

TOWN COUNCIL MEETING MINUTES

May 11, 2017

1. **Call to Order and Pledge of Allegiance**

Mayor Pro Temp Dean Heavrin called to order the meeting of the Town Council of the Town of Hideout at 6:05 p.m. on May 11, 2017 at 10860 North Hideout Trail, Hideout, Utah and led the Pledge of Allegiance.

2. **Roll Call**

The mayor pro-temp conducted a roll call. The following Council Members were present:

Dean Heavrin
Doug Egerton
Cyndie Neel
Hanz Johansson – by phone

Absent: Mayor Martino
Jim Wahl

Also attending: Town Clerk - Lynette Hallam, Kent Cuillard – Public Works, Attorney David Church (by phone), Chris Baier, Bruce Baird, Bill Bartlett, Kyle Blumin, Bart Caton, Ian Culligan, Melyssa Davidson, Glen Gabler, Sara Goldkind, Lilly Grippo, John Luna, Terry Matyszczyk, Tony Matyszczyk, Will Pratt, Lynn Register and Phil Rubin

3. **MINUTES - Consideration and Approval of Minutes for Regular Meeting of April 13, 2017**

Council Member Doug Egerton made the motion to approve the minutes of the regular meeting of April 13, 2017. Council Member Cyndie Neel seconded the motion. The motion passed unanimously with affirmative votes from Councilors Neel, Heavrin, Johansson and Egerton.

4. **PUBLIC HEARING – Discussion and Possible Approval for Final Plat Shoreline Village Phase 1**

Mike Stewart reported this is the first phase of the overall preliminary plan that was approved in November, 2016. Mr. Stewart commented the Longview route has been changed to take it out of Silver Sky. There will be a five-foot road base trail (not paved) on the east side and will continue in other pods.

Council Member Doug Egerton asked about a change that is very different from the original. Mike Stewart answered this was their engineer working on a concept of town homes, not the land planners. It is a different phase and will be decided when that phase comes to the Council. Councilor Egerton stated he was reserving the right to speak up at that time.

Mike Stewart discussed the landscaping. Mr. Stewart said the bulk of landscaping would be done around homes.

Mr. Stewart indicated the architectural design has not been through the Design Review Committee yet. Council Member Egerton said in the Planning Commission Mr. Stewart had provided a comparison of Shoreline and Rustler densities. Mr. Stewart commented he did not know the figures off the top of his head. For the overall of Shoreline there are 5.5 units per acre. Phase 1 is 2.7 units per acre. Glen Gabler said Phase 1 has 2.75 units per acre. In Rustler, the density averages 3.18 - 3.20 units per acre overall.

Councilor Egerton asked about the driveway lengths. Glen Gabler indicated they will be 20 feet long. Dave Erichsen asked about the garage depth. Mr. Gabler the garage lengths are the same Rustler. There will also be more storage for snow removal.

Council Member Doug Egerton inquired if the units would be the Wrangler design; Mr. Stewart stated there will be some change. The square footage will be similar. These homes will cost more than Rustler.

Councilor Egerton stated he was not in the meeting when the preliminary plan got approved. The Councilor indicated he was okay with Phase 1; with future phases he is not really on board. There are a number of issues the Councilor hopes to be able to work through on future phases. Council Member Hanz Johansson opined the preliminary plan may not have been properly vetted.

Council Member Doug Egerton indicated there was a legal document received by the Town referencing impact fees and reimbursement to the master developer for infrastructure. Councilor Egerton indicated he was not willing to move forward with anything until further clarification is provided and he was able to better understand the situation.

Town Attorney David Church joined the meeting by telephone.

Bruce Baird stated the approval of the physical design of this project does not have anything to do with impact fees and is not a legitimate basis to turn this project down. If the Council does not vote to approve the plat tonight, Mr. Baird said tomorrow he will send a request under Utah State law that will say the Town will have to make a decision in 45 days. The effect of Phase 1 will have miniscule impact on the money which has been asked for. Councilor Doug Egerton asked if the Town ends up with an impact fee of \$10,000, would the developer still be OK. Mr. Baird detailed what he said was they are entitled to get approval of this project tonight, and they will deal with the impact fee issue over time.

David Church questioned if this is a Master Developer project. Bruce Baird indicated the Shoreline development property was purchased by Mike Stewart. David Church asked who would get reimbursement for these lots; Mr. Baird said it would not be GCD. David Erichsen commented GCD is the sub-developer as it relates to the terminology in the Master Development Agreement. David Church clarified his question asking if anybody is expecting to receive a reimbursement under the Master Development Agreement (MDA) for these lots. Bruce Baird reiterated GCD is not expecting to receive any reimbursement under the MDA for these lots. David Church asked if anyone is expecting to receive reimbursement for these lots; before the development is approved the Town needs to know who is expecting to receive reimbursement and

what the calculation is. Counsel for the Master Developer, Melissa Davidson, stated she was not aware of an agreement as to the amount. Bruce Baird opined the project is entitled to approval and should not be held up by these negotiations.

David Church stated the Master Developer is asserting his rights under MDA; his rights and ours are in the agreement. David Church said the MDA does not refer to an impact fee. Mr. Church stated the Master Developer would have to determine the amount. Bruce Baird said there was nothing between GCD and the Master Developer. David Church declared it appeared the Master Developer was going to seek reimbursement for all future and past developments. Melissa Davidson stated Mustang Development has reminded the Town periodically of the obligation set forward by the Master Development Agreement. Council Member Doug Egerton said there has been eight years to deal with this and nothing was done until now.

David Church asserted the Town does have an obligation to Shoreline, but would like to know the amount. Every development from now on will be subject to the impact fees. David Church recommended the Town immediately start on impact fees; the Town cannot collect for 180 days. Bruce Baird said some impact fees are collected from the developer and some through building permits. David Church opined it is logical at plat level and would be beneficial to the Master Developer.

There was some discussion concerning the consequences of tabling the issue. Mr. Church asked what per cent of the Town is developed. Dave Erichsen replied there are 150 units built and 200 not built. Church declared a lot of the amount outlined by the master developer would not be collectable. Bruce Baird noted the Town cannot charge too much in impact fees and need to be careful what it is charged for. David Church agreed it can only be used for system improvements not project improvements.

Bruce Baird asked for approval of Shoreline tonight and deal with this later. David Church indicated Deer Water is an annexation and doesn't have the same rights. Bruce Baird agreed. Councilor Doug Egerton stated he did not see any downside to being cooperative and no downside to tabling for 45 days.

David Church opined the Town needs a definitive determination from the Master Developer on what he is seeking reimbursement for. Melissa Davidson noted it is up to the Town to generate funds. David Church requested clarification if the Master Developer expects reimbursement for all future building. Ms. Davidson stated the developer wants reimbursement from future development, and she is not clear what is expected from past development. David Church questioned what the Town's proportion of obligation is for this. Melissa Davidson replied it will be a pro-rata share. David Church commented it would be nice to know the pro-rata share will be. David Church reiterated the pro-rata share would be for system improvements, not project improvements; in other words the short answer is if it meets ordinances and development agreement. It should be done as equally as possible. There is no harm in either approving or continuing. Council Member Egerton said if it was continued, the Council could at least understand the intent of the petition.

David Church asked about the size of this Phase. Mike Stewart replied there will be fifty units. Mr. Church asked the expected time of the first building permit. Mike Stewart opined it would be three or four months. David Church advised the Council could agree to approve and the developer could waive the 90 day waiting period on impact fees before the building permit. Mike

Stewart agreed he could do that. Bruce Baird stated the Town needs to create an impact facilities fee plan which would designate what is a system improvement and what is not a system improvement. Then an impact fee analysis must be done. After analysis, the second step is an impact fee ordinance. Third, the 90-day clock starts. The impact fee could be challenged. Mr. Baird said he had never seen anyone charge 100 percent of the fee determined by an impact fee analysis. If it is too high, the likelihood of a lawsuit is increased.

David Church commented, in this case, the task will be to identify system improvements and then the Town's costs, as opposed to Bob's costs, for his developments and the relative share of each. The Town will not be able to collect enough money through impact fees to pay \$24 million. There are a lot of project improvements that apply only to the Master Developer's projects. The master developer will be able to collect some reimbursement.

David Erichsen stated the Council and Town will be in a good position if Mike Stewart goes ahead with the infrastructure not knowing what the impact fees will be; he's doing that at his own risk. David Church opined Mr. Stewart is well represented and not taking any risk. The impact fees can be challenged. This project does not add to the claim filed at all.

Council Member Doug Egerton asked if it will add to the Town's obligation if the impact fee is not collected. David Church replied it would not add to the obligation because the obligation will be what it is right now. The impact fee will be only \$3 to \$4 thousand. Bruce Baird commented he would be surprised if they were that high. David Church recommended the Town get the impact study done as soon as possible. Bruce Baird offered this developer will agree to comply with all aspects of State law when it comes to impact fees.

Mayor pro-temp Dean Heavrin stated Mike Stewart is trying to comply with the Town's requirements. The Town could not have been started without the Master Developer; the Master Developer will not bury the Town. Going forward he wants to get the fee started, and this letter is just a means of building a fire to get it going. The Master Developer contributed a lot to the Town. Going forward, this is an issue that needs to be dealt with.

Bruce Baird declared he has been working with impact fees since 1981. The only way to get reimbursed under Utah law is impact fees. This developer bought at arm's length without knowledge of these impact fees. Mr. Stewart has said he is not only willing to pay according to law, but also to waive 90 days of their protection. David Erichsen opined the 90-day waiver is a valuable consideration. The mayor pro-temp commented the worst-case scenario would be Mr. Stewart pulls out. The Town benefits either way.

The mayor pro-temp opened the hearing to public comment.

Chris Baier thanked Mike Stewart and Glen Gabler for working with the Trails Committee on this development. David Erichsen stated approval was not contingent on the meeting. The developer agreed to meet with Ms. Baier and other residents on May 2nd after the Planning Commission meeting. Ms. Baier commented none of the things discussed in the meeting show on the plan that was presented. The roadway has no save trails or sidewalks and traffic might be substantial. The development needs to be brought into compliance with the General Plan. Open space needs to be contiguous and usable including hiking and biking trails. Ms. Baier suggested the Council postpone the vote. Safety along the main highway needs to be considered.

Sarah Goldkind spoke on behalf of the signers on the letter she sent to the Town and the Council. Ms. Goldkind asked the Council to give consideration to the letter before approving. Their concerns are to the scope, density and layout of Shoreline. This development violates the General Plan. Park facilities are not provided. There are problems with the open space. The architectural heritage of Hideout Canyon should be maintained. There are stacked flats in Phases 2, 7 and 8; stacked flats are incongruous with the surroundings. Ms. Goldkind discussed Phase 2 of Shoreline Village which had previously disclosed and not preapproved for this use. Ms. Goldkind suggested delaying final approval of Phase 1, all stacked units along SR248 and open space reconsidered.

Will Pratt, representing Community Preservation Association, stated the Master Development Agreement has oversight of development. Mr. Pratt reported he has reviewed the plans and the revised plan will connect trails. The development employs clustering as required. Councilor Egerton asked about the safety of Shoreline Drive. Will Pratt assured safety needs will be met.

Kyle Blumin commented in Rustler it is difficult to walk a dog safely. There is no open space to run dogs.

The mayor pro-temp closed the public hearing portion of the meeting.

Bruce Baird clarified the trail committee got comments to the developer the previous night. The trails committee does not have any jurisdiction. GCD has tried to do all it could and more than it has to do under the MDA and is fully compliant. The big picture was approved by the Planning Commission and the Town Council several months ago, and it is not going to be redesigned. Concerning the road layout, the original layout for Longview had no sidewalks. This design complies 100 per cent with Master Development Agreement. There is no room for further negotiations. The development fully and completely complies with the Master Development Agreement.

Council Member Cyndie Neel asked about the width of Shoreline. Glen Gabler answered it is the historical width in the Town – 27 feet from curb to curb. Shoreline Court is 23 feet.

Council Member Doug Egerton brought up Longview Drive is on County maps. The addresses will no longer be “Longview”; will this create issues with the County. Bruce Baird replied this will be handled at final recordation of the plat with the County. Glen Gabler added the County has approved the changes.

Council Member Cyndie Neel motioned to approve the final plan for Shoreline Phase 1. Mayor pro-temp Dean Heavrin seconded. The vote went as follows: Councilor Cyndie Neel – aye; Councilor Dean Heavrin – aye; Councilor Hanz Johansson – nay; Councilor Doug Egerton – aye. The motion passed.

5. PUBLIC HEARING – Discussion and Possible Approval of an Increase in Base Density for All Zones in Hideout Town by 25%

Council Member Doug Egerton motioned to continue the increase in base density to the Council’s next meeting. Council Member Cyndie Neel seconded the motion. The motion passed unanimously with “aye” votes from Councilors Neel, Heavrin, Johansson and Egerton.

6. CONSIDERATION & APPROVAL OF BILLS TO BE PAID – Approval of Payment of May, 2017 Bills

Council Member Doug Egerton asked about the billing for the website. Town Clerk Hallam explained it was for an update to the website which would provide clearer postings of information concerning meetings and associated information.

Councilor Doug Egerton made the motion to approve payment of the May, 2017 bills. Councilor Cyndie Neel seconded the motion. The motion passed unanimously with affirmative votes from Council Members Neel, Heavrin, Johansson and Egerton.

7. REVIEW FINANCIAL STATEMENTS, IF NEEDED

No discussion.

8. PUBLIC INPUT

Council Member Doug Egerton stated at a future meeting he would like a discussion on roads; the process for approval and acceptance. The roads are cracking, scarring, etc. and don't appear to have been built well. Who oversees as to engineering and acceptance of roads. Mayor pro tem Heavrin said it was an engineer duty; the roads are not accepted for a year after completed. Councilor Egerton asked if a developer had to reach a certain density before the Town maintains the roads; the mayor pro tem indicated the Town takes over maintenance as soon as they are accepted. Council Member Egerton asked who makes daily maintenance decisions re: cracks, etc. Mayor pro tem Heavrin stated Mr. Cuillard has gotten bids for some of the repairs.

Lilly Grippo asked why no traffic impact study was required from the developer. Councilor Doug Egerton said a study will be required when density warrants it. Ms. Grippo asked who would be responsible for the study; Councilor Egerton replied the developer would be responsible.

Ms. Grippo also asked about an environmental study. Councilor Egerton commented most of the Town Code is written around the Wasatch County Code. If the Bureau of Reclamation doesn't require a study; we don't require a study. If there are previous designations for where environmental studies are required and wildlife management is required by State, County or Bureau of Reclamation; if they don't require them, the Town doesn't require them. Studies not required.

Mayor Pro-temp Heavrin commented Shoreline is under the RSPA zoning designation and gave a further explanation of that designation. The open space cannot be built on because the density is built on the whole area.

Sarah Goldkind felt by approving developing in phases you lose the continuity and lose some of the control on some things. Council Member Doug Egerton explained that in Rustler the uphill residences are three-story and the downhill are two-story. The mayor pro-temp explained development is clustered and is beneficial for everyone including wildlife. Ms. Goldkind suggested the Council not approve Phase 2 and to require it to be open land. Mayor pro tem

Heavrin explained we can't stop them from developing on private land; Utah is a developer state. Ms. Goldkind asked what the developer is giving; Heavrin said other amenities are coming in future phases and the Council will hold them to it. Councilor Egerton explained the general concept of Shoreline has been part of the master development since 2010. As long as they are meeting the Code, you can't tell them they can't do what they are doing. Even at concept, Egerton was not sure the Council had the right to vote "no". The Council can only try to get some amenities which are best for the residents.

Chris Baier suggested updates to the Town Code to encourage more community friendly development. Chris Baier said in November they are going to request updates General Plan and enforce. Then they are going to request the legislative body upgrade zoning ordinance.

John Luna discussed when doing his due diligence he was not able to find out what was planned; he also complained about the mayor/developer. Mrs. Luna also discussed misrepresentation. It was stated the Town does not have the ability to control realtors and developers in their representations. Councilor Egerton stated it was a civil matter not a Town matter.

9. **ADJOURNMENT**

Council Member Doug Egerton made the motion to adjourn the Hideout Town Council Meeting.

The meeting adjourned at 8:20 p.m.

Lynette Hallam, Town Clerk

Approved: 6/22/17