

Town Council Meeting Minutes

December 13, 2018

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

Mayor Phil Rubin called to order the meeting of the Town Council of the Town of Hideout at 6:05 p.m. on December 13, 2018 at 10860 North Hideout Trail, Hideout, Utah and led the Pledge of Allegiance.

2. **ROLL CALL**

Mayor Rubin conducted a roll call. The following Council Members were present:

Mayor: Phil Rubin

Council: Chris Baier
Dean Heavrin

Participating by telephone (for part of the meeting) -
Hanz Johansson
Jim Wahl

Also attending: Town Clerk - Lynette Hallam, Kent Cuillard – Public Works, Dan Dansie – Town Attorney, David Erichsen – Town Engineer, Wasatch County Fire Department – Troy Morgan, Clint Neerings and Gary Sessions, Bill Bartlett, Ken Block, Jerry Dwinell, Jared Fields (Mustang Development) and Will Pratt (Community Preservation Association)

3. **MINUTES - Consideration and Approval of Minutes for Regular Meeting of November 8, 2018**

Council Member Dean Heavrin motioned to approve the minutes of the regular meeting of November 8, 2018. Council Member Chris Baier seconded the motion. The motion passed unanimously with affirmative votes from Councilors Heavrin, Johansson and Baier.

4. **DISCUSSION OF COUNCIL VACANCY – Process to be followed to fill the vacancy created by the passing of Doug Egerton**

Mayor Phil Rubin advised the process needed to begin to replace Doug Egerton after his unfortunate passing. Dan Dansie indicated the State statute prescribes the Council is to fill the vacancy at a public meeting. A notice about the purpose of the meeting to fill the vacancy needs to be posted inviting any interested person to submit their name and a deadline needs to be provided. At the meeting, the Council will interview the candidates and then vote on who the replacement should be. The interviews are public. The candidates are to stand at the podium and introduce themselves. The Council will have the opportunity to ask questions.

Council Member Hanz Johansson asked how the vote would be carried out. Mr. Dansie said the statute indicated the method of selecting the individual with the highest vote. If there is a tie, another vote is held. If there is still not a winner, lots will be drawn. Councilor Johansson asked if every council member voted only once. Town Clerk Hallam indicated she would call the Lt. Governor's office for clarification.

The mayor stated the successful candidate will serve to the end of next year. The requirements for the candidates are they must be a registered voter and live within Town limits at least one year. There is a required two week notice before the meeting to interview the candidates.

Council Member Chris Baier commented Councilor Egerton's passing was a tremendous tragedy to his family and a loss to the community. The Councilman served with honor and took that service seriously. To him, transparency and honesty was paramount.

Councilor Baier suggested staff should collect letters from prospective candidates. The candidate letters would be submitted to the Council after the deadline. There will be a meeting after the 14-day period. Council Member Baier stated the statute addressed the matter if the vacancy is not filled within 30 days. Attorney Dansie advised that the deadline for submission of letters of interest is within 30 days it meets that requirement. Mayor Rubin said the notice will be posted tomorrow. Mr. Dansie said the statute does not give any specific notice requirement. Councilor Baier proposed the meeting be held January 3, 2019. There was tentative agreement; candidates and Council members can participate electronically.

Council Member Hanz Johansson asked for a moment of silence honoring Doug Egerton. The mayor asked attendees to observe a moment of silence, after which the meeting continued.

5. DISCUSSION ITEM – Municipal Tax Options

Attorney Dan Dansie said after research he found the Town has a role, with limits, in setting the property tax rate. The County Assessor assesses and collects the taxes and asks the Town to compute an equation which is used by the assessor to assess the taxes. The way the Town participates is by providing a certified tax rate. If the Town decides it wants to change the rate it is an extensive process which requires substantial noticing to the County Council and County Executive Branch and to all the property owners by mail with the specific statutory content. A public hearing is required; at the hearing the Council provides financial information about the Town Budget and why the tax increase is in the public interest. After that process the Town would adopt an ordinance and provide it to the County. Mayor Rubin added the Town gets a piece of what the county gets. A change would affect the amount the Town gets, not the County. The mayor suggested this be revisited and needs assessed in April.

6. PUBLIC HEARING – Consider and Possibly Adopt Ordinance #18-07 Amending Chapter 3 of Title 10 of the Town Code and Appointing Wasatch County Fire Commissioner for Review of Plats

The mayor commented the Fire District was in attendance to discuss Ordinance #18-07. The Town has received two written comments which will become part of the record.

Attorney Dan Dansie reported this item comes by way of recommendation from the Planning Commission who put a lot of time, effort and thought into drafting the ordinance. The ordinance gives the Fire Department an opportunity to review plats; the developers also have a chance to give their comments. The information from that process would come to the Town Council to make a decision.

Clint Neerings introduced himself as the Fire Marshall of the Wasatch County Fire District. Mr. Neerings outlined their goal as providing life safety to the residents of Hideout; secondly, they are concerned with the first responders' safety. The Fire District welcome the opportunity to make comment on development plats because they want to be able get people in and out of subdivisions in emergency situations. Life safety is the first priority, property conservation is second. The Fire Marshall said they review plats with pretty much everyone in the County. The Fire Department signs County maps and gives input to cities. Handouts were distributed showing why this is so important. Communities are at risk; the handouts show fuel hazards with numerical classification and protection capabilities. Hideout ranks a total of 8; the highest risk is 12. Tuhaye rates an 11. These numbers will continue to increase if nothing is done. The main concern is access and secondary access when required.

Dave Erichsen inquired about the difference between community hazards. Troy Morgan, Fire Warden, a couple of years ago put together the U-wrap map. If there has been a lower fire happening there is a lower rating. There was some discussion of fires that have happened and rating methods. Dave Erichsen commented on the wildland ordinance cooperative agreement which states Counties must be deemed as wildland; municipalities are excluded. Mr. Erichsen asked if municipalities grow out of the designation and Mr. Neerings said it doesn't necessarily. Clint Neerings stated they can work to amend the map. Councilor Chris Baier questioned Dave Erichsen's concerns. Mr. Erichsen said he is concerned about the end game; if we do this, what else will it trigger. Mr. Dansie commented the Town can choose whether they want to adopt wildland interface code. That doesn't affect if the Town is in the Urban Wildland Interface Zone.

Council Member Baier asked if elevation, topography and fuel loading add to the rating. Troy Morgan said they all add to it. Dan Dansie asked about the fire at Deer Creek a few months ago. How does the topography of that area compare with Hideout? Mr. Morgan typically their biggest fires are in topography just like Hideout, oak brush, sage brush, cheat grass and rolling hills along with windy days.

Commissioner Jerry Dwinell asked how this relates to the ordinance. The Fire Marshall opined the ordinance just gives the Fire Department an opportunity to give input.

Commission Chair Kurt Shadle asked if the fire personnel have any problems with the ordinance. Marshall Clint Neerings said the two-week deadline is a little short. Mr. Neerings assured they are not here to stop or slow development. Troy Morgan stated the end game is always public safety. Clint Neerings said he encouraged the wildland urban interface code. Defensible space significantly increases the ability to defend a home. Dan Dansie asked if subdivision review is provided for communities who have not adopted the Urban Wildlife Interface Code. They will still provide review. Do any

comments refer to standards? Mr. Neerings replied they will provide comment that will resolve issues. Clint Neerings it is not written in stone; we can discuss.

Dave Erichsen asked if the Fire Department is going to grant exceptions. Clint Neerings it is all referenced through section 5. Dan Dansie pointed out the Town is asking for subdivision review and comment. Mr. Neerings they could have a DRC meeting propose access issues, the Town can work with them or not do as they recommend. Jerry Dwinell stated from the Planning Commission standpoint, he asked footnote references and statutes.

Dave Erichsen said his concern was the Town will be saddled with the issue. A limited access highway is protected by UDOT and the United States government which causes some of these issues. Wasatch County aggressively taxes accesses. The County allows for a solution, the roads will come. Dan Dansie asked how Mr. Erichsen's concern was compounded by this ordinance. Mr. Erichsen said the Town has their own code official to work with Clint Neerings, they would negotiate all of that. Clint Neerings agreed the Town had their own Marshall in the past; he had worked with the Fire Department there was no ground gained because the Marshall felt there was not an issue.

Troy Morgan stated the driveways are not up to County Code. Dan Dansie commented the ordinance provides an opportunity for developers to provide input. Mr. Erichsen pointed out more road connections come with development. Jerry Dwinell provides for the Fire District to have an advisory capacity not a consent capacity; it is non-binding. Dan Dansie stated Mr. Neering's opinion and other opinions can be provided. Dave Erichsen commented the missing piece is the taxing authority obligation to resolve it.

Kurt Shadle commented there would be input from the Planning Commission. Some of what Mr. Erichsen is talking about is found in this ordinance. The Town wanted to make sure there is flexibility allowing developers to provide their own input. The ordinance allows the Town Council to make the determination. There will be consideration of all points of view. Dan Dansie advised if the Town adopts the ordinance and the Fire Department is not cooperative, the Town can get away from them. Dave Erichsen reiterated future roads can count.

Mayor Rubin commented the intent of this ordinance is to collect input from a variety of sources from all sides so we can make an informed decision. The mayor pointed out that in Golden Eagle, because of the topography, he does not see how a future road will resolve another way out of that place if we don't build now.

Councilor Chris Baier pointed out the residents on this side of SR248 need to be considered. It is windy here and dry. There are a lot of residents here and more and more development; it is a matter of public safety. Council Member Baier understood it could be burdensome to developers.

Kurt Shadle commented his stepdaughter's house was lost in Malibu; they just barely got out. That is the importance of having a good plan. Troy Morgan stated the Fire Board is open to meeting with Council members to determine what can be done to prevent this

type of incident. The biggest thing is defensible space and roads (ingress and egress). It is foolish to think this cannot happen to us.

Mayor Rubin said this is why he asked the Planning Commission to investigate this matter; there is no downside in this ordinance. Fire danger is our biggest natural risk we have.

Dave Erichsen commented to Clint Neerings it is refreshing when he said the whole story, and he told it straight. This is a tough subject.

Ken Block pointed out he lives in Soaring Hawk, and there is one way in and one way out. We are surrounded by combustible materials. Mr. Block mentioned a flame-retardant kit with which a homeowner can spray their home. Clint Neerings talked about the thirty-foot defensible zone needed; the Fire Department will come and work with individual home owners. Troy Morgan stated he has not seen the fire retardant work. Clint Neerings suggested fire restrictive material on the exterior of a home. Mr. Block pointed out there is a cheat grass infestation; also, fire pits are dangerous. Serious conditions exist and the Council may need to look into solutions. The mayor declared the first step is to get input. Step 2 a decision needs to be made concerning what we can do. Another resident commented by letter about fuel loading. Mr. Block pointed out there is a lot of heavy equipment working which could spark a fire.

Council Member Baier commented on Richard Lafayette's letter. Mr. Lafayette is concerned about the field grass that grows around his house and neighboring houses. The grass is a result of hydroseeding by the HOA. Mr. Lafayette suggest the Code not allow the field grass to be planted and that it should be cut twice a year with equipment that has spark arrestors.

Jared Fields opined no one disagrees with the importance of fire safety but asked if delegating to the Fire District is in the best interest of the Town. Fire district does not have hard and fast rules. There are reasonable disagreements of opinion. This ordinance is going to hamstring developments. The prior Fire Marshall reviewed plats. A Fire Marshall can liaison with the District and the Town. Mr. Fields asked his letter be part of the record. Mr. Fields was concerned about any attempt to retroactively apply the ordinance to plats that have been approved; legally the Town can't go back to the preliminary plat. This is a violation of the Master Development Agreement and the Town Code.

Council Member Chris Baier asked Mr. Fields if he lives in Hideout and if he is familiar with Rustler. The roads in Rustler are dangerously narrow. The past fire official did not protect the Town. Concerning the recent medical emergency with Councilmember Egerton, the roads probably made it difficult for emergency crews to reach his home. It is in the best interest of the Town to take this very seriously. This could be a difficulty for one developer. The Town has not heard from any other developers concerning this ordinance. Deer Springs worked with fire department on their development. Mr. Fields stated he has a unique interest of retroactive feature. Mr. Fields claimed the Klaim development has concerns. Mayor Rubin advised they raised no concerns with the Town.

Jared Fields stated he is saying from a public policy perspective; more data points would be beneficial.

Clint Neerings said they are public servants, and they do work for us. There is cost to the Codes that are developed and the Town does not have to pay for that.

Dan Dansie stated he appreciates the time and thoughtfulness Mustang put into these comments. In the letter point number three says the ordinance does not provide for what happens if the Fire District does not provide comment; if the Fire District does not provide comment, the plat goes ahead as they have waived the opportunity. This could be spelled out in the ordinance. The Town Council may also want to address the time frames.

Mr. Dansie addressed the retroactive issue. The statute referenced in the Ordinance refers to vested rights of an Applicant; the exception is if the land use authority finds countervailing public interest. Fire safety is a countervailing public interest. Mustang is aware of the importance of that policy because they put it in their MDA. In Section 4 of Mustang's development agreement, it talks about the vested rights. Section 4.3 outlines certain exceptions to the vested rights. Section 4.3.6 talks about laws and regulations that the land use authority finds countervailing public interest. This is something which can be applied going forward. The Town doesn't face a threat of litigation until an application is presented.

The mayor raised a point of order; because Council Members Johansson and Wahl are no longer attending by phone, there cannot be a vote because there is no longer a quorum present. The attorney pointed out that all the comments from tonight are part of the record.

Councilor Chris Baier questioned if there would need to be another public hearing; Dan Dansie stated it did not have to be a public hearing, but he recommended allowing public comment.

The Mayor stated this issue will be revisited at the next council meeting on January 10.

7. ORDINANCE #18-08 -- An Ordinance Establishing a 2019 Regular Meeting Schedule for the Meetings of the Town Council of Hideout, Utah

Due to the lack of a quorum, this matter was deferred to the January 10, 2019 meeting.

8. Discussion Item - Proposal from MIDA to have a portion of Hideout be included in the MIDA MRF project area

Mayor stated he spoke to the Council on a couple occasions about MIDA. They have offered to incorporate a portion of Hideout into the project area. They are interested in back stopping their infrastructure by having the fiber come through there to SR248. They also like the idea of access

the State Park, boat launch and trails being in their project area. This will be a great revenue source for the Town; that revenue would have to be used for public improvements in the project area.

Now the MIDA people are saying if we want in for the first phase, they need to know by Monday. The risk to Hideout is there must be a resolution, which we can't pass tonight because of the lack of a quorum. A phone-in meeting could be held to authorize the mayor to sign an interlocal agreement. The hard part is are we comfortable with the interlocal agreement by Monday. It will be similar to what was signed by Wasatch County. The reason for wanting to do this by Monday is part of the revenue stream is based on the base year which defines the pot of revenue we would be sharing. If not signed by Monday, we will lose one year. It is irrevocable with MIDA.

Dan Dansie stated he has not vetted the agreement and will not be able to vet it by Monday. The term of the agreement is fifty years; there is a 25-year tax increment period. During the 25 years, MIDA gets all the taxes; they split 30% with the developer. The 70% would first be used for the construction of the fiber infrastructure: after that it would be split evenly with the Town. That money will have to be used for something to benefit the project area, things that would enhance the recreation value to the military in that area. Mayor Rubin said it does not need to be in area but would have to benefit the area. Mr. Dansie said there needs to be some kind of nexus of benefit and money spent. The mayor said transportation upgrades could be a possible benefit.

Mayor Rubin asked again if the Council wanted to try to get this thing done by Monday. If so, the documents have to be vetted by Monday. A meeting could be scheduled later next week. Any changes would have to be in by Monday. Kurt Shadle asked how much money the Town is giving up if we wait. Mayor was not sure of the actual number of dollars. Council Member Dean Heavrin commented MIDA can come in and change everything. Mayor Rubin said the interlocal agreement won't allow that. MIDA would give control to Hideout. They will adopt Hideout's standards as their own.

Mayor none of us feel very comfortable about this at this point. It would be irresponsible to sign without knowing. Dan Dansie stated we could let them come in and negotiate agreement down the road.

Dan Dansie outlined the options: sign now, adopt a consent resolution and hope they do what they say they will do, or wait another year.

Council Member Chris Baier asked why did MIDA not come to the meeting. Mr. Dansie opined we are not the crucial piece. Kurt Shadle felt MIDA was really trying to help us. Jerry Dwinell would reduce the bill from UTOPIA about \$600,000; and would lower the monthly cost to residents.

Mayor Rubin was not comfortable rushing this through; we will be ready by April.

9. CONSIDERATION & APPROVAL OF BILLS TO BE PAID – Consideration and Possible Approval of Payment of November 2018 bills

Again, due to a lack of a quorum, there was not a vote to approve payment of bills. It was stated there will be a phone-in meeting to approve the bills.

10. PUBLIC INPUT – Floor Opened for Any Attendee to Speak

Jerry Dwinell asked concerning property taxes, can Hideout get a bigger slice of the County portion of the taxes. He was advised we cannot.

11. ADJOURNMENT OF PUBLIC MEETING

The meeting adjourned at 8:45 pm.

Lynette Hallam, Town Clerk

Approved: 1/10/19