

Tropic Town Council Meeting

Minutes of the Tropic Town Board Meeting
Held May 11, 2017 at 6:00 p.m. in the Tropic Town Heritage Center

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

OTHERS: Brett Chynoweth, Bob Sudweeks, Ron Harris, Marie Barton, Annette Chynoweth, Joe Thompson, Chad & Mindy Grimshaw, Danny & Wendy Brinkerhoff, Riley Roberts, Carl Boyd, Lance Foster, Cary Deccio, Gary Bybee, Tyson Brinkerhoff, Jared Westhoff, Steve Jackson

CALL TO ORDER: Mayor WaLon Brinkerhoff

PRAYER: Marie Barton

PLEDGE: Gary Bybee

APPROVAL OF MINTUES: A motion was made by Travis LeFevre to approve the minutes of the Tropic Town Board Special Meeting held April 4, 201 ~ Second by Dennis Pollock ~ Motion carried.

APPROVAL OF THE MINUTES: A motion was made by Dennis Pollock to approve the minutes of the Tropic Town Board meeting held April 13, 2017 ~ Second by Brook Wiseman ~ Motion Carried.

APPROVAL OF THE MINUTES: A motion was made by Dennis Pollock to approve the minutes of the Tropic Town Public Hearing Minutes held April 27, 2017 ~ Second by Travis LeFevre ~ Motion carried.

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

THE COMMUNITY

Short-Term Rentals: Mayor Brinkerhoff excused himself from the discussion, due to conflict of interest and turned the conducting of this over to mayor pro-temp Travis LeFevre.

Local business owners Danny & Wendy Brinkerhoff are interested in purchasing “Radiance Retreat” owned by Chad & Mindy Grimshaw. Because of the opposition expressed by residents to allow a nightly lodging commercial business in a residential zone, an ordinance addressing the regulation of short-term rentals in residential district was adopted November 2016. The ordinance stipulates “no business licenses will be issued for new vacation rental, short-term rentals, holiday homes, etc., located within a Residential Zone or Non-Commercial zone as outlined in the current zoning map”; and in the Business Licensing code, it is stipulated “No license granted or issued under any ordinance of this municipality shall be assigned or transferred to any other person other than therein named to do business or to authorized any other business, calling, trade or profession...”.

Prior to the adoption, many meetings were held to receive public comment and input on how to address regulating the new trend; now with the possible sale of vacation rental, business owners are questioning the ordinance. Comments were heard and questions discussed regarding zoning, licensing, etc.

Joe Thompson asked if there was any conditional use issued; Travis reported no permit was issued, just a business license; continuing Travis stated that all the training he has attended shy away from conditional use permits; being that it opens the door for everyone to skirt around ordinances.

Travis expressed concern that if the license(s) were issued illegally, being commercial in a residential zone; and if so, how fix it. The Council would like these questions along with the ordinances to be reviewed by legal counsel.

Annette Chynoweth asked about zoning, could they re-zone their property; Dennis responded that no, it would be spot zoning. Zoning discussion continued, where do vacation rental fit as far as zoning; General Commercial (GC), Residential Recreation Commercial (RRC), or Residential(R)? General Commercial is not allowed in a residential zone and it's not listed as a permitted use. There are certain businesses that are allowed in a residential zone, i.e. B&B's. Mayor Brinkerhoff asked to speak on vacation rentals in general, stating that to his understanding in conversations with the ULCT Attorney David Church, unless it is specifically listed as not permitted, you can't stop it; you can choose to leave it alone or regulate them, which Tropic has. Travis continued stating that is why the Council would like the ordinance to be reviewed by an attorney – there is a gray area – did Tropic allow something illegal in zoning from the beginning and if so what do we do.

Annette asked to define a business ~ Dennis stated technically, anything that one makes or does for profit; that's why there is a "home occupation" status, which has regulations outlined. Jason and Dennis also questioned the illegality of issuing STR business licenses and how do we fix it; creating an ordinance was a way of trying to find common ground for both sides of the issue, which grandfathered existing STR. Mayor Brinkerhoff asked who drew up the ordinance ~ Dennis stated that is was a joint effort by the Council and Planning Commission, with Marie created the document. Marie reported what research took place in creating the document; numerous municipalities were contacted and their ordinances reviewed, as well as discussions with David Church to put draft an ordinance to fit Tropic. Travis stated we can't get bogged down on why it was done or how it was done; continued stating that they are all volunteers none of them are professionals and doing the best they can do. We need to find common ground – families build or moved in under one condition and it changes without notice.

Danny Brinkerhoff asked how property across from Grimshaw can be zoned commercial and not this property. Zoning along Hwy12 was explained, which allowed property owners – if desired –rezone to commercial, extending up 1 block; the property owned by Skyler Syrett was half residential and half commercial and it bordered the existing commercial zone along Hwy12/Main Street.

Joe Thompson took a moment and explained taxation with zone changes or use of property ~ there is a significant increase; and the value of the property depends on the buyer/seller.

Other comments within the discussion questioned the legality of non-transferrable license section of the business licensing ordinance. Mindy questioned the wording in the STR ordinance, stating the Home/Business isn't a new one and it would be purchased by an existing business owner; Dennis and Brook again, explained Brinkerhoff's would need to re-apply for a business license; Marie reported upon her reviewing the business ordinance, a separate business license is required for every business location – Mayor asked if this was currently being implemented, doesn't believe it is and needs to be looked into. Riley Roberts, previous planning commission member, explained that the purpose of not transferring or selling the home/business was to keep/restore the traditional form of the residential neighborhood. Travis added, were current licensed vacation rentals "grandfathered" in illegally and how does "grandfathering" carry on if sold. Danny Brinkerhoff questioned what action(s) the Town takes if they are not legal – Travis didn't know, but it would need to fixed, whether by modifying ordinances or figuring out another way to fix it; which legal counsel will again come into play.

Mayor Brinkerhoff made comment regarding a law currently being passed by Governor Hubert regarding STRs and allowing tourism in residential areas is not something new; Tropic has a B&B's in residential areas.

Comments from Jason and Riley clarified there was opposition, it was not whether to allow them, but rather to allow them in residential zoning; it wasn't a battle of one side verse the other. Lance Foster referred back to Mayor Brinkerhoff's comment regarding all businesses being regulated or treated the same – he doesn't believe they are. Continuing, Lance supported vacation rentals and gave reasons to allow them; beautification, less impact on w/s systems, etc. and felt that it was just a “bunch of cry-babies” that want the ordinances changed to what they want. Discussion continued with comments from Mayor, Brook and Lance on zoning, timing of public representation on the issue, etc. Travis brought the discussion back to order by stating as public officials it isn't their job to protect Lance Foster's or Riley Robert, it to protect you both; taking input from everyone and coming up with a solution; speaking for himself and not the board as a whole, he will do what the majority of the public wants.

Tyson Brinkerhoff directed his question to Joe Thompson regarding zoning how “greenbelt”/ “agriculture” affects taxes/value. Joe replied that once taken out of “greenbelt” to residential/commercial, the County collects the difference in taxes back 5-years.

Annette Chynoweth, in response to Travis' comment regarding representation for everyone, she addressed the requirements B&B owners needed to comply with when she owned a B&B, namely notification to neighbors within 300 feet; not of consent, but that they are aware of the proposed use. Council responded stating this is already required.

No further comments or questions were made ~ the motion was made by Travis LeFevre to table the issue and asked that the Vacation Rental and Business License Ordinance, along with the comments and discussions expressed be given to David Church at the ULCT for review and recommendation. Second by Dennis Pollock – Motion carried. Travis turned the time back over to Mayor Brinkerhoff to conduct the remainder of the meeting.

PLANNING COMMISSION

Storage Shed: Kevin Mcgee and Kimber Word submitted an application for a pre-built storage shed to the planning commission for review. Setbacks, zoning, etc. were all in compliance. Commission felt that a building permit from the County was not needed, being that it was a prefab and no W/S connections or other utilities were being applied for or needed. A motion was made by Travis LeFevre to approve the placement of the storage shed as recommended from the Commission – Second by Jason Bybee. Motion carried.

Cottage: Gary Bybee owns “Bybee Nest” vacation rental and submitted application to build a small cottage for him and his wife to stay in when the STR is being used. Design, blueprint, setbacks and all other requirements were in compliance ~ Gary currently owns a water/sewer connection and billing in current. Dennis asked if he plans to rent it out with his vacation rental; Gary responded no, it is only for them to stay in while in town. A motion was made by Travis LeFevre to approve a building permit – Second by Jason Bybee. Motion carried.

WARRANTS

Town Financials were reviewed and all found to be in order – a motion was made by Jason Bybee to approve the warrants – Second by Travis LeFevre. Motion carried.

Items A & B “Business Licenses & Fee Schedule” will be discussed after hearing back from the David Church regarding Short Term Rentals/Vacation Rentals.

CULINARY/SEWER

Carson DeMille asked Dennis to research property values that could possibly be used for sewer lagoons; Council will schedule an executive session to discuss information provided by the County.

Water/Sewer Moratorium: Discussion commenced with Travis asked for clarification regarding w/s connections. Stated in the ordinance "...an exception for new wastewater & culinary water connections serving single-family residential lots of persons who live in Tropic..." Travis would like to possibly changing the wording to include upgrading residential meters to commercial, but questions the legality of it. The reasoning behind the discussion is that a once B&B, which has not been in operation since 2013, is on the market and the sale depends upon it selling as a business or as a residence; also, Travis has residential meters, that if legal, could use them for his gas/goodie. It was felt that it would be hard not to allow a B&B; but would need to reapply for a business license, get inspection, etc. The question was asked, would the town allow meters to switch from a residential to a commercial use? Comments made from the community revealed many are not aware of the Town's sewer capacity issue. Jason explained the studies currently underway and what steps are being taken to resolve the problem; how much growth can be made, what can the Town allow, and continue to provide/protect current users and the system.

Jared Westhoff asked the Council if the wording of the moratorium could allow construction, not issuing certificate occupancy or connect to the system until a capacity issue is resolved; responding Travis stated it would depend on if the solution is affordable and the bonding & impact fees his project. Mayor Brinkerhoff expressed his thoughts that it would be "shooting in the dark" to be allowed and they need the completion of the studies before any decision is made; Dennis added that building permits are issued based on w/s connections. Steve Jackson agreed with the Council, No; the studies need to be completed and the solutions identified putting things into perspective. Mayor Brinkerhoff reported the RV Park of 151 w/s connections, 102-room Motel is making a significant impact on the Town of Tropic; the goal is to serve and protect the residents and all parties involved.

Discussion continued addressing the initial question proposed by Travis, allowing residential connections to be upgraded to a commercial connection; one residential is equal to three motel rooms. Council concluded that the language would need to be as such identifying or quantifying the connection; if not, there are those who would take their residential meter and build something more. A motion was made by Dennis Pollock to table the adoption of the Moratorium, until clarification is made with David Church on the legality to allow residential meters as commercial. Second by Brook Wiseman – Motion carried.

Wastewater Treatment: With the sewer lagoon capacity problem, solutions to address the issue have been actively pursued by Jared Westhoff, as he has interest in building a 151 space RV Park. Steve Jackson, a civil engineer specifically in water and wastewater ~ introduced a mechanical wastewater treatment plant system for the Council to review and consider as a possible solution. Comments and questions ~ will it provide for long-term growth – not just here and now, does it meet the State's 20-year plan, what affect will it have for residents as to rate increases, etc. A motion was made by Jason Bybee to introduce this method to Carson at Jones & DeMille and to include it with the study as a possibility to address the issue.

ROADS/STREETS

Road project continues on track and moving forward.

PARKS/RECREATION

Discussed flooring options – carpet squares or acid stain; Brook following up with a gentleman out of Panguitch and one a company in St. George.

Veteran's memorial statue – Brook reported they received the refund check; but it didn't clear the bank.

FIRE DEPARTMENT

State Land of Forestry Insurance Policy Agreement - Securing assistance from the State if a wildland fire is within Town limits; no yearly fee, just Fire Department perform service within the Town limits; mowing, trimming, and other fire prevention tasks/work. Also, in-case there is a wildland fire and an ICS is formed, the decision to transfer command must be given – who on the Council should be listed as having authorization to transfer command; being that there will always be different person in the governing body, is it possible to generalize and place “Mayor & Tropic Town Council”~ Ron will follow up.

Animal Control: Calls continue to come in from the School reporting dogs on the grounds; it was asked that a description or owner information be collected to identify ownership, and that both Bob and Brett approach the owner to address the issue.

EMPLOYEE REPORT

Travis expressed concern with Bob driving the water truck without a CDL license; Mayor reported he gave Bob permission; being that he was not able to contact Brett. It was not Town business, it was for field day. Discussion continued with asking Bob for an update on acquiring his CDL license; he has passed the air-break test, working on the combination license. It was emphasized that one of the requirements for Bobs employment was to obtain a CDL license; Bob Is actively pursuing this ~ Council would like it completed soon.

Also, the Council would like for both Brett and Bob to get the Hepatitis shot; Marie will follow up.

Sydney presented her letter of resignation as Town Treasurer; expressed feelings of frustration with the direction the town is headed, conflicts of interest; feels the community has become divided ~ residents vs. commercial. She has loved her job, and understands the benefits of commercial, but also feels residents are not being represented following the Town’s zoning code. Comments asking her to reconsider and expressions of her knowledge and work ethic were made; she is irreplaceable. Sydney said she will work until the budget is completed – end of June and will train her replacement, because there is a lot to know. It was asked that the job be posted.

MAYOR’S REPORT

ADJOURN

A motion was made by Travis LeFevre to adjourn – Second by Jason Bybee. Motion carried.

Approved this 13th day of July 2017
Marie H Niemann- Tropic Town Clerk