

Minutes
Town of Hideout
Town Council - Special Meeting
September 08, 2020

The Town Council of Hideout, Wasatch County, Utah met in Special Meeting on September 08, 2020 at 5:00 PM via electronic virtual meeting via Zoom conference call due to the ongoing COVID-19 pandemic.

Regular Meeting

I. Statement by Mayor Regarding No Anchor Location Due to Substantial Risk to Health and Safety

1. No Anchor Site Determination Letter

Mayor Phil Rubin read the no anchor site determination letter in its entirety.

II. Call to Order

The meeting was called to order at 5:12 pm.

III. Roll Call

Present: Mayor Phil Rubin
Council Member Chris Baier
Council Member Jerry Dwinell
Council Member Carol Haselton

Excused: Council Member Bob Nadelberg

Staff Present: Town Administrator Jan McCosh
Town Attorney Polly McLean (excused at approximately 6:25 pm)
Town Planner Thomas Eddington
Town Clerk Alicia Fairbourne

Others Present: Summit County Council Member Kim Carson, Park City Mayor Andy Beerman, Gwen Wetzel, Ken Block, Karen Scheible, Margaret Plane, Tom Daley, Linda George, Rich Wyman, Steven Spaulding, Kim Carson, Ralph Severini, Alexander Cramer, David Everitt, Nate Brockbank, Esteban Nunez, Cheryl Soshnik, Josh Mann, Nann Worel, Max Doilney, Claire Olio, Thea Leonard, Margaret Plane, Sheri Jacobs, Richard Shapiro, Bruce Baird, Jim Doilney, Blaine Thomas, Becky Yih, Cara Goodman, David Bennett, Steve Joyce, Robert Mansfield, Linda Jager, Jon Schumann, Alex Natt, Angela Moschetta, Tim Henney, Myles Rademan, Grant Petersen, John Phillips, Laura Willis, Ron Winterton, Spencer Lace, Stephen Spaulding, Lynn Ware Peek, Mary Christa Smith, Sean Keller, Bruce Erickson, Mark Boyle, Nann Worel, John Kenworthy, Julie Joyce, Hans Fuegi, Meg Steele, Leia Larsen, Lynn Ross, Kim Carson, Sean Philipoom, Renai Miller, Steven McKay, Roger Armstrong, Becca Gerber, Lindsay Payeur, Celia Peterson, A. Tate, Aimee Fuhriman, Emma Prysunka and others who may not have signed into the electronic meeting using their full name.

Mayor Rubin stated because a full quorum was not present, all presiding members of Council would need to vote unanimously on action items in order for any act to be taken on that item. If the vote was not unanimous, the item would be continued until the September 10, 2020 meeting.

IV. Agenda Items

1. Consideration and Possible Action to authorize the Mayor to enter into the Indemnification Agreement with N Brockbank Investments, LLC related to the annexation proposal which was the subject of the July 9, 2020 Resolution of Intent to Annex in a form approved by the Town Attorney.

Council Member Jerry Dwinell asked for clarification on which items required a positive vote in order to move forward on the amended intent to annex. Town Attorney Polly McLean clarified each agenda item was somewhat stand-alone, and each item was not predicate of a positive vote of the preceding agenda item.

Mayor Rubin presented the Indemnification Agreement. Ms. McLean reviewed the agreement and stated it was created in order to cover the Town for indemnification costs to be indemnified for any lawsuits and fees based on the resolution passed on July 9th, 2020 (*clerk's note: Resolution 2020-05, a Resolution of Intent to Annex*). Council Member Dwinell asked for clarification on the final clause which stated Brockbank had no right to direct the Town's litigation strategy, outcome of the litigation, or other strategic decisions. Attorney Rob Mansfield and Ms. McClean provided clarification and stated under the rules of professional conduct, even though a party was paying legal costs, that party would not have the right to direct how, or what, actions were taken. Furthermore, it was limited to the Town being able to direct and guide the litigation. Ms. McLean further clarified the developer (Nate Brockbank) would be allowed privileged information from the attorneys, although he would not be allowed to direct the action.

Council Member Chris Baier stated it was very important for a small town such as Hideout to have an indemnification agreement in place in order to protect the Town and those who wished to develop within the Town.

Council Member Dwinell asked if the indemnification agreement would apply to any action taken in regard to the Town being named. Ms. McLean clarified it would only protect the Town in the event of any action taken from Resolution 2020-05.

There being no further questions from Council, Mayor Rubin asked for a motion to authorize the Mayor to enter into the Indemnification Agreement as discussed.

Motion: Council Member Dwinell moved to authorize the Mayor to enter into the Indemnification Agreement as discussed. Council Member Haselton made the second. Voting Yea: Council Members Baier, Dwinell and Haselton. Motion passed.

2. Consideration and Possible Action to authorize the Mayor to rescind the July 14, 2020 Pre-Annexation, Development, and Reimbursement Agreement which was authorized by the Town Council on July 9, 2020, in a form approved by the Town Attorney.

Mayor Rubin presented the document to rescind the July 14, 2020 pre-annexation, development, and reimbursement agreement. Council Member Dwinell inquired about the ongoing litigation and expressed he thought the litigation was completed. Mr. Mansfield and Ms. McLean explained it was still ongoing, however, the court entered an injunction prohibiting the Town to move forward on the authorized annexation as presented on July 9th, 2020. It was further discussed why the pre-annexation agreement was not rescinded at the same time the resolution of intent was repealed, which was to assure there would be indemnification and reimbursement of cost.

Council Member Baier inquired if, by authorizing the Mayor to rescind the agreement, it would settle the dispute between Summit County and the Town. Mr. Mansfield commented it would be a step in the right direction, however, it may not ultimately settle the dispute.

There being no further questions from Council, Mayor Rubin asked for authorization to rescind the July 14, 2020 pre-annexation development and reimbursement agreement.

Motion: Council Member Haselton moved to authorize the Mayor to rescind the July 14, 2020 pre-annexation development and reimbursement agreement, which was authorized by the Town Council on July 9, 2020. Council Member Baier made the second. Voting Yea: Council Members Baier, Dwinell, and Haselton. Motion passed.

3. Consideration and Possible Action on a Resolution Indicating the Town of Hideout's Intent to Annex property in the vicinity of Richardson Flats across county lines which includes parcels SS-87-B-X, SS-125, SS-125-C, PP-28-A and portions of SS-86, SS-87 and SS-88 (as depicted and described in Richardson Flats Annexation Sht 1 and Sht 2). The legal description of the area is listed on the attached Resolution.

Mayor Rubin presented a map of parcels which represented an amended area for potential annexation. Bruce Baird, legal counsel for the project, reviewed the map and provided explanation. The proposed map would reduce the number of acres from the original proposal by approximately 210 acres, which would leave a total of approximately 380 acres for annexation. Parcel SS-87-B-X was excluded, which was part of the Master Development Agreement (MDA) with Park City. Schools and parks were omitted in parcel PP-28-A and conceptually moved to the Mayflower Property, which would leave parcel PP-28-A open, aside from an area on the north side of SR-248. Mr. Brockbank later noted he would like to continue to investigate the potential need for parks, baseball diamonds, or soccer fields, et cetera in the area, and mentioned the 14-acre area on the north side of SR-248 would be reserved for the possibility of 272 units of workforce housing.

Mr. Brockbank discussed potential highway access from SR-248. He stated with this proposal, only two (one on the north side and one on the south side) access roads may be needed instead of the previously proposed three. He discussed how it could help Park City to make the parking lot more useable.

Council Member Baier asked Mr. Brockbank to describe potential traffic flow. Mr. Brockbank stated the traffic study would be updated, but theorized the majority of traffic would come from SR-248 into the commercial or subdivision area.

Council Member Dwinell discussed and clarified zoning regulations, to which Mr. Baird noted they would work with the Town's Planning Commission to refine those details.

Council Member Baier stated she did not feel comfortable voting on the item until she was able to do a more thorough examination of the material and the resolution was corrected. She also indicated Council Member Bob Nadelberg should be included in the discussion. Council Member Carol Haselton expressed her concern of the removal of the trails and open space which was her original interest in annexing the property. She felt all planning should be done regionally and it was inappropriate for the Town to move forward with annexation at this time. Mayor Rubin explained all the trails were not being omitted with the new proposal. Council Member Baier shared her thoughts on regional planning issues and felt the Town would need some land use authority in order to be represented in Wasatch County and/or Summit County's master planning.

Council Member Dwinell expressed his disappointment with the revised plan. He felt the annexation and development was needed for the Town but was concerned with the intention in which the annexation law was repealed. He invited Utah State Representative Tim Quinn (District 54) to speak to Council in order to provide Legislative insight on the intention of allowing a 60-day window for the repeal to take effect. Mayor Rubin expressed he had invited Utah State Senator Ronald Winterton (District 26) to speak as well.

Senator Winterton spoke regarding the reason behind repealing the bill. He expressed the Utah Association of Counties did not agree to the legislation and felt it was misspoken and misrepresented. He spoke of the sponsor's reasoning behind excluding a repeal date, to which the sponsor stated there was no knowledge of plans to move forward with any annexations. He pledged to assist Hideout with regional planning in order to find a resolution between all entities involved.

Council Member Dwinell inquired about the potential for discussions of cross-county annexations in the next General Legislative Session, to which Senator Winterton confirmed there was an ad hoc committee tasked with these negotiations. Discussion regarding facilitating a meeting between the Town, the committee, and other legislatures continued.

Representative Tim Quinn spoke and reiterated Senator Winterton's statements on the repeal of the bill, stating the bill was initially misrepresented to the Legislature, and the repeal was not thoroughly examined when the repeal date was excluded.

Council Member Baier inquired if Representative Quinn and Senator Winterton were going to support the Town in the efforts to provide services to its residents. Representative Quinn stated the work was that of an inter-local agreement, and he hoped to help remedy issues prior to the Session in order to enter into an inter-local agreement and address issues in a reasonable, civil and respectful manner. Senator Winterton stated he was committed to helping the Town in its General Plan. He stated it takes a lot of revenues to provide city services and having a Memorandum of Understanding (MOU) with other entities would take some of the burden off the Town. He reiterated he would help in any way he could.

Council Member Dwinell stated he felt the Town should wait on the annexation until after the General Session in order to have the intent of the Legislatures defined with a new bill.

There being no further questions from Council, Mayor Rubin asked for a motion to continue to a date certain being the 10th of September, 2020.

Motion: Council Member Baier moved to table the item until a date certain of September 10, 2020. Council Member Dwinell made the second. Voting Yea: Council Members Baier and Dwinell. Voting Nay: Council Member Haselton. Motion passed 2-1.

4. **Consideration and Possible Action to authorize the Mayor to enter into a Pre-Annexation Agreement with N Brockbank Investments, LLC related to a possible annexation of land owned by N Brockbank Investments, LLC in the vicinity of Richardson Flat described in the Resolution Indicating the Town of Hideout's Intent to Annex (Item #3 above) considered September 8, 2020 in a form approved by the Town Attorney.**

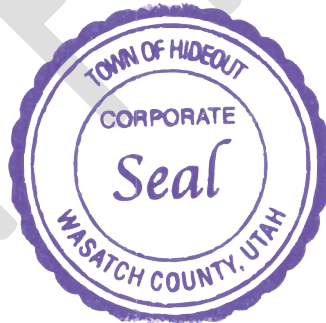
Mayor Rubin reviewed the agenda item and stated it could be voted on or continued to the meeting on September 10, 2020. Council Member Dwinell stated he did not feel comfortable voting on the item and would like to ask questions to Ms. McLean (*clerk's note: Ms. McLean was excused at approximately 6:25 pm*). Council Member Baier expressed she also had questions and would like representation from Ms. McLean prior to voting on the agenda item. Mayor Rubin stated the item would be tabled until September 10, 2020.

V. **Meeting Adjournment**

There being no further business, Mayor Rubin asked for a motion to adjourn.

Motion: Council Member Dwinell moved to adjourn the meeting. Council Member Baier made the second. Voting Yea: Council Members Baier, Dwinell, and Haselton.

The meeting was adjourned at 7:00 pm.



Alicia Fairbourne
Alicia Fairbourne, Town Clerk