



TOWN OF COLORADO CITY

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TOWN MANAGER'S REPORT TO THE TOWN COUNCIL

January 29, 2009

Meeting with Arizona Attorney General's Office

Present at the meeting were William Richards and Chad Sampson from the AG's Office, David Darger, Town Manager, Jerry Barlow, Utilities Business Manager, David Zitting, Hildale Mayor, Terrill Johnson, Colorado City Mayor, Steve Horton, Attorney, Blake Hamilton, Attorney.

William Richards said he has been with the AG's Office for four years as Senior Litigation Counsel to the Civil Division. He said he was assigned early on to be involved with the UEP Trust issues. He said he also acts as a settlement judge pro-tem. He said Chad Sampson was heavily involved in the school receivership issues. His Mother's name is Langston, a family who has ranched in this area for years. He grew up in Richfield, Utah.

William Richards said that they got involved along with the Utah AG's Office in 2005 when a motion was filed by Roger Hoole to remove the UEP Trustees to avoid waste of trust assets. He said that AG's have jurisdiction when trustees of a charitable trust default and are not defending the trust. He said that a Special Fiduciary was appointed to manage the trust and that the Judge reformed the trust. He said that they thought that new trustees would be appointed fairly quickly, but that has not happened.

He said there has been a lot of litigation involved with the trust; the Special Fiduciary had sold property at various times to pay for his costs, and felt he was empowered to sell property without court approval; court approval of any sales would most importantly protect the Fiduciary from lawsuits later. He discussed the November 14th evidentiary hearing and what led up to it. He said that he was scheduled to attend the hearing, but ended up going to the hospital with his wife having a mini-stroke and that Tim Bodily from the Utah AG's Office ended up going to the hospital with his son having a burst appendix.

He said that talks had been held to stay the litigation with the Trust and find a better resolution. The Judge finally agreed to a stay at the November 14, 2008 hearing, but she did not define exactly what she meant by the stay and the parameters of a settlement. He stressed that Mr. Wisan was not dismissed and the Advisory Board was not thrown out; stressed that Mr. Wisan still has the same authority that he had before, and that the sale of the Berry Knoll farm is only on hold while discussions are continuing.

He said that their concern is that the tensions and emotions in the community are escalating instead of calming down. He suggested that the Arizona AG's Office had asked to be involved in some of the discussions, but had not been invited, and that they were concerned that misinformation is given to the community.

Mr. Richards proposed to the court during a telephonic status conference a week ago, that a two day settlement conference be ordered by the court, to figure out if there is any common ground to move forward or if there are some legal issues that need to be decided first, before moving forward. He drafted a proposed order for the Judge. He said their role is not to take over a trust, but to ensure it is not wasted or abandoned; they wanted to help facilitate a resolution that is legally appropriate, including the courts obligations to all of those benefiting from the Trust; questioned whether a charitable trust could be broken up or group deeds could be given. He voiced his concern that if property went back to an entity, that it would be benefiting the right people.

There was a discussion concerning the Hoole's and their action against the Trust. He said a judgment in their favor could put a lot of the property at risk, and others may follow suit, then there is nothing left if Attorney's fees don't eat it up first. Blake Hamilton said there is an uncomfortable relationship between the Shields and the Hooles; they significantly wrote the reformation of the trust; they are suing the trust and are now trying to participate in a settlement, which raises some significant ethical questions.

Blake said that the cities are concerned about what happens with the property within their jurisdiction and what happens to their citizens. He described how the cities had sent letters to Willie Jessop related to subdividing and met with Jody Burnett, a land use attorney in Salt Lake. Blake discussed the mandamus lawsuit that had been filed against Hildale City and the Utilities; He said that there has not been a response from the Fiduciary since May, 2008.

There was some discussion relating to the default from Hildale City and how the city felt that the Fiduciary would follow state and Washington County subdivision requirements, since Hildale City did not have its own subdivision ordinance. The Fiduciary wanted to sidestep the county ordinance and went to the judge and asked him to sign a "blank check" for them to subdivide. There was a lot of discussion concerning lots not served with utilities. The Fiduciary does not want to pay to put in the infrastructure and someone receiving a lot not served could try to demand that the Town install infrastructure to serve them, claiming entitlements

Steve Horton said the Town has responded appropriately, and a preliminary plat was approved, and later expired, with a request for extension filed, but not yet approved. We discussed the contingent liability and the concern of the city with approving lots not served, and not being able to deliver services when there is an inaccurate perception that they can be delivered. That liability becomes more clear as time goes on with people bringing civil

rights claims. Mr. Richards was very sensitive and defensive of civil rights complaints, and hypothesized that the city was denying a subdivision because “they might get sued down the road.” It was explained that a subdivision was not being denied, but that the Fiduciary has not responded. Steve Horton said the local jurisdiction has the right to place reasonable restrictions.

David Zitting discussed that the UEP historically has installed the needed infrastructure. Mr. Richards asked where they got their funds and the discussion indicated that the UEP did not have a bank account and it must have been done through individuals or the church. Mr. Zitting described the subdivision proposals to be as-is, and other, undeveloped areas that were “not a part.”

Mr. Richards was asked if the Fiduciary had ever approached the Arizona AG’s Office for some kind of Mandamus or other legal action against Colorado City, similar to what he did in Utah. Mr. Richards said he had talked about so many things that he couldn’t remember. He said, they would not have a role to play in a lawsuit. Steve Horton said Mr. Wisan was very quick to threaten litigation. There was some discussion about the Fiduciary trying to make an end-run around the Town with the Arizona Department of Real Estate. Mr. Richards chastened us for using the terms like end-run and encouraged us to not assume the worst of each other. Steve Horton said he does not use those terms lightly, but the Fiduciary would go to court and make some very uncomplimentary characterizations of the town that belied any spirit of cooperation. Mr. Richards said he assumes the best of everyone, but he has heard from only one element of the community for many years.

I told Mr. Richards that whenever we deal with State agencies, we get feedback that “we’re waiting on the AG’s Office.” I asked him how the interactions work with the state agencies and anything dealing with Colorado City. I also asked for the perspective of the Attorney General as he has made so many public statements against Colorado City. Mr. Richards defended Mr. Goddard and the Office, saying they do not have anything special set up for Colorado City; it simply follows the bureaucratic process and goes to whatever division an Attorney is assigned to.

Mr. Richards said there is a perception that the people in the community are being persecuted by the state, and they have singled Colorado City out for special unique treatment, and he asked for an example. Blake Hamilton brought up multi-jurisdictional meetings that seem to be special to Colorado City, and the Safety net that seems to be a recruiting grounds for complaints against the city, and undermining the city government. I told him that city police officers have been turned away from the multi-jurisdictional meetings. He asked if there were other examples of the city being treated differently than everywhere else. I told him we didn’t really need to get into that in this meeting. County officials have brashly spoken against the community, such as the County Sheriff declaring in his run for election that he would “decertify all Colorado City police officers.” Those kinds of attitudes totally discredit anything that he purports to be working for the good of

the community. I told him there is the exact same line of comments made by the Arizona Attorney General.

I asked him to tell us as the representative of the AG, what direction the AG has given him in relation to Colorado City; what is his perspective; what is his objective? His answer, "To make sure that the law is followed and enforced, and that's it." I told him, "of course that's what we would hear if we asked." He asked why we are having a hard time believing it? Chad Sampson jumped in and pressed to know the reasons why we may not believe or trust the Attorney General. I answered by asking him why he was brought onto the case? What was his objective? Was he expanding the operation? He responded by acknowledging that it was because of his dealings with the school district. Mr. Richards said that additional resources were needed to deal with the issues. (*even after two months of stand down?*)

There was some discussion about the Judge being reluctant to have claimants names released, "because they might be harassed by the Church." Blake said that it appears that the mis-trust actually runs deep in the Court. Mr. Richards said that he was trying to get a perspective from as many people as he could in the community, and it has been difficult. He said he would like to talk to the "man on the street." He wondered what we thought of him going to the grocery store and introduced himself as from the AG's Office and asked to talk to them? We had a good laugh.

We discussed the common ground that was becoming more and more apparent to the Town that the economy, businesses, sales tax and the other related issues to the city was going downhill. The runaway UEP train and its side effects were beginning to impact the Town and its ability to perform. Mr. Richards said he sees that subdividing property with good infrastructure leads to growth and prosperity and is viewed as positive, and asked if there were things the city could do to improve the attractiveness to businesses and people, that could be done through the trust? Blake said people have to have a sense of ownership, and with the park, the Fiduciary pays someone \$200,000 over two or three years to maintain it and it went downhill, then when it was turned back over to the community, it was cleaned right up.

Mr. Richards then discussed the Cottonwood Park and his concern that people would be excluded. He said it was his understanding that city vehicles were used when the park was created and have been used in the maintenance of the Park. It was explained that at one time a person worked part time for the Town and on his other time maintained the park, but had his own vehicle and equipment.

Mayor Johnson reminded them that the greatest number of people who lived in the community are FLDS and they have chosen to live here. As city officials we want to take care of our citizens whoever they are, and we will listen to them. Mr. Richards said he has heard things like, executive sessions are used for things that are not allowed and that meeting notices are not provided except a minimum of 24 hours in advance of meetings.

Mayor Johnson told him those who are the hecklers are very few, but most of the people in the community are happy and love to live here. Colorado City meetings are usually posted 48 hours in advance. Mayor Zitting described the advertising process for Hildale meetings. Mr. Richards said that there will always be a segment of the community that feels negative.

Mr. Richards said he has heard of city vehicles being used for private purposes and public records requests being stonewalled because of copyrights. Mr. Hamilton explained that legal counsel was sought after and the records were given. Mr. Richards said there is a perception that there are other homes that have had utilities hooked up or other issues in terms of getting people to act on things timely. Blake said ever since he has been involved, policies have been enforced uniformly. He described a lot where two different people had an occupancy agreement and the cities were not getting involved in their civil dispute over property, and where the water service was once connected, it could be re-connected when the dispute is resolved.

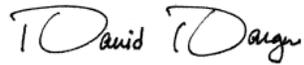
There was some discussion about the water shortage and lots not served. It was brought out that the city does not have the water resource for many new hookups, although prior hookups are allowed to be re-hooked up. Chad Sampson asked who the water supplier was and who owns the water rights. Twin City Water Works guarantees through contract a certain amount of water. The city has applied for and has not received water engineering grants. The cities have limited resources to try to address infrastructure needs. Steve Horton said it was not the communities decision to subdivide, but rather it was Mr. Wisan's desire, and it is the communities duty to accommodate that, subject to their duty to reasonably regulate, to ensure that that process doesn't make things worse for people who are here now.

Mr. Richards invited anyone with information to let him know and to call him if we had any questions. He said in behalf of the Attorney General, that they represent every citizen and care about their input. Steve Horton reminded them that tone is very important, referencing Mr. Wisan making derogatory statements that make it more difficult to build upon a dialogue. Mayor Johnson expressed his compliments of those who make the Town work, as in the utility boards and are trying to make it work for everyone.

There was some discussion related to Mr. Richards' proposed conference order, and among other things, his inference that the police officers are not respecting the courts orders. He said that the city police shouldn't make a criminal complaint into just a civil matter. They expect the Police to take a report. I told him that the police have always responded and investigated every complaint. The issue of the Cavern was brought up and the stories of dangerous explosives. It was discussed how a construction business had a permit from the federal agencies to store their explosives, then Mr. Wisan comes in and ousts the business without any civil due process. Mr. Richards brought up the fact that a lock had been cut off of the cavern; however, it has never been reported to the Police Department.

I voiced that it sounded like a simple conference order was now trying to solve all the problems of the trust. Blake Hamilton will send a redlined copy of the proposed settlement conference order to Mr. Richards.

Respectfully submitted,

A handwritten signature in black ink that reads "David Darger". The signature is written in a cursive style with a large, stylized "D" at the beginning.

David Darger,
Town Manager