

HIDEOUT, UTAH
10860 N. Hideout Trail
Hideout, UT 84036
TOWN COUNCIL MEETING
September 5, 2019
6:00 PM

TOWN COUNCIL SPECIAL MEETING

1. **CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Mayor Rubin called to order the meeting of the Town Council of the Town of Hideout at approximately 6:02 p.m. on September 5, 2019 at 10860 N. Hideout Trail, Hideout, Utah, and led the Pledge of Allegiance.

2. **ROLL CALL**

Town Council Members Present:

Mayor Philip Rubin
Council Member Chris Baier
Council Member Kurt Shadle
Council Member Hanz Johansson
Council Member Jim Wahl (by telephone)

Absent: Council Member Dean Heavrin

Staff Present: Town Administrator Jan McCosh
Town Attorney Dan Dansie (by telephone)
Town Clerk Allison Lutes
Public Works Kent Cuillard

Others Present:

Jerry Dwinell, Steven Bergman, John Molenaar, Craig Coburn, Tony Matyszczyk, Jack Walkenhorst, Arianna Farber, Lawrence Goldkin, David Boyle, Melyssa Davidson, Bill Bartlett, Nate Brockbank, and others who did not sign in or whose names were illegible.

3. **Continued Hearing – Consideration and Possible Recommendation to Allow the Mayor to finalize the service Agreement with Utopia/UIA Fiber**

Council Member Shadle reviewed that since the last meeting, the Town received correspondence from the president of All West, offering a new price structure. Jack Walkenhorst, All West's representative, was present to discuss. Mr Walkenhorst indicated the pricing structure as stated in the letter would remain at that price or lower for five years, and he was willing to take it back to the president for a commitment. Consequently, Council Member Shadle recommended postponing the decision on the UIA/Utopia contract until All West could commit to a long-term pricing contract. If All West was in fact going to commit to a long-term pricing structure, Mr.

Shadle felt it would be best not to obligate the Town to the long-term financial structure posed by the UIA/Utopia contract.

Mr. Walkenhorst agreed to have a response from the All West president by the following week; accordingly, the decision concerning the UIA/Utopia contract would be postponed until the September 12 meeting.

Discussion followed concerning the rates and competition. Mr. Walkenhorst assured the Council that All West did not take a price drop lightly and there was no "hidden small print" in the offer. He committed to taking the issue concerning a long-term rate structure to the president, stating that the prices would remain as stated or lower, for at least five years.

Council Member Baier commented her objective for the Town was not only finding competitive pricing but offering services to the entire community. Mr. Walkenhorst stated All West had been in contact with Shoreline 1 and 2, Soaring Hawk and KLAIM, and they continued to reach out to all of the developments.

Council Member Shadle moved to continue discussion on this agenda item until September 12. Council Member Johansson made the second. Voting Aye: Council Members Baier, Johansson, Wahl and Shadle. Voting Nay: none. The motion carried.

Following the vote, Mayor Rubin expressed his appreciation to the Internet Committee for its work.

He followed up with a question to Mr. Walkenhorst concerning Toad Hollow and whether pricing would apply to that area as well. Mr. Walkenhorst acknowledged the pricing would be company-wide and would apply to all areas, and not just to Hideout. Further, he indicated the free installation offer had been extended, however he didn't know how long it would be in place, but he thought All West could extend it even longer. Additionally, Mr. Walkenhorst commented All West would work with those who had already signed up at the higher price to adjust their pricing or plans.

4. Continued Hearing – Consideration and Possible Recommendation to Allow the Mayor to Sign an Inter-local Agreement With MIDA

Jerry Dwinell, Chair of the Planning Commission, presented on the Planning Commission's reasoning for its recommendation authorizing the Mayor to sign the Inter-local Agreement with MIDA.

Mr. Dwinell outlined issues the Planning Commission identified for analysis and clarification: 1) land use authority. The Commission wanted to ensure that if the Town were to enter into an agreement with MIDA, it would have no effect on the Town's existing land use authority; 2) no loss of sovereignty, so that any current or future Town laws would not be exempted within the project area; and 3) look at how the MIDA agreement may affect how the Town would further its goals with respect to the General Plan and where it would be in the next 20 years.

1) Land use: pursuant to the MIDA Act, all land use authority within the Hideout zone would be

assigned by the state to MIDA. However, in the proposed Inter-local agreement, MIDA would designate Hideout as the land use authority. MIDA would have the authority to appeal to the Town Council, and if necessary, to the district court.

Responding to a question concerning what areas within the Hideout zone had yet to obtain Planning Commission approval, Mr. Dwinell stated the vast majority of the properties within the zone already had final development approvals, save for the Warner and Vanden Akker parcels.

Continuing, Mr. Dwinell added the Inter-local Agreement stipulated that all current and future land use decisions and town code would be accepted by MIDA for the Hideout Zone, so there would be no additional layers of approval, and thus no lags in the process.

In sum, Dwinell affirmed there would be no land use authority changes under MIDA.

2) Sovereignty and municipal services. Under the MIDA agreement, Hideout would provide the same services to the zone as it would for the balance of the town. MIDA would pay (via the Municipal Fund) for the municipal services to the zone; it would not provide any services to the Hideout zone without the consent of the Town. Hideout would still provide and receive revenue for permits, inspections, certificates of occupancy, etc. MIDA would not take any portion of those funds.

Mr. Dwinell went on to explain the two MIDA funds and what they would fund. 1): The Municipal Fund. It would fund infrastructure, maintenance, snow removal, professional services, engineering, etc. It would not be audited by MIDA, so the Town would have autonomy on directing how the funds would be spent.

The Development Fund would be the larger of the two funds. Monies from that fund could be used for contract backstops, for example, the Utopia Agreement. The funds would be used for anything to enhance the public and recreational area inside and outside the Hideout zone within Hideout. This would also include any future lands annexed into Hideout. Dan Dansie affirmed the Town would have very wide discretion about how to use development funds within the Hideout zone.

Mr. Dwinell outlined additional fundamental questions the Planning Commission analyzed and addressed:

1) Any lag in land use or Town Code acceptance? All future land use decisions and Town Code changes would be accepted as though MIDA made the change.

2) Any impact to zoning or re-zoning? MIDA would grant full land-use authority to Hideout without restriction.

3) Mr. Dwinell went on to discuss a Salt Lake Tribune article that implied MIDA was a taxation without representation ploy. The Planning Commission concluded MIDA would have no authority to levy property taxes or to set tax rates, nor would it collect taxes.

Mr. Dwinell explained the MIDA Act provided a structure for the reallocation of incremental tax. Incremental tax is defined as the tax produced as a result of increased property values due to

the development of the land. The incremental increase is what would drive the revenue MIDA would receive and distribute back to the Town.

4) The developer would receive a significant portion of the fund as well. The Planning Commission wanted to ensure that the same restrictions imposed on the Town for use of funds were likewise imposed on the developers. The Planning Commission confirmed the developer funds were indeed restricted to infrastructure. He added the perceived windfall to the developers was not a reality; the use of the money to the developers would be restricted as Hideout's would be.

The Planning Commission recommended the Town enter into a side agreement with developers to help guide how those funds can and should be spent and to ensure both the Town and the developers were looking toward the same goals.

In sum, Mr. Dwinell stated the Planning Commission voted unanimously to recommend, and fully supported, the MIDA agreement, as they found no effective change to land use or sovereignty. While the Commission offered certain edits to the agreement which they felt strengthened the agreement, none were principal to the Planning Commission's recommendation. The financial benefits from the MIDA agreement would allow the Town to achieve the goals set out in its General Plan and would provide funding sources for those goals with no impact to property taxes.

Discussion followed concerning MIDA retaining appeal authority. Dan Dansie clarified that MIDA's appeal authority related to land use decisions, rather than fees and structures. Mr. Dwinell commented that if the appeal authority became a sticking point, he felt the developers demonstrated some willingness to relinquish that.

At this time, Arianna Farber, MIDA Project Manager fielded questions from the Council. Council Member Baier asked why MIDA wanted Hideout in the Project Area. Ms. Farber explained the developers were interested in MIDA and wanted to be in the project area. MIDA recognized there were mutual gains for all and for the community. She felt the biggest reason for MIDA was its public policy to provide public places for the military. She stated MIDA would love to be a part of it, but they were not doing a "land grab" and building an empire.

Discussion and debate continued regarding the taxes, the MIDA funds, and Hideout's future with regard to schools in the area, and that MIDA not undermine the Town's long range plans and funding future projects.

Next, Ms. Farber was asked to define "benefit the project area." Ms. Farber responded it specifically related to infrastructure, which could be outside the Hideout area as long as it would benefit the Hideout area, for example a park-n-ride. However, if a proposed project was outside the Hideout Zone, it would have to go before the MIDA board for approval. Dan Dansie clarified that discretion to spend the funds would be bound by the strictures of the MIDA Act, which were fairly broad. (§63-H-1-502).

At 7:15 p.m., Mayor Rubin opened the hearing for public input.

Council Member Wahl inquired about the snow maintenance costs concerning the Jordanelle Parkway. Ms. Farber responded MIDA would be using its Municipal Services fund and the Inter-local agreement to contract back with Wasatch County for snow removal services.

With no public comments, Mayor Rubin closed the public hearing at 7:18 p.m.

Mayor Rubin discussed the modifications to the resolution. Based on the Council's input, the language in Section 3 was modified to state that "(a)ny authority which the agreement delegates to the Mayor of the Town of Hideout will be exercised with the advice and consent of the Town Council."

Dan Dansie explained there were two components to the MIDA decision. The first would be to get the Interlocal Agreement finalized; and the second would be to consent to the inclusion of Hideout within the project area. The current agreement was about 95% agreed upon. MIDA's attorney Richard Cattan felt the changes were good, but Paul Warren, MIDA's Executive Director and the Board still needed to approve it. Before the Council could vote on the consent resolution agreeing to include Hideout in the Project Area, the Interlocal Agreement would need to be finalized. Dansie added If the Council were to take any action this evening, it would make sense for the Council to authorize the Mayor to finalize negotiations of the agreement to present to the MIDA Board for their approval, then vote on the consent resolution.

Ms. Farber confirmed the Council would need to consent, then the agreement would be taken to the MIDA board, which would be meeting October 1. Ms. Farber stated they would need 10 days prior to that meeting to provide notice to the taxing entities. Dan Dansie commented it would be entirely doable to finalize the agreement, if Ms. Farber could work to get the changes from Richard Cattan and have it ready by the September 12 Council meeting.

Council Member Shadle expressed concern with the developer agreements, and the significant amount of money they would be receiving under MIDA; he felt the Council needed to understand how that would be handled. Mayor Rubin responded he and Dan Dansie met with developers this past week, who raised solid points regarding their significant investments they were bringing to the table. The use of those funds would enable them to generate the funds for the Town by helping their cost structure, enabling them to sell the units which would give the incremental tax base to build. Mr. Dansie added the developers, as the Town, were constrained to spend MIDA funds on infrastructure and they had already committed to making publicly available infrastructure re trails parks, and other amenities.

Developer Nate Brockbank stated the MIDA agreement had to be a win-win for everyone: the developer, the Town, and MIDA. They pulled twenty-six permits in Deer Waters, most of which consisted of spec homes. The reason for this pace of development was because of MIDA. He added they would be spending \$36 million on infrastructure on their three projects, and \$256 million to build out all their projects. The number they would be getting from MIDA was very small compared to what they were spending. Mr. Brockbank commented they were competing against builders along the lake that were already getting the money from MIDA. Further, he stated the cost to develop a lot in Hideout averaged approximately \$75,000 per lot, as compared to their other projects in Utah that cost approximately \$40,000, due to several factors: slope, rock, water, etc. He added they brought MIDA to the table because it would be a win-win for

everyone. He offered to sit down with Council members to show what they planned to do and to ensure they were on board with it.

Discussion continued. Council Member Shadle wanted the Town to have a say in how the MIDA money to the developers would be handled. Mayor Rubin offered to work with the developers on some language regarding the undeveloped space on the not-yet approved projects and he would bring it back to the Council.

Council Member Shadle moved to continue discussion on this agenda item to September 12. Council Member Baier made the second. Voting Aye: Council Members Baier, Johansson, Wahl and Shadle. Voting Nay: None. The motion carried.

5. Resolution 2019-09 – A Resolution Appointing the Town Clerk for the Town of Hideout

Mayor Rubin announced the Town Clerk, Lynette Hallam had tendered her resignation. He asked that the Council approve the resolution appointing Allison Lutes as the new Town Clerk.

Council Member Baier moved to approve Resolution 2019-09, appointing Allison Lutes as Town Clerk. Council Member Johansson made the second. Voting Aye: Council Members Baier, Johansson, Wahl, and Shadle. Voting Nay: None. The motion carried.

6. Resolution 2019-10 – A Resolution Cancelling the Election and Declaring Those Candidates Who Filed as Elected

Mayor Rubin explained the deadline for write-in candidates passed on September 3, and with no write-ins received, the Town could cancel the election because there were only three available seats and three candidates. Dan Dansie explained the statute.

Council Member Johansson moved to adopt Resolution 2019-10 canceling the election. Council Member Baier made the second. Voting Aye: Council Members Baier, Johansson and Wahl. Council Member Shadle abstained. The motion carried.

7. Closed Executive Session to Discuss Personnel

Council Member Baier moved to adjourn the regular meeting and convene an executive session. Council Member Johansson made the second. Voting Aye: Council Members Baier, Shadle and Johansson. Council Member Wahl was absent for the vote. The motion carried.

At 7:55 p.m., the regular meeting was adjourned and the Council entered into an executive session.

The executive meeting was adjourned at 8:25 p.m.

Allison Lutes, Town Clerk