

**Town of Hideout  
Town Council Meeting Minutes  
10860 North Hideout Trail  
Hideout, Utah  
June 27, 2019**

**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 6:00 p.m. on June 27, 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)

**Excused:** Council Member Dean Heavrin

**Staff Present:** Town Attorney Dan Dansie (by telephone)

**Others Present:** Pat Putt, Jerry Dwinell, and others who did not sign in or whose names were illegible.

**3. CONTINUATION OF PUBLIC HEARING – Annexation Policy Plan.**

Mayor Rubin reported that the Annexation Policy Plan (the “Plan”) had been introduced at the last meeting and a lot of feedback was received from MIDA, Summit County, Park City, and contiguous landowners challenging the breadth of real estate the Town was proposing in its Plan. Additionally, the Town was in receipt of a letter from Park City suggesting that the process to amend the Plan was not in compliance with statutory requirements.

Mayor Rubin opened the floor to public comments.

Pat Putt, Community Development Director for Summit County, reviewed that Tom Fisher, County Manager for Summit County, sent a letter to the Council concerning the annexation plan and requested it be entered into the record.

With no further public comments, Mayor Rubin closed the public hearing.

Mayor Rubin asked Dan Dansie for his legal opinion regarding whether the Town would need to repeat the notice procedure again.

Mr. Dansie responded that the required notice procedure was not followed correctly at the Planning Commission level, whereby there should have been two different hearings. The initial hearing would be to discuss the proposal, after which there would be a ten-day window for feedback. Following the ten-day period, a second hearing would be held to review the comments and make revisions before recommending the Plan to the Town. He felt that based on the feedback from Park City, Summit County, MIDA and others, the current intent of the Council would be to redraw and revise the map, send it to the Planning Commission and go through the process again. Accordingly, this would eliminate any basis for a procedural challenge to the revised Plan.

Discussion and questions from the Council followed concerning the procedure and legal compliance. Mr. Dansie advised the Council to start from the beginning, since it appeared the map would be revised anyway, to comply with both the spirit and the letter of the law.

Council Member Shadle explained his understanding regarding the Planning Commission's reasoning behind the proposed annexation map, adding that the Plan's purpose was to anticipate in the long term what the Town could look like depending on a number of variables: 1) the MIDA areas were included as a defensive strategy if the MIDA plan were to fail or if MIDA could not completely fulfill their obligations. If that were to happen, the Town would want those areas included for potential annexation. 2) the broadened scope of the annexation map was to provide land for public space: parks and trails which Hideout did not currently have. 3) The Town needed a way to increase its revenue to take care of its children and build schools.

Dan Dansie agreed that an annexation policy plan identified potentially appropriate areas for expansion under certain terms and conditions. Hideout would have the ability to revise the Plan anytime in the future and include language concerning MIDA, if the situation became a more realistic possibility.

Mayor Rubin referred to a map depicting boundaries included within the MIDA project area and Wasatch County consent agreement. He indicated he would facilitate having this map overlaid with the Town's map to better depict all areas involved.

Mr. Dansie summarized Park City's objections to the Plan, based on his conversations with the Park City attorney and his review of Park City's letter:

- Involved areas within their long-range planning
- Park City owned some of the land in the Richardson Flat even though not within the municipal boundaries of the city
- Some of the land was deed restricted in a manner that would limit development
- Some of the area was part of a NEPA study and/or a remediation area

Mr. Dansie added he was not aware that any of the land identified by Hideout's Plan was currently within Park City's Annexation Policy Plan.

Council Member Shadle commented on a KPCW news article stating Park City would consider amending its annexation plan this evening in response to action by a neighboring municipality.

He felt Park City was attempting to be the first to claim their annexation plan and to hold off Hideout. He suggested all neighboring communities have a sit-down meeting to discuss their respective plans.

Mayor Rubin commented he and Mr. Dansie did have a discussion with Park City this week about their letter. Basically, Park City recited their letter contents at the meeting. Mr. Dansie added they also had a conversation with Tom Fisher from Summit County. As to the legality of overlapping annexation policy plans, Mr. Dansie advised that while it was true that two municipalities could not annex the same property, there was no prohibition on two municipalities having the same area within their annexation policy plans, however the statute discouraged it.

Mayor Rubin encouraged the Planning Commission to think about the input from the various entities and to take each piece separately. Jerry Dwinell agreed language needed to be added for future issues. The Council was agreeable to considering and discussing the Plan with the other entities.

Discussion ensued regarding the noticing procedures associated with the hearings. Dan Dansie suggested planning a sit-down public meeting with Park City, Summit County and others including the public; this would be considered as the first hearing. Then the second meeting could be scheduled after the statutory 10-day waiting period. He further expounded on the process regarding the review of and modifications to the Plan as a part of the public hearing schedule. Jerry Dwinell commented this hearing could be added to the Planning Commission's July agenda. Mr. Dansie affirmed the Planning Commission would be required to notice affected entities via mail: the counties, service districts, or municipalities within ½ mile of the boundary. He added even if the revised map boundaries fell outside ½ mile of Park City, he still advised providing notice to them as well. The following dates were discussed for the Planning Commission's hearings: July 18 and August 1.

Mayor Rubin opened the floor for public comment.

Nate Brockbank asked whether any action this evening by Park City on its plan would result in the first claim to the plan. Council Member Baier affirmed it would but she noted the Town Attorney advised the Town needed to provide proper hearing notice to adhere legally without challenge. Mr. Brockbank recommended the Town hold the hearings as quickly as possible and not change the Plan at all.

Pat Putt stated he was not aware of any recent action from Park City to extend their map across US 40. He added they recently had a robust discussion on annexation expansions in the Summit County area and they held back in moving forward on the east side of US 40. He believed they were going back and taking another look at it, however, he did not believe it was motivated by Hideout's recent work. As far as he was aware, Park City would not be taking action this evening and were instead going to discuss the broad topic of annexation areas. In closing, Mr. Putt stated Summit County would welcome a sit-down meeting with all the jurisdictions, including Hideout.

Ron Spratling stated he owned 23 acres about which he had been discussing annexing into the Town and was looking forward to it. He encouraged the Town to continue with the Plan as

boldly as it felt, but at some point, the Town would need to understand it had an area it could safely and effectively manage for the betterment of the population. Mr. Spratling commented he was very much in favor of the MIDA project.

With no further comments, Mayor Rubin closed the floor to public comments.

Discussing the hearing schedule, the Council agreed the goal would be to have the matter heard by the Planning Commission and moved before the Council to be heard at its August 8 meeting.

*Council Member Shadle moved that the Council send the Annexation Plan back to the Planning Commission for review and to reset the statutory process for moving it forward. Council Member Johansson made the second. Voting Aye: Council Members Shadle, Baier, Johansson and Wahl. Voting Nay: None. The motion carried.*

**4. PUBLIC HEARING – Consider the recommendation of the Planning Commission to approve a zone change for the Vanden Akker parcel from Mountain Zone to Residential Medium Density**

Jerry Dwinell, Chairman of the Planning Commission, explained the Planning Commission was currently working to rework the Town's zoning definitions and recommended the Lake View (Vanden Akker) zone change to Residential Medium Density with the following restrictions (which are consistent with the current zoning redefinition project, projected to be completed this year):

1. 25-foot minimum front setback.
2. 25-foot minimum driveway length.
3. Five-foot or 15-degree offset from the neighboring building or road.
4. Single-Family Detached only
5. Max ERU of six.
6. 35-foot maximum building height, subject to review.
7. DRC will consist of two Town officials.

Discussion followed concerning the zoning and density. Mr. Dwinell explained the maximum 6 ERUs decreased the density in this zone. He explained the Town did not currently have anything in the Town zoned residential medium density, adding that if the Vanden Akker parcel remained mountain zone, it would be very difficult to build anything on that property.

Council Member Baier asked what benefits the Town would derive in changing the zoning. Mr. Dwinell responded there would be an increased tax base associated with re-zoning and if it were added to the MIDA project area, there would be an additional financial advantage afforded to the Town via the Development Fund to fund parks and trails and other projects the Town envisioned. Ms. Baier expressed concern with higher densities and their impact on the environment. Discussion followed regarding same.

Jerry Dwinell noted that current Town Code allowed the use of a conditional use permit in the mountain zone. Accordingly, if a conditional use permit came in and it planned something that the conditional use allowed, it could not be denied. He used Sunrise as an example of the use of a conditional use permit. The conditional use would allow the developer or landowner to frame out what they wanted, and the Town would not have control.

Dan Dansie explained that the restrictions suggested by the Planning Commission outlined this evening would be considered a voluntary restriction beyond what the current Code required. To achieve the goals the Planning Commission was working to accomplish, the landowner expressed its willingness to enter into a deed restriction whereby the owner would voluntarily subject the property to the additional conditions that were not yet part of the zone to which the property would be changed.

Mayor Rubin opened the floor for public comment.

Nathan Brockbank – the developer explained his conceptual drawing, the neighborhood layout, the home designs and the infrastructure and how they changed it to incorporate the conditions, i.e. the setbacks and offsets, etc. He also discussed his projects and how he considered others' input and comments and felt Lake View was a great product and would be competitively priced with the other townhomes. He added that if approved, MIDA would be a good bonus for the Town. Mr. Brockbank stated the project was designed to allow over 30% of open space, well above the required 25%. Further, he mentioned they would like to include an access to the parks with a trail. Council Member Baier felt the whole Town needed access, and not just HOA by HOA.

Council Member Johansson asked whether the straight roads surrounding the development could be re-aligned to include more curves. Mr. Brockbank agreed to look into it and change it.

Dennis Vanden Akker - Land owner, commented on the trail access to park. After having served on a committee concerning access to the park, he commented he knew a trail access would be agreeable to the park authorities. He commented how impressed he was with the Planning Commission and their due diligence. He was in favor of the development.

With no further public comments, Mayor Rubin closed the floor.

*Council Member Shadle moved to accept the Planning Commission's recommendation to change the zoning of the Vanden Akker parcel to Residential Medium Density incorporating the six deed restrictions that have to be filed within 15 working days. Council Member Wahl made the second. Voting Aye: Council Members Baier, Shadle, Wahl and Johansson. Voting Nay: None. The motion carried.*

**5. DISCUSSION and POSSIBLE ADOPTION of an ordinance requiring delinquent tax payments be made before approving development or building permits.**

Council Member Shadle explained the need for the resolution and ordinance, explaining most delinquent taxes were developer delinquencies. The Wasatch County delinquent tax roll listed

\$3.6 million in delinquent taxes, of which Hideout's portion was \$700,000. He added the Town needed to be able to require payments be current.

Mr. Shadle explained the difference between the resolution and the ordinance, both of which were drafted by the Planning Commission: Resolution - for developers and/or taxpayers that were covered by an MDA; and Ordinance - for developers and/or taxpayers that were not covered by an MDA.

Discussion followed, with Dan Dansie explaining the legal implications and potential challenges.

Mayor Rubin opened the floor for public comment.

Jared Fields representing Mustang Development (by phone): commented he could not view either the resolution or the ordinance on his screen or on the website and added public notice had not been provided. Dan Dansie explained a land use ordinance should be available before a meeting, however it was not required to be posted on the website, only made available for review. Mayor Rubin commented the website was down.

Mr. Fields expressed his concern that this ordinance would be preempted by State statute for collection and enforcement of property taxes, and he felt it would invite litigation. He also commented this ordinance would limit a developer's ability to generate revenue with which it could satisfy the property tax obligation. He felt certain there would be developers with liquidity issues, and if the Town were to adopt this (even if legally permissible) it may impair those developers' ability to bring in money to satisfy not only their tax obligations, but to increase the tax base by having a fully developed parcel. Finally, he commented (from Mustang's perspective only) it was frustrating that the Town, which was in default under the provisions of the Master Development Agreement to facilitate reimbursement for tens of millions of dollars of infrastructure, to then accuse Mustang of not holding up its end of the bargain.

The Council agreed to move this item to the next meeting.

*Council Member Shadle moved to continue this item to the next Council meeting, to provide ten days' notice and to provide access to all the documentation concerning this agenda item.*

*Council Member Baier made the second. Voting Aye: Council Members Johansson, Baier, Shadle and Wahl. Voting Nay: None. The motion carried.*

**6. PUBLIC INPUT – Floor open for any member of the public to speak (5 minute limit per person).**

Jerry Dwinell: commented regarding the pond and the deteriorating conditions and asked for an update. Mayor Rubin explained a letter had been sent on June 24 to Outlaw Golf Course citing nuisance code violations and providing a deadline for a response. It was indicated the HOA could also be copied on correspondence concerning the Golf Course. The issues also included not only the pond, but the maintenance area and the pro shop as well.

*Council Member Shadle moved to adjourn to executive session. Council Member Baier made the second. Voting Aye: Council Members Baier, Johansson, Shadle and Wahl. Voting Nay: none. The motion carried.*

Whereupon the Council moved to executive session.

The meeting adjourned at 8:50 p.m.

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Allison Lutes, Deputy Town Clerk

APPROVED