

**Minutes**  
Town of Hideout  
Town Council Regular Meeting  
November 12, 2020

The Town Council of Hideout, Wasatch County, Utah met in Regular Meeting on November 12, 2020 at 6:00 pm electronically via Zoom meeting due to the ongoing COVID-19 pandemic.

Regular Meeting

**I. Call to Order and Reading of Mayor Rubin's No Anchor Site Determination Letter**

**1. Mayor Rubin's No Anchor Site Determination Letter**

Mayor Rubin called the meeting to order at 6:03 pm and read the No Anchor Site Determination letter in its entirety. All attendees were present electronically.

**II. Roll Call**

**Present:** Mayor Phil Rubin  
Council Member Chris Baier  
Council Member Jerry Dwinell  
Council Member Carol Haselton  
Council Member Bob Nadelberg  
Council Member Ralph Severini

**Staff Present:** Town Attorney Polly McLean  
Town Administrator Jan McCosh  
Town Planner Thomas Eddington  
Town Clerk Alicia Fairbourne

**Others Present:** Carolyn Davis, Dale Aychman, Mary Freeman, Brian Cooper, John Leone, Kurt Shadle, Jeff Foote and others who may not have signed in using full or proper names when logging in via Zoom.

**III. Approval of Council Minutes**

**1. August 13, 2020 Meeting Minutes**

There were no changes to the draft minutes of the August 13, 2020 meeting.

***Motion: Council Member Dwinell moved to approve the August 13, 2020 minutes. Council Member Haselton made the second. Voting Yea: Council Members Baier, Dwinell, Haselton and Nadelberg. Abstaining: Council Member Severini. None opposed. The motion passed.***

## 2. October 8, 2020 Meeting Minutes

Several small clarifications to the October 8, 2020 draft minutes were discussed.

*Motion: Council Member Nadelberg moved to approve the October 8, 2020 minutes with the changes discussed. Council Member Severini made the second. Voting Yea: Council Members Baier, Dwinell, Haselton, Nadelberg and Severini. None opposed. The motion passed.*

## IV. Public Input - Floor open for any attendee to speak on items not listed on the agenda

Mayor Rubin reviewed instructions for the public input session and opened the floor for public comment.

Ms. Carolyn Davis and Mr. Dale Aychman, Shoreline Phase 1 homeowners, addressed the meeting. Mr. Aychman referenced a prior phone call with Mayor Rubin regarding the lack of attention by the Shoreline developer GCD regarding the status of building warranties and repairs still outstanding after nine months. He noted certain items were cosmetic in nature, but a number were more serious health and safety issues. He cited problems in his home regarding sewer backups and gas emissions. He wanted to bring the developer's lack of response in addressing these homeowner problems to Council's attention and requested they encourage the developer to remedy these issues before approval of any further development.

Mayor Rubin offered to reach out personally to GCD to discuss the sewer problems and noted the developer had completed some remediation work including roof repairs within the Shoreline Phase 1 development. He noted these items were between the homeowners and GCD but offered to speak with the developer to offer any assistance he could. Council Member Jerry Dwinell asked what legal recourse the Town might have to apply any pressure on the developer in support of these homeowners.

Town Attorney Polly McLean stated these issues were between the homeowners and the developer and the Town did not have any ability to step in beyond the courtesy contact the Mayor offered. Council Member Carol Haselton asked if the Town had responsibilities regarding the identified health and safety issues such as the sewer backups, improper ventilation, and slope erosion. Ms. McLean responded the homeowners had direct recourse with the developer on these matters but agreed to research whether the Town had any legal options. Council Member Haselton shared her concerns with the extent of the slope erosion as well as the lack of fencing around certain homes sitting on eroding cliffs. She recalled similar issues which had been resolved in the Rustler development. Mayor Rubin stated the Rustler Homeowners Association (HOA) had addressed those matters, but he would have the Town Engineer inspect the Shoreline issues.

Council Member Ralph Severini offered to share contact information on the geo-tech engineers who evaluated the issues within the Rustler development and noted there should be good remedies available to address the hill erosion issues.

Ms. Mary Freeman, Shoreline Phase 1 resident, stated in addition to the slope erosion matters already discussed, she was also concerned with the ongoing safety problems of large boulders falling onto roads and sidewalks. She went on to discuss the condition of a steep 12 to 15-foot drop-off in her yard which left only a two-foot walkable area in the yard. She stated she had shared these safety concerns with Glen Gabler of GCD and added she would not have bought the house had she known she would not be able to safely walk in the yard. Council Member Chris Baier commented on these steep cliffs with no fencing and asked if the Town Engineer would inspect them and offer

suggestions for improved safety. She recognized Shoreline Phase 1 had been approved under the prior Town Council which limited the current administration's ability to take remedial actions. Council Member Dwinell added the new town code revisions expanded fence requirements and hoped there was a way to encourage the developer to meet the current code to address these health and safety matters. Council Member Severini asked if the fences already installed on "Burlap Mountain" were a retro fit, to which other Council members recalled they were.

Mr. Brian Cooper, a member of the Town's Infrastructure Committee and Shoreline Phase 1 resident, provided a status update on some of these issues. He reported the Infrastructure Committee had reviewed the sewer plan and model with the Town Engineer and he noted his home, which was located near the middle and at a relatively high elevation within the development, had experienced three sewer backups into his lower-level bathtub. In the second case, he noted the plumber from GCD said there was a soft blockage about one hundred feet away from the home and suggested flushing more water through the pipes. He stated the Town Engineer's model indicated some of the slopes were too steep to properly manage the sewage flow. He added the Town Engineer would be bringing plans to the Council to address remediation, equipment needs and ongoing maintenance for the entire Town-wide system.

Mr. Cooper also discussed the current design whereby the Soaring Hawk and Golden Eagle sewers drained down to the Shoreline area which then pumped back up to the main line along SR 248. He noted this was not an efficient or cost-effective design and discussed a plan under consideration by the Town Engineer to connect Soaring Hawk and Golden Eagle directly to the JSSD main sewer line.

Regarding the slope erosion and falling rock concerns, Mr. Cooper shared conversations he had with the Town Engineer as well as the Wasatch County Engineer who shared specifics of the county and state code regarding slope requirements for this type of unstable rock. He provided an overview of potential remediation options under discussion and noted all would be somewhat expensive. Mr. Cooper also noted the Wasatch County Engineer informed him the county could not cite the developer for any of these problems as the Town of Hideout overrode the county in this matter. It was noted the Town followed the same national building code standards as the county, and these standards could possibly be cited as code violations when seeking remediation from the developer.

Council Member Baier requested the Deputy Town Clerk take minutes for the Infrastructure Committee meetings. At Council Member Dwinell's suggestion, Council Member Haselton agreed to join the Infrastructure Committee.

Mr. John Leone, Shoreline Drive resident, echoed the earlier comments regarding homeowner issues with GCD and stated the construction of fences would not solve the problems with slope erosion. He cited the ongoing erosion behind his home, which had reduced the distance of the drop-off beyond his lower deck from four feet to approximately two-and-a-half feet. He noted his home was located on a direct drop-off and he was concerned with safety as erosion continued. He asked if these conditions met the Town, County, and State safety codes.

Mr. Leone went on to discuss the improper installation of his water heater which did not provide for proper exhaust and ventilation. He stated this was in violation of the manufacturer's installation requirements which he suggested might have been a violation of Town Building Code. He noted concerns with the heater's sound, smell, and exhaust pipe's distance from a window, which also did not meet the manufacturers installation recommendations. Mr. Leone stated he had also experienced sewer backups and ongoing related smells in addition to roof issues with standing seams and snow drops.

Mr. Kurt Shadle, Hideout resident, suggested the Council take a less legalistic stance and consider scheduling a public session for the developer to hear from homeowners on their problems and to use any leverage possible to hold GCD accountable for addressing existing homeowner issues before proceeding with additional development in Hideout.

Mr. Jeff Foote, Shoreline Phase 1 resident, reported a total lack of response from GCD on several outstanding issues over the past 18 months. He noted a significant presence of gas odor, which led him to contact the gas company to investigate. Mr. Foote recognized these are issues between the homeowners and GCD, and he noted his concerns that GCD, a very large ongoing developer in the Town, seemed to have no quality control function and should be held accountable.

Council Member Dwinell agreed with the homeowner concerns discussed and stated it was important to let GCD know this level of unsatisfied homebuyers could have a negative impact on GCD's ability to successfully market its future developments. He requested inviting GCD to attend a future Council meeting to address these concerns.

Mr. Cooper provided additional comments in response to Mr. Leone's concerns with the water heater installation. Mr. Cooper stated he had researched the plumbing code and specific manufacturer's instructions for the water heaters. He reported the water heaters for all 50 homes in Shoreline Phase 1 were not installed according to those manufacturer installation specifications. He forwarded this information to GCD and was awaiting a response. He suggested it would be worthwhile to focus a meeting with GCD and the Council on these health and safety issues. Mr. Leone discussed potential solutions for the water heater problems which he stated were not onerous. Mayor Rubin stated he would be in contact with GCD to share this feedback and state the Town was not comfortable issuing new permits until these existing safety issues were addressed. Council Member Dwinell suggested increasing inspections as well.

There being no further public comments, Mayor Rubin closed the public input session.

## **V. Public Hearing Items:**

### **1. Continuation of adoption of a Resolution adjusting and amending the revenues and expenditures of the 2020/2021 Fiscal Year budget**

Mayor Rubin noted the budget amendment was not ready for discussion, and recommended this item be continued to the December 10, 2020 meeting. He stated there were no issues with the budget; the Town was in good financial shape, but this amendment was required and could be discussed next month.

Ms. McLean asked to open the public hearing on the budget item in case there were any attendees who wished to comment.

Mr. Leone questioned if the budget could be viewed and commented on at a later time. Mayor Rubin stated the budget amendment would be made public once the adjustments were complete and the public would have an opportunity to comment on it. He also noted the current budget was posted on the Town website.

There being no further public comment, Mayor Rubin asked for a motion to continue this item to the December 10, 2020 Town Council meeting.

*Motion: Council Member Dwinell made the motion to continue the adoption of a Resolution adjusting and amending the revenues and expenditures of the 2020/2021 Fiscal Year budget to the December 10, 2020 meeting. Council Member Baier made the second. Voting Yea: Council Members Baier, Dwinell, Haselton, Nadelberg and Severini. None opposed. The motion passed.*

**2. Approval of Ordinance 2020-11 providing technical corrections to the following provisions of the Town Code relating to land use: Title 3; Title 10; Title 11; and Title 12 as it is related to Ordinance 2020-06 and to remove an internal inconsistency regarding hours of operation in Title 10**

Mayor Rubin provided an overview of this item and thanked Council Member Dwinell for his leadership working on it. He noted there were no major issues with what was previously approved, but due to clerical errors an earlier version of the exhibits was attached to the Ordinance that did not reflect the changes the Town Council discussed and intended to approve. He also noted the Ordinance did not reflect the updated construction hours as previously approved. Ms. McLean noted the Titles which were incorrect had inconsistencies in citing to the wrong sections of the Code and also referred to the wrong zone. She stated this requested approval was meant to ratify what was already intended in the prior approvals. Mayor Rubin stated Municode and the Town website would be updated to correctly reflect these items.

Mayor Rubin opened the floor to public input on this matter. There were no comments from the public.

Mayor Rubin asked Council for a motion to approve Ordinance 2020-11.

*Motion: Council Member Severini made the motion to approve Ordinance 2020-11, providing for technical corrections to the following provisions of the Town Code relating to land use: Title 3, Title 10, Title 11, and Title 12. Council Member Dwinell made the second. Voting Yea: Council Members Baier, Dwinell, Haselton, Nadelberg and Severini. None opposed. The motion passed.*

**VI. Agenda Items**

**1. Approval of bills to be paid**

Town Administrator Jan McCosh stated most of the larger bills were due to the annexation and impact fees. She noted most of the large expenses had been passed through and were billed. Mayor Rubin asked if the bill from T-O Engineers was for one month. Ms. McCosh responded it was for one month (October) and a portion was passed through. It was noted the GIS (Geographic Information System) component would be re-coded to the enterprise fund as well as all water and sewer line mapping costs.

Mayor Rubin asked about the York Howell & Guyman bill. Ms. McCosh responded it was for multiple months due to a back log in the firm's billing.

Mayor Rubin asked for any questions from Council on the bills. There were no questions.

Mayor Rubin asked for a motion to approve the bills to be paid.

***Motion: Council Member Nadelberg made the motion to approve the bills to be paid. Council Member Haselton made the second. Voting Yea: Council Members Baier, Dwinell, Haselton, Nadelberg and Severini. None opposed. The motion passed.***

**2. Authorization of Mayor to enter into a MOU (Memorandum of Understanding) with Wasatch County Sheriff's Department for increased police services in Hideout**

Mayor Rubin discussed this item regarding contracting for additional police support which was budgeted for but had previously been deferred. He stated the Town budget was in a good position to add 16 hours per week for additional coverage in the area. He noted the primary drivers for this increase included traffic control, parking enforcement – especially related to construction activity, having a visible presence in the Town, and providing assistance to improve home security throughout the Town. He also stated this had been under discussion for more than a year, was in the budget, and he believed it was the right thing to do; particularly with the increased population growth and speeding in Town.

Council Member Dwinell asked if this would be done on a trial basis. Mayor Rubin stated his preference to implement it directly without a trial period and noted the MOU would have an exit clause favorable to the Town. In response to a question from Council Member Severini, Mayor Rubin responded the patrols would rotate over four-hour shifts in addition to the existing 911 response calls. Mayor Rubin noted this increased police presence would be highlighted in the Town's newsletter.

Council Member Dwinell noted the Town would not receive revenue from traffic citations. Council Member Haselton asked about existing sheriff's coverage in the Wasatch County budget and what such arrangements were for surrounding Towns. Mayor Rubin noted the current Wasatch County budget provided for minimal community patrol coverage and stated Towns could contract for additional service. He noted Midway contracted for one-and-a-half full-time officers.

Mayor Rubin did not have more details on the Wasatch County Sheriff budget. In response to a question from Council Member Baier regarding the cost, Mayor Rubin stated it would be \$70,000 per year which included 16 hours per week of additional patrols, car, fuel, and license bureau access expenses. He also noted the cost would be split between two fiscal years. Council Member Severini asked if the Sheriff would monitor the Town's traffic cameras. Mayor Rubin confirmed they would have such access but would not constantly monitor them. Council Member Dwinell pointed out this coverage would be beneficial in the response time for 911 emergency calls. Mayor Rubin noted the details of the MOU were still being negotiated with the Sheriff's Department.

Council Member Baier asked if this would require a budget increase next year. Mayor Rubin responded it would need to be included in the next year's budget but would not necessarily lead to an increase. He noted the MOU did not set forth future rate increases.

Mayor Rubin asked for a motion to enter into a Memorandum of Understanding with Wasatch County Sheriff's Department for increased police services in Hideout.

***Motion: Council Member Dwinell made the motion to authorize the Mayor to enter into a Memorandum of Understanding with Wasatch County Sheriff's Department for increased police services in Hideout. Council Member Nadelberg made the second. Voting Yea: Council Members Baier, Dwinell, Haselton, Nadelberg and Severini. None opposed. The motion passed.***

### **3. Discussion of Municipal Impact Fee uses**

Mayor Rubin asked Ms. McLean to provide an overview regarding how municipal impact fees could be used. Ms. McLean reported she had spoken with the previous Town Attorney, Dan Dansie, regarding any prior discussions on this topic, and suggested Ms. McCosh discuss available revenue sources in more detail at the next Council meeting. Ms. McLean discussed the use of Impact Fees which she noted were highly regulated under Utah State Code. She explained a new development could be assessed impact fees on its proportional incremental share of certain costs for amenities such as public parks but could not be assessed for ongoing maintenance expenses. She stated impact fees had limitations and were not a revenue source per se. They could be used for certain one-time capital expenditures but with ongoing maintenance to come from general revenues.

Council Member Severini asked if there was a time frame to spend funds collected from impact fees. Ms. McLean responded there was a timeline that was tied in with the Town's capital accounts, which could be adjusted.

### **4. Update on Mustang, LLC issues in preparation for quarterly meeting**

Mayor Rubin discussed several items he intended to discuss with the developer, Mustang, LLC (Mustang), which included the pond and delinquent payments for services owed to the Town. He had discussed with the Town Attorney what legal recourse was available to the Town if Mustang did not make payment on its delinquent bills.

Council Member Baier suggested adding a discussion of the maintenance area to this agenda and volunteered to participate in the meeting along with Council Member Dwinell. Mayor Rubin stated Mustang was currently delinquent on some pass-through engineering charges, water costs and certain fines owed to the Town. In response to a question from Council Member Dwinell regarding whether Mustang had been fined for the issues related to the pond, Mayor Rubin stated a letter had been delivered informing them of the daily accumulation of fines, but a citation had not yet been issued. He stated the Town would pursue these items on the county record if not resolved.

Council Member Baier questioned whether Mustang was in breach of the Master Development Agreement given the delinquent status of these items. Council Member Severini asked if liens could be levied on any transfer fees or the property itself if Mustang continued to refuse to make these payments. Ms. McLean agreed to investigate these questions.

Ms. McLean suggested to ask Mustang, prior to the meeting, why they were delinquent. Council Member Dwinell suggested immediately exercising the fines on the pond as this had been an outstanding problem for some time.

### **5. Update on Referendum; discussion and consideration of adopting a resolution for a special election**

Ms. McLean provided an overview on the status of the upcoming Referendum and adoption of a resolution associated with the election. She reported the application was received in a timely manner and the fiscal impact statement was issued a few days ago. She made a determination that the law was able to be referred (i.e., able to be included in a referendum) and that it was a land use law. Based on the number of eligible voters in Hideout and because it was a land use law, signatures of 40% of registered voters must be collected. The Town Clerk prepared a Proposition Information Pamphlet which was distributed to the sponsors as well as anyone who submitted an argument for the proposition, which would be distributed to the public within ten days of approval and setting the

date for the election. The intent was to include the date of the election in the Proposition Information Pamphlet. Once the signature packets were distributed to the sponsors, they would have 45 days to collect the required number of signatures. She noted these requirements were very specific and must be submitted to the County Clerk following an exact process. If the signatures were collected and determined to be sufficient, an election may be held on one of three possible dates. These dates could be: 1) a Special Election on the 4<sup>th</sup> Tuesday of June (June 22, 2021), 2) on Primary Election Day (August 10, 2021), or 3) on Municipal General Election Day (November 2, 2021). The estimated cost to hold a Special Election was \$3,000 which would likely fall under the Indemnity Agreement. Council was being asked to approve the date for the election assuming the required number of signatures were properly obtained.

Council Member Severini requested clarification of the exact number of registered voters and whether this number was as of a certain date, as well as the process to certify the signatures. Ms. McLean responded signatures may be obtained from active registered voters who resided in the Town at the time the signature was gathered, so long as their voter registration was submitted prior to gathering their signature.

Discussion ensued regarding options for the date of the election. Mayor Rubin suggested a vote sooner would be beneficial to determine whether the annexation would proceed. Council Member Severini asked how the date would influence voter turnout. Mayor Rubin noted the election could be by-mail which should help with voter turnout. Town Clerk Alicia Fairbourne discussed the by-mail election process. Council Member Dwinell agreed a by-mail election should help to maximize voter turnout for the June Special Election date. Council Member Baier noted at least three races would be on the ballot in the Municipal 2021 election, perhaps with a Primary in August, and stated her preference would be to conduct the referendum election sooner and separate from the Mayoral and Council races.

After further discussion on the three date options, Mayor Rubin asked for a motion to adopt a Resolution establishing a Special Election to be held on June 22, 2021 to consider a possible referendum challenging the adoption of Ordinance 2020-10.

*Motion: Council Member Nadelberg made the motion to adopt the Resolution Establishing a Special Election on June 22, 2021 to Consider a Possible Referendum Challenging the Adoption of Ordinance 2020-10. Council Member Severini made the second. Voting Yea: Council Members Baier, Dwinell, Haselton, Nadelberg and Severini. None opposed. The motion passed.*

**VII. Closed Executive Session - Discussion of pending or reasonably imminent litigation, personnel matters, and/or sale or acquisition of real property as needed**

There being no further public business, at 8:40 pm Mayor Rubin asked for a motion to close the public portion of the meeting in order to move to executive session.

*Motion: Council Member Dwinell made the motion to move to closed executive session. Council Member Haselton made the second. Voting Yea: Council Members Baier, Dwinell, Haselton, Nadelberg and Severini. None opposed. The motion passed.*

Whereupon the closed executive session convened at 8:45pm.

**Present:** Mayor Phil Rubin  
Council Member Chris Baier  
Council Member Jerry Dwinell  
Council Member Carol Haselton  
Council Member Bob Nadelberg  
Council Member Ralph Severini

**Staff Present:** Town Attorney Polly McLean  
Summit County Litigation Attorney Rob Mansfield

**VIII. Meeting Adjournment**

At approximately 9:10 pm, Council moved into public session.

*Motion: Council Member Dwinell moved to adjourn the meeting. Council Member Severini made the second. Voting Yea: Council Members Baier, Dwinell, Haselton, Nadelberg and Severini. None opposed. Motion passed.*

The meeting adjourned at 9:10 pm.



*Alicia Fairbourne*  
Alicia Fairbourne, Town Clerk