

**MINUTES OF THE FRANCIS TOWN COUNCIL MEETING  
MEETING HELD AT FRANCIS TOWN RECREATION BUILDING OCTOBER 20, 2009**

The Francis Town Council convened in regular session on Tuesday, October 20, 2009 in the Francis Town Recreation Building. Mayor John Bergen called the meeting to order at 7:00 PM.

Present:	Mayor John Bergen
Council:	Tim Butikofer John Keyes Lorin Prescott Lee Snelgrove
Town Clerk:	Lynette Hallam
Attorney:	Kraig Powell
Engineer	Scott Kettle
Planner:	Alison Weyher
Others attending:	Tal Adair, Cherlynn Anderson, Rodney Anderson, Gene Atkinson, Dixie Averett, Randy Butters, Brad Graham, Marilyn Krauth, Paul Krauth, Kristi Major, Trent Martinez, Gio Melendez and Luke Thomas

**Consent Agenda – Approval of Town Council minutes – 9/22/09 Council meeting**

Lee Snelgrove pointed out an error on Page 4 Paragraph 7. The change was made to “Eric Johnson *said* the election.” Lynette Hallam indicated Page 7 Paragraph 4 would be changed to “Bailee Sizemore is the *Silver States International Rodeo Queen*.”

*Lee Snelgrove made the motion to approve the minutes of the 9/22/09 Council meeting with the above changes. John Keyes seconded the motion. The motion passed unanimously. Voting in favor: Mayor Bergen, Tim Butikofer, John Keyes, Lorin Prescott and Lee Snelgrove.*

**Public Hearing – Discuss, with possible approval, a Preliminary/Final Plat for a Lot Line Adjustment requested by Brad Graham to be located at approximately 2234 South Springhollow Road.**

Alison Weyher indicated that lot line adjustments would be handled as small subdivision until the Development Code is changed, which is an agenda item later at this meeting.

Ms. Weyher reported the Applicant wishes to move the lot line between parcels FT-65-B-1 and FT-65-B to create two parcels of more equal size to settle an estate. In accordance with State Code, the Francis Town Council approves all Lot Line Adjustments, upon receipt of a recommendation from the Planning Commission. This change will make two larger lots instead of a small lot and a large lot. It will also eliminate the “L-shaped” lot.

Lee Snelgrove asked for clarification of the location, upon which Alison Weyher explained using the plat.

**MINUTES OF THE FRANCIS TOWN COUNCIL MEETING  
MEETING HELD AT FRANCIS TOWN RECREATION BUILDING OCTOBER 20, 2009**

Mayor Bergen opened the public hearing. There being no public comment, the public hearing was closed.

John Keyes stated he saw no problem with approving this action.

*John Keyes made the motion to accept the lot line adjustment for Brad Graham. Tim Butikofer seconded the motion. The motion passed unanimously. Voting in favor: Mayor Bergen, Tim Butikofer, John Keyes, Lorin Prescott and Lee Snelgrove.*

**Public Hearing – Discuss, with possible approval, a Preliminary/Final Plat for a Lot Line Adjustment requested by Trent Martinez to be located at approximately 1947 South Foothill Drive.**

Alison Weyher reported the Applicant has purchased a 60 by 90 foot parcel (approximately 5400 square feet) from the property from the property owner to the east and wishes to combine this parcel with one of his existing lots (FT-1-C). Alison Weyher explained where the property was located. Ms. Weyher indicated that Trent Martinez was proposing to build a garage on the portion he is acquiring.

Lee Snelgrove pointed out there are two parcels on Foothill Drive and asked if these parcels will be combined. Alison Weyher explained Lot FT1-C is being expanded; there will be no change to Lot 1-E.

Mayor Bergen opened the hearing for public comment. There being no public comment the public hearing was closed.

Lee Snelgrove asked Trent Martinez why he did not combine the smaller lot with the larger one. Mr. Martinez replied it could be done. Alison Weyher explained such an action would require a separate process.

*Lee Snelgrove made the motion to approve the lot line adjustment requested by Trent Martinez. Lorin Prescott seconded the motion. The motion passed unanimously. Voting in favor: Mayor Bergen, Tim Butikofer, John Keyes, Lorin Prescott and Lee Snelgrove.*

**Public Hearing – Discuss, with possible approval, an application for a Conditional Use Permit requested by Dixie Averett for a home premise occupation to allow a candy-making business in a home located at 3082 South 1000 East.**

Alison Weyher reported the Applicant is proposing to operate a candy-making business in her home. Section 3.12 (H) of the Francis Town Development Code requires that a conditional use permit (CUP) be issued for “Any home/premise occupation involving or proposing to involve food or drink preparation, storage or catering. Such a home occupation will be considered for conditional use permit only when it is authorized by the appropriate State or County department or agency.

**MINUTES OF THE FRANCIS TOWN COUNCIL MEETING  
MEETING HELD AT FRANCIS TOWN RECREATION BUILDING OCTOBER 20, 2009**

While the original CUP application was submitted in April, the Applicant has only recently received approval from the Utah Department of Agriculture and Food – the entity responsible for inspecting and approving all commercial food preparation facilities. She has also obtained a Food Handlers Certificate from the Summit County Health Department. The candy made at this location will not be sold at the home, but rather at bazaars and festivals, such as the recent booth at Francis Frontier Days, although people who have placed orders may come by the location. This business has been run as a hobby for several years in anticipation of obtaining a license and no complaints have been received from any neighbors.

Alison Weyher recounted the findings and analysis of issues as follows:

A copy of the State of Utah Department of Agriculture and Food approval for the Fudge Fairy has been given to the Town.

A home occupation should be an accessory use; and in this application only the kitchen will be used with additional storage available in the basement. Because only the kitchen will be used for this business, the external appearance of the home will not be modified; and no external space will be used in conjunction with this CUP.

The Code requires conformity with fire, building, plumbing, electrical and all other Town, County, State and Federal Codes; the State and County inspections further confirm that all Codes have been complied with. The intermittent use of the kitchen to make candy will not cause a larger demand for utilities than other residences. There will not be any odors, smoke, dust, etc., that will disturb the neighborhood. The Applicant has assured Staff that no hazardous processes will be used in the making of candy. Because this use has previously occurred at this location as a hobby, and no complaints were received from the neighbors, Staff does not believe that granting the Conditional Use Permit will result in complaints from neighbors.

The Applicant has agreed to periodic inspections as needed. As indicated on the site plan, ample parking is provided off street at the location. The Applicant has stated that apart from infrequent customers stopping by to pick up previously ordered candy, there will be no vehicular traffic associated with this business. There will be no signage at the home. The Applicant has stated there will be no employees other than herself working at the location.

Ms. Weyher indicated the Planning Commission conducted a Public Hearing on September 24, 2009, reviewed the application and unanimously approved the request for the Fudge Fairy CUP. Ms. Weyher also recommended approval of the Fudge Fairy Conditional Use Permit.

Mayor Bergen asked about how inspections would be done and who would do them. Alison Weyher indicated the State will do periodic inspections, and she will check with them and will keep a schedule of their inspections.

Lee Snelgrove inquired if the Code requires renewal of this Conditional Use Permit. Alison Weyher replied the CUP will be renewed with the renewal of the business license. Kraig Powell opined that the CUP goes with the land and stays as long as the land is there and the use is continued. The business license has to be renewed each year.

**MINUTES OF THE FRANCIS TOWN COUNCIL MEETING  
MEETING HELD AT FRANCIS TOWN RECREATION BUILDING OCTOBER 20, 2009**

Dixie Averett thanked the Council for treating her business like any other business, and she stated she did not want any special treatment. USDA will make spontaneous inspections throughout the year, especially during the heavy seasons. Quincy Boyce from Woodland Hills is the inspector.

Mayor Bergen commended the Planning Commission for their work on this CUP. Mrs. Averett indicated she appreciated the process.

Lee Snelgrove asked about employees; Alison Weyher replied the CUP allows a maximum of two employees. The Applicant has stated she will not have any employees. Mrs. Averett is the only one with a food handler's permit. Lee Snelgrove asked what would happen if employees were added. Dixie Averett declared the USDA will not allow anyone to help with the making of the candies until they are wrapped.

Mayor Bergen opened the public hearing. There being no public comment, the public hearing was closed.

*John Keyes made the motion to approve the Conditional Use Permit for The Fudge Fairy. Lee Snelgrove seconded the motion. Kraig Powell recommended the motion include the conditions of the CUP in the approval. The motion was so amended with the approval of Mr. Keyes and Mr. Snelgrove. The amended motion passed unanimously. Voting in favor: Mayor Bergen, Tim Butikofer, John Keyes, Lorin Prescott and Lee Snelgrove.*

**Public Hearing – Discuss, with possible approval, an Ordinance amending the Francis Town Development Code to create a process to approve lot line adjustments.**

Alison Weyher reported that Lot Line Adjustments occur when property lines are moved, but do not create additional lots. Utah State Code 10-9a-608 (7-a-c) gives specific directions for processing lot line adjustments by requiring a Notice of Approval. The Notice of Approval must include an acknowledgement from each of the property owners involved in the matter, the legal description of the properties both before and after the adjustment, and must be approved by the Land Use Authority. The Notice of Approval must then be recorded with the County Recorder. In the past Francis Town has handled Lot Line Adjustments in two ways. The first was to have the Applicant go through the minor subdivision process. The second was by administrative approval only.

Ms. Weyher analyzed the issues as follows:

- Francis Town has developed an Ordinance (#2009-03) specifying the new process along with an application form and appropriate fee. The new process will then be included in Chapter 6 of the Francis Town Development Code and the Fee and Rate Ordinance.
- The Planning Commission will review each request to insure compliance with the Development Code.
- While the Planning Commission will review each request, because the Town Council serves as the Land Use Authority for Francis Town, the Council will make the final approval.

**MINUTES OF THE FRANCIS TOWN COUNCIL MEETING  
MEETING HELD AT FRANCIS TOWN RECREATION BUILDING OCTOBER 20, 2009**

- At the September, 2009 Planning Commission meeting, the Planning Commission approved the ordinance in concept form, and recommended the Town Council approve the Ordinance.

Mayor Bergen opened the Public Hearing.

Gene Atkinson pointed out regarding a lot line adjustments, 99% occur when the property is being sold. Mr. Atkinson felt this just added another fee when another parcel is not being created and the purpose is just to bring the property into the legal description due to problems with fence lines and survey lines.

Alison Weyher indicated she understood Mr. Atkinson's point; however, of the lot line adjustments she had dealt with since working for Francis Town only one was because of a fence line. All the others required substantially moving lot lines around for different reasons. Such adjustments do require a lot of work including staff reports and do get complicated. There is Staff time and Legal time involved. Even fence line moving requires the involvement of a title company to protect the Town's interest and assuring what is being agreed to is accurate.

Kraig Powell stated he understood where Mr. Atkinson was coming from. Mr. Powell did not think this ordinance will change what are commonly called boundary line adjustments. Those are the ones that Mr. Atkinson was referring to, and they will happen. A different section of the State Code deals with Boundary Line Adjustments. In Utah Code it says Lot Line Adjustments have to be approved by the Town Council and signed by the mayor. They are similar to amending a subdivision. This ordinance allows it to be done in a simpler way. If there is not a Notice of Approval when a lot line adjustment is recorded, it is not a valid lot of record.

Mayor Bergen closed the public hearing.

Lee Snelgrove asked if the Planning Commission should add a comment to the Development Code to define boundary line adjustments. Kraig Powell replied that is why he decided to reference the State Code. Mr. Powell didn't believe there would be any confusion.

**Resolution – Francis Town Fee & Rate Resolution #2009-04**

Lee Snelgrove asked if the only thing that was changed was the addition of the fee for a Lot Line Adjustment. Alison Weyher confirmed it was.

*Lee Snelgrove made the motion to approve the change to the Francis Town Fee and Rate Resolution. Tim Butikofer seconded the motion. The motion passed unanimously. Voting in favor: Mayor Bergen, Tim Butikofer, John Keyes, Lorin Prescott and Lee Snelgrove.*

**MINUTES OF THE FRANCIS TOWN COUNCIL MEETING  
MEETING HELD AT FRANCIS TOWN RECREATION BUILDING OCTOBER 20, 2009**

**Ordinance – Ordinance #2009-03, An ordinance, pursuant to Section 10-91-608 (7-a-c) Utah Code Annotated, adopting a process to approve Lot Line Adjustments in Francis Town**

*John Keyes made the motion to adopt Ordinance #2009-03, An ordinance, pursuant to Section 10-91-608 (7-a-c) Utah Code Annotated, adopting a process to approve Lot Line Adjustments in Francis Town. Lorin Prescott seconded the motion. The motion was approved with a roll call vote as follows:*

<i>Mayor Bergen</i>	<i>Yea</i>
<i>Tim Butikofer</i>	<i>Yea</i>
<i>John Keyes</i>	<i>Yea</i>
<i>Lorin Prescott</i>	<i>Yea</i>
<i>Lee Snelgrove</i>	<i>Yea</i>

**Information Item – New reporting requirements - Paul Krauth, Division of Water Quality**

Paul Krauth, Division of Water Quality, indicated he wanted to talk about the Town sewer system. Mr. Krauth asked when the system was built. Mayor Bergen answered it was designed in 1986 and 1987; the system was built in 1989.

Mr. Krauth stated for twenty years Francis was left alone; now the Town will have to get a permit. In 2008 House Bill #222 was passed. The words “or operating permits” were added to the previous statute. In the past, systems were pretty much on their own once they got design approval and their systems were in place, as long as they did not discharge. Francis’ system is not reuse; it is classified as land application. Reuse permits require daily monitoring.

Paul Krauth explained the permit process. Francis will have to obtain an individual permit from the Division of Water Quality. An application will have to be submitted by first of next year. The Division will be sending out the applications around the middle of November. These will probably be one-page forms. Concerning cost, Mr. Krauth said there will be no charge for the permit. Mr. Krauth indicated he was visiting and talking to every governing board that has a sewer system. There are 94 facilities that will be picked up with this program. The first round of permitting is basically for information gathering. Large septic systems, over 5,000 gallons a day, will also be picked up with this program. The reason for doing this program is to determine how much the flow is and to determine pond depths. When the effluent is land applied, the State also wants to know how much nitrogen is in the water and is also looking at e-coli.

Mayor Bergen stated his understanding the permit is for monitoring and control. Mr. Krauth said there was testing of the daily flow and monthly flow. The program will require a five-year implementation. Measuring the flow and the pond depth will help determine how good the liner is; how fast it leaks is a function of liquid depth. New lagoons in Utah cannot have clay linings, they have to have a synthetic liner to minimize seepage and protect ground water. Mr. Krauth showed the State's requirements for allowable seepage. Neighboring states’ seepage standards are much more stringent than Utah.

**MINUTES OF THE FRANCIS TOWN COUNCIL MEETING  
MEETING HELD AT FRANCIS TOWN RECREATION BUILDING OCTOBER 20, 2009**

Paul Krauth said testing the e-coli and nitrogen levels will help make sure there is no fecal matter being put out. The acceptable level is 126 per 1000 milliliters on a thirty-day geometric. Any ditch probably has a higher number.

Nitrogen is a concern because of how much is getting into the ground water and affecting the water quality. High nitrate levels can cause health problems including blue baby syndrome.

Once a month is sufficient for measuring the pond depths. Paul Krauth also indicated it can be rounded to the nearest foot of depth.

Lee Snelgrove asked about the pond depth. Paul Krauth talked about the various measuring devices and methods.

Tim Butikofer asked for clarification on the timetable; Mr. Krauth replied the application had to be filed by December 31, 2009. Mr. Butikofer asked about the sampling procedures. Paul Krauth indicated there would be some testing costs; he said they were trying to make the costs less than \$50 per month.

**Update –Proposed Francis Town office building and bond election**

Kraig Powell reported he had been in regular contact with the bond counsel concerning the bond requirements.

Mr. Powell passed out a sheet to the public concerning the Analysis of November 3, 2009 Ballot Proposition, which had been prepared by Staff pursuant to the Council's direction at last month's meeting. The other hearings held previously have been part of this process.

**Action Item – New appointment to Woodland Hills Board of Trustees**

Mayor Bergen reported he had a discussion with Mayor-elect Lee Snelgrove. The mayor recommended Tim Butikofer be released from the Woodland Hills Board of Trustees with appreciation for a job well done during some of the hardest decisions for the Woodland Hills Water Company. The mayor suggested that Lorin Prescott be the replacement for Mr. Butikofer and indicated John Keyes will serve until the new mayor wants to release him.

*Tim Butikofer made the motion to appoint Lorin Prescott to the Woodland Hills Board of Trustees. Lee Snelgrove seconded the motion. The motion passed unanimously. Voting in favor: Mayor Bergen, Tim Butikofer, John Keyes, Lorin Prescott and Lee Snelgrove.*

**MINUTES OF THE FRANCIS TOWN COUNCIL MEETING  
MEETING HELD AT FRANCIS TOWN RECREATION BUILDING OCTOBER 20, 2009**

**Update – Update on South Summit Fire Department policy regarding building permits in Francis Town – Kent Leavitt**

The Fire Department representatives did not arrive until the meeting had adjourned.

**Department Reports**

Mayor Bergen reported the people from Tree Utah and Kamas Lions Club came out and gave instruction on how to trim and take care of the trees that were planted last year as an Eagle Scout project.

John Keyes reported he and Scott Kettle had looked at the Fitzgerald pit. A little more will need to be done; it needs to be leveled up a little more. Mr. Keyes felt approval should not be given because of how it was reclaimed because it does not meet the slopes requirement.

Gene Atkinson asked if there were loads being hauled out of the gravel pit. Mr. Keyes explained that Wasatch County was given the reject stockpiles and that is what has been hauled out, as part of the reclamation.

There are some things the property owner wants left the way it is. Instead of fighting and possibly having to go to court, John Keyes suggested the Town will not give approval of the reclamation. Mr. Atkinson asked if any pressure can be put on Kelly Lloyd. Mayor Bergen did not think there was anything that can be done except withholding approval. Gene Atkinson asked if a report could be filed with the State to let them know, and it may affect any further licensure for Mr. Kelly. Mayor Bergen asked Kraig Powell to look into that possibility.

Tim Butikofer reported Rusty Webster has the new lift station in on Foothill Drive. All that is left is the final cleanup. Mr. Butikofer indicated he wouldn't be able to attend the Frontier Days Appreciation Dinner because he will be out of town; he asked that it be included in the minutes his appreciation to all those who volunteered their time and talents to the event.

Alison Weyher reported she had attended the Mountainlands/COG pre-mitigation hazard meeting. When the plan is completed, the Town will need to adopt it. Ms. Weyher stated she will bring the plan to the Council when it is done. Adopting the plan will make the Town eligible for some grants. Ms. Weyher opined the plan is worth adopting. There is the possibility of getting FEMA money, and Francis will be in the FEMA community.

Kraig Powell reported he is finalizing the paperwork on the water rights purchased from Kit Burton. The documents are being reviewed. When the documents are executed, the entire water right will be in the name of Francis Town.

**MINUTES OF THE FRANCIS TOWN COUNCIL MEETING  
MEETING HELD AT FRANCIS TOWN RECREATION BUILDING OCTOBER 20, 2009**

Scott Kettle reported the pump at the Francis Well has been replaced, and the well is back up and running. The Town will need to get a transducer to measure the level of the well.

**Approve payment of bills and Adjourn**

*Lee Snelgrove made the motion to approve payment of the bills and adjourn the meeting. Lorin Prescott seconded the motion. The motion passed.*

The Francis Town Council meeting adjourned at 8:15 PM.

These minutes were approved at the November 17, 2009 meeting.

---

John Bergen, Mayor

---

Lynette Hallam, Town Clerk