many read the resolution, but it addresses everything everybody's been talking about. When it comes to everybody wants this or that, we're a republic, we're governed by laws, there's only one time when majority rules and that's at election time. If you read that it's got everything in there that everybody's been talking about.

Mala ci Baird said this isn't a retirement community, it's a family community and his kids like walking up and down the streets at night. He wants them to feel safe and have some lighting. It doesn't have to be

huge bright lights, but he wants them to be safe. He was a firefighter for 9 years, with EMT's and finding a house at 3 in the morning when there is no lighting is horrible. It cost us time and sometimes it cost a life. I've lived 30 miles from the nearest town, so I understand not wanting some lighting but, in a community, full of people and kids there needs to be some kind of lighting for safety. Shutting the lights down is not an option. Thank you.

Gene Garate added that council sometimes catches a lot of heat for not doing anything, please remember the streets and the lighting in Desert Gardens, are public, all of us as taxpayers paid for that. So, removing light fixtures comes with a cost, replacing lights comes with a cost getting a different lighting system comes with a cost not just to the residents of Desert Gardens, but the entire town. I'm going to suggest instead of trying to remove all the lighting at this point, that we make an amendment to this that says we'll bring something to the next council meeting, whether the mayor or her appointee, brings something as a solution or offers up multiple solutions that we can look at in earnest in 30 days.

Mistie Baird said if we added to Paul's motion she like if we amended those lights you are speaking of if we put the downlight to match the others because there is a shift there. Just those 5 lights to begin with and we could amend the motion.

Sean Amodt said I like debating solutions rather than problems. I have done architectural and theatrical lighting, so I understand lights and their purposes. I have 2 lights that shine in my window, the streetlight out here that's yellow, and the light on the flagpole at the city office and the difference in those lights is the color temperature. If we're going to put lights in let's put lower color temperature., 2,500K That solves a lot of the glare issues. I don't like the idea that us as a town has to pay for the lights in Desert Gardens, although it's public but maybe we should add a question to that survey about how much money they are willing to donate.

George Rodinos wanted to go on record that he would be happy to pay for those 5 lights.

Jean Krause stated he wouldn't have to but thanks.

Bill Swenson stated this was a great discussion. Made a lot of headway. I do think the downcast hooded lights is going to be a huge move maybe the best move. We did the survey; we did the work. It is frustrating that why has nothing happened?

John Ely said (inaudible) Do the LED lights, shield it down. Let's compromise.

Jean Krause closed public comment and wants to tell everybody that she prepared a document 55 pages with emails back and forth with Rocky Mountain Power and that she also had a spread sheet. So, she has NOT, not done anything. She asked Krystal to put page 13 up on the screen. She said it would be \$8,300 to replace every single streetlight in town with the dark sky compliant lighting and we would recover it in 3 ½ years because of reduced electric bill. She showed the fixtures and then explained she worked on getting quotes on a different fixture because of not liking the Rocky Mountain Power fixtures. She called yesterday and yes; they do have the lights available in fact as of now if you need a light replaced it's replaced with a dark sky light, so this is the light that's going in.

Heath Snow, Town attorney commented without a mic and was inaudible.

Jean Krause continued that this new policy is statewide, and we have a choice of 3K or 4K but only the 3K is dark sky compliant and if we can get this decided and we want to move forward they are several months out but are doing Brian Head soon and could maybe do ours the same time. She verified that the price is still the same. If she has a list of questions, she can get more information.

Gene Garate stated he's a little cheesed at the 53 pages of comments and this is the first time we've heard any of this. He said the mayor has got to share with the council what's going on. He said he wouldn't have written this ordinance if he had known there was another option. It's difficult to work as a team when we don't know what you are working on. He continued that he's not interested in deciding

on this tonight because if a salesman says you must buy now or you're going to lose your option we need to research this together.

Jean Krause pointed out that was 4 months ago. Now that their supply chain has picked up, they aren't as worried about getting it to the town now.

LeRoy Thompson says he has to agree with Gene Garate that the mayor should have let the council know what she was doing, and we wouldn't have wasted our whole meeting and it could have been said in Council Comments at the start of the meeting that you were working on it.

Jean Krause said she only talked to them yesterday and got this information after getting the pricing recently for the other light fixtures and she wanted to let the people have a chance to say what they wanted to say.

Mistie Baird stated a couple of them have been accused of being hostile towards Desert Gardens throughout this and had that information been shared we may not have appeared as hostile because it's not true, we are not hostile, but communication is key to working as a team. We could have avoided this entire discussion because this satisfies 90% of the problem.

LeRoy Thompson states this could have addressed what Paul heard that we want to get the mayor out. If we had communication from the mayor and have the council involved with what she's doing that feeling wouldn't be in the town.

Gene Garate stated that the reason he and Mr. Thompson went and met with the attorney to draft this was because we're trying to do the best, we can to help the town from our view. Fixing lights, fixing streets, and because of very little communication with our mayor this was our decision.

Gene Garate moved to approve resolution # 2020-M with the addendum that the mayor disclose to the council all of the communications that she's had, to our next month's meeting prepare to discuss it and if she has other ideas about the lighting that that be disclosed to the council as well. Also, that we meet next month with materials to start moving forward on making lighting changes in the town.

Mayor Krause noted that Monica Bowcutt had something to say.

Monica stated that in the spirit of transparency she wanted to share that Rocky Mountain Power had just an hour ago responded that it would cost approximately \$7,500 to remove the streetlights in Desert Gardens.

LeRoy gave the 2nd, Paul Luwe added an amendment to the motion that we exclude Desert Gardens from this Resolution for one month.

(Inaudible) comment from Attorney Heath Snow.

Gene Garate responded he does not, these are town fixtures.

Mayor Krause said we've had a motion and a 2nd. We've had a proposed amendment. She gave a 2nd to Paul's amendment.

Paul explained the logic for the amendment is that it's a risk exposure and the risk is low and the situation in Desert Gardens has been there for a long, long time. Jean added 6-7 years. Paul stated that one more month isn't going to make a difference and we can deal with it next month when we've had 30 days to contemplate how to proceed with respect to Desert Gardens.

Gene said he feels like we just keep kicking this down the road. (inaudible) 3 months ago and nothing's happened. it's time to move it forward.

(Inaudible comment from the audience)

Gene said his experience has been very little risk ones are always the ones that come back to you. We should be doing what we were elected to do and that's taking care of our town streets and fixtures. Next

month isn't going to decide the lighting, we're going to have to review it and we need to get the lights replaced now and look at this stuff over the next month and start working towards that direction.

Paul called for a vote on the amendment.

Mistie asked for Paul to clarify his amendment.

Paul states the motion is the same except it's excluding Desert Gardens for one month, well until the next meeting.

Mistie asks more questions regarding replacing the lights or just the lights that are out? If this vote goes through and we replace the lights out there or any others we find, will they replace them with this light or replace them as is? Gene tells her that's incorrect. Mistie states that's what she's asking.

Heath responded to her questions without a mic. (Inaudible)

Roll Call Vote: Paul Luwe-AYE, Gene Garate-NO, Jean Krause-AYE, LeRoy Thompson-NO, Mistie Baird-AYE Amendment passes 3-2 vote.

Paul calls for vote on the Resolution with the amendment.

Paul Luwe-AYE, Gene Garate-AYE, Jean Krause-AYE, LeRoy Thompson-AYE, Mistie Baird-AYE. ALL AYES. Resolution 2022-M passes unanimously.

Jean Krause states we have 5 minutes, and we need to address item e. quick and then we're done with the meeting.

LeRoy stated we need to address the prosecuting Attorney too.

9.g. Discussion and possible approval of Resolution 2022-L Appointing James Weeks as Virgin Town's Prosecuting Attorney.

Accept public comment; motion and vote

Heath Snow comments prosecution of violations of the city's ordinance, if it's a violation of the Utah criminal code the county attorney's office prosecutes those. The reason we must do it is because the clerk of the court in Washington county justice court wants to know that this person is appointed by the governing body of the town and that when they enter into plea agreements on behalf of the town that they are authorized to do so. Rachael Beckstrom was our prosecutor passed away from cancer about 2 weeks ago. For the last 2 months or so she had been having Mr. Weeks handle things for her. He is a deputy Washington county attorney. He's a fine attorney so this appoints him to handle prosecutions for the town.

Mayor Krause asked if there was any public comment on appointing a new prosecuting attorney for the town of virgin. No public comment.

Paul commented that he would like to visit with Mr. Weeks to figure out what his prosecutorial philosophy is because that will affect what occurs to this town both on budgetary purpose and other matters. But that does not preclude approving this document.

LeRoy Thompson moved to approve Resolution # 2022-L appointing a new prosecuting attorney James Weeks, Gene Garate gave the 2nd, Paul-AYE, Gene-AYE, Jean-AYE, LeRoy Thompson-AYE, Mistie Baird-AYE. ALL AYES. Motion passed unanimously.

Discussion regarding item e, setting a date for the appeal hearing was moved up on the agenda.

9.e. CUPs - Heath Snow gave some background on the issuance of these 2 CUP's, we were supposed to give notice and we did not.

Administrator error in issuing. Council is the appeal authority. We can do it at a regular meeting or a special meeting.

1st appeal is not timely.

2nd CUP is timely.

Mistie Baird says evenings after 4 or Friday.

John Ely says he wants to see written notice and because of his legs he must sit at a table, and I am appealing to the town there will not be a fee. A fee waiver is waived.

Paul Luwe, Heath Snow and Jean Krause see no problem waiving the fee.

Gene Garate thinks the fee should be waived ONLY IF John wins. If he loses, he has to pay the fee.

We need to research what happens if the vote is 2 to 2 with Gene Garate recusing himself?

A short discussion regarding the hearing.

Mayor Krause moved to schedule the appeal for Tuesday September 13, 2022, at 1 PM and to waive any fees. The mayor assured John Ely the town will send a letter indicating so. Paul gave the 2nd,

Roll call vote: Paul Luwe gave the 2nd, Roll Call Vote, Mistie Baird-AYE, LeRoy Thompson-AYE, Mayor Krause-AYE, Gene Garate-AYE, Paul-AYE.

Gene Garate asked Heath Snow if we're setting aside the first CUP because it wasn't appealed in a timely manner what then?

Cameron Spendlove asked if as chair for P&Z he should be there? Heath Snow stated that would be good if he could.

10. ADJOURN PUBLIC MEETING

Paul moved to table the remaining items on the agenda to next month and to adjourn the meeting,

Jean Krause gave the 2nd, ALL AYES.

Meeting adjourned at 9:20 PM.

8. CLOSE PUBLIC MEETING AND OPEN PUBLIC HEARING: **(TABLED)**

c. Take Public comment on Ordinance 2022-11 Amending Section 3.06.030 of Virgin Town's Municipal Code setting new compensation rates for Virgin's elected, appointed, and statutory officers **(TABLED)**

9. CLOSE PUBLIC HEARING AND REOPEN PUBLIC MEETING: **(TABLED)**

d. Discussion and possible approval of Ordinance 2022-11 Amending Section 3.06.030 of Virgin Town's Municipal Code setting new compensation rates for Virgin's elected, appointed, and statutory officers. *Accept public comment, motion, and vote* **(TABLED)**

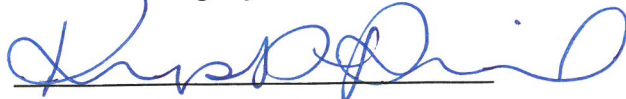
9. f. Discussion and possible approval of Ordinance 2022-12 Amending Section 44.12 of Virgin Town's Municipal Code allowing non-conforming lots abutting Highway Resort Zone to be re-zoned Highway Resort Zone upon request **(TABLED)**

10. ADJOURN PUBLIC MEETING

Paul moved to table the remaining items on the agenda to next month and to adjourn,

Jean Krause gave the 2nd, ALL AYES.

Meeting adjourned at 9:20 PM.



Krystal Percival Town Clerk

Approved: 10/26/2022