

**Minutes**  
Town of Hideout  
Town Council - Work Session  
October 13, 2020

The Town Council of Hideout, Wasatch County, Utah met in a Work Session on October 13, 2020 at 6:00 PM via Zoom electronic conference call due to the ongoing COVID-19 pandemic.

Work Session

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

**1. No Anchor Site Determination Letter**

Mayor Rubin called the meeting to order at 6:08 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 Administrator Jan McCosh  
Town Planner Thomas Eddington  
Town Clerk Alicia Fairbourne

**Others Present:** Bruce Baird, Nate Brockbank, Rob Mansfield, and others who may not have signed in using full or proper names when logging in via Zoom.

**III. Agenda Items**

**1. Discussion and Consideration of Public Input from 10/12/2020 Public Hearing**

Mayor Rubin stated the purpose for the meeting was to discuss and review the public input received regarding the proposed annexation and to discuss the draft Annexation Master Development Agreement (AMDA). He noted the Council would not make a determination regarding the proposed annexation at this meeting however a vote was scheduled to be conducted at the meeting on October 14, 2020. He noted the Council had been working to be transparent in all discussions regarding the proposed annexation and stressed the importance of including the right language in the AMDA in the event the proposed annexation was approved to move forward.

Mayor Rubin thanked the Council and town staff in managing the logistics of the session, as well as the public for bringing good, measured responses regarding the proposed annexation. He

thanked the town staff for the improvements to the technology which provided a smoother, uninterrupted public hearing.

Mayor Rubin highlighted several items brought up at the public hearing which the Council might also consider.

Mayor Rubin noted there were questions on the proposed gondola and its potential impact on residents on the other side of the hill. He suggested this should be reviewed and felt it was a good addition to the items under consideration.

Council Member Chris Baier shared feedback received regarding concerns with the gondola's impact on the Parks Edge community. Mayor Rubin stated the assumption was to "cherry stem" the gondola path up through public land under Utah Department of Transportation (UDOT) administration which would not be expected to impact those properties.

Council Member Baier noted some surrounding community residents expressed concerns that in the future Hideout would attempt to annex their communities without their consent, given the community's inclusion in Hideout's Annexation Declaration Area (ADA) map.

Mayor Rubin noted under current law, the town could not annex any property without the consent of the landowners as a starting point. Council Member Baier agreed and noted the importance of better public messaging to educate the community.

Council Member Jerry Dwinell discussed the town's ADA map and noted discussions previously held with surrounding Homeowners Associations (HOA's), which may have been the underlying cause for concern. Council Member Baier noted the town's ADA map and policy plan for annexations were required to be produced under state law, and further noted the amendment done in 2019 was the first since the incorporation of Hideout. Council Member Dwinell noted many properties were included in the ADA since 2010 but owners may not have realized it until the current annexation discussions arose. He recognized these concerns arose because certain surrounding properties were included in the map, although there could not be an annexation without landowner approval.

Mayor Rubin suggested the discussion cover what was heard both in support and against the proposed annexation, and if the annexation were approved, how to incorporate additional topics of concern into the AMDA. He noted the draft AMDA included language on various studies to be conducted, utility services required and zoning and building usage, and he asked the Council what other topics they heard at the public hearing would also be important to include in the document.

Council Member Baier stated the public input included many "no" comments, public clamor on why the annexation should not proceed and several attacks on the town and Council. She noted the small population of the town, the volunteer status of Hideout's Town Council and relatively limited resources of the town staff and she commended the professionalism and talent of the team.

Council Member Baier also noted other comments, letters, and emails received were positive and provided helpful input. She wished there had been more positivity shared during the public input hearing. Council Member Baier added she was very grateful to the people who provided the public input and wanted to ensure it was considered.

Council Member Dwinell stated he had read most of the emails. In addition to the negative and positive supporters he noted there were some commenters who were not opposed to the annexation but were opposed to the process. He noted a group who shared their concerns regarding the proximity of the Environmental Protection Agency (EPA) site and potential risks to the town. He also noted comments received regarding the need for better regional planning with which he strongly agreed.

Council Member Carol Haselton discussed the comments and letters received from people regarding the importance of regional planning. She shared her concerns if the annexation moved forward, Hideout could lose the opportunity to work productively with the surrounding communities on this planning. She also noted several comments received that supported the development of this property but did not support the annexation and development by Hideout.

Council Member Dwinell responded to several comments he heard which suggested Hideout should simply re-zone existing town land for commercial development. He noted the challenges with the town's topography which did not have suitable flat land available, as well as the fact that the town could not overrule landowner rights regarding intended use of their property. He hoped the public could be more understanding of this dilemma.

Council Member Baier agreed and added the vast majority of Hideout land use was already approved prior to many current town residents moving to the town and under a prior Town Council and Planning Commission. She noted the Council was trying to do its best to move from a bedroom community to a more vibrant small city per the town's policy goals. She noted the concerns surrounding the EPA site which she recognized were common for communities with a history of mining and stated the town would seek out and be grateful for help in addressing the concerns. She also noted that this Richardson Flats property would be developed at some point and was strategically situated to provide many services the broader community required.

Council Member Severini stated he believed the draft AMDA covered many critical points but stressed the importance of addressing the EPA site concerns. He also noted every legislator who commented at the hearing had a negative reaction to the 60-day window in the state law.

Mayor Rubin acknowledged the council members may have reservations regarding the proposed annexation but stressed the need to use this time to focus on the draft AMDA which would be necessary to successfully proceed in the event the annexation was approved at the future meeting.

Council Member Bob Nadelberg agreed with the comments already shared.

Council Member Haselton reminded the Council it represented the residents of Hideout, and she heard overwhelming comments from town residents who did not support the annexation. Council Member Baier agreed and stated if it could be done again, more communication with the residents and surrounding communities early in process would be preferable. She noted there had been some recent efforts at regional planning, and regardless of the annexation decision, she expected this to be a start at better regional planning.

Council Member Dwinell clarified there were residents who were not opposed to the annexation, but rather were disappointed with the process. Council Member Baier noted some feedback received from non-Hideout residents who wanted to preserve open space and she commented on the difficulty in balancing preservation with existing needs and future growth around Jordanelle Reservoir.

Mayor Rubin noted the importance of this public process to provide members of the public the opportunity to share input. He went on to remind members of the public the Town Council members served as volunteers and worked hard to best serve the community. He cited ongoing harassment received by the council members, town staff and members of his own family over the proposed annexation and chastised those individuals who sought to intimidate the town council and staff and to obstruct these public meetings in an effort to stop the process.

## **2. Review and Possible Modification of AMDA and Concept Plan**

Mayor Rubin noted the Council had a lot to consider prior to making decisions at the next meeting, including the potential approval of the AMDA for the Silver Meadows Master Planned Community. He noted this document needed to address the important elements and necessary considerations required to proceed if the annexation were approved.

Council Member Dwinell noted the draft AMDA was shared just prior to the meeting and he had only browsed the document thus far. Mayor Rubin stated the document would not be finalized at this session but wanted to review and discuss it in detail with the objective of being ready to potentially approve it at a subsequent meeting. He asked the Council to focus on the key numbers and the changes made since the last draft to determine whether it reflected the feedback provided to the developer.

Council Member Dwinell requested an updated map that reflected the revised numbers. Bruce Baird, attorney for the developer, responded they had been incorporating all the comments on the document throughout the day and expected to have an updated map available shortly.

Mayor Rubin asked the Council to think of this as a future document which would be effective should the annexation be approved. Mr. Baird reviewed the document and noted it represented the previously shared draft marked to show acceptance of all the redline comments. He then worked to address six major issues including the number of units, affordability of the units, the timing of trails construction, and commercial construction, and finally incorporated as many of the comments received from Town Attorney Polly McLean which he had time to address and which he expected would be acceptable to the developer, Mr. Nate Brockbank.

Mayor Rubin stated this was an attempt at a consolidated, integrated document from all parties. Discussion ensued regarding various sections of the document.

Council Member Dwinell asked about Section 1.2.2 regarding an administrator and asked who that would be. Mr. Baird responded typically this would be someone appointed by the Mayor to oversee and coordinate the day-to-day operations. In response to a question from Council Member Dwinell, Mayor Rubin stated this would be decided in the future, could be a specially appointed project manager, and could morph over time as work progressed. Council Member Dwinell noted that person was granted some authority later in the document, so he wanted to understand who that might be. Mayor Rubin noted this administration would likely change over time given the length of time the project would be underway and added there might be a steering team to oversee the administration, as was done with other ongoing developments. Mr. Baird noted this was common in other similar agreements he had written.

Council Member Dwinell asked about Section 1.2.10 Commercial Projects Estimated Size and asked how this number was derived. Thomas Eddington, Town Planner, noted these numbers were proposed by the Planning Commission but could be revised at the Town Council's

direction. Discussion ensued regarding specific net or gross numbers which may change with the final concept plan.

Mr. Baird noted the comments he received did not note whether these figures were net or gross, and he included the figures as place holders to be reviewed.

Regarding Section 1.2.25 Maximum Residential Units, Council Member Severini asked for clarification of this definition. Discussion ensued regarding changes in the makeup of the types and numbers of units in the proposal which Mr. Baird responded were driven in part by the financial impact of donations of land the developer was prepared to make for various town facilities.

Discussion ensued regarding Section 3.2.1 Table of Types of Uses and Affordability, including the calculations for the proposed affordable housing units as well as the locations and numbers of apartments and condominiums in the updated proposal.

Mr. Brockbank stated he was amenable to revising the plan to address the concerns shared by Council Member Severini and the Planning Commission regarding the mix of home types and number of townhomes. Mr. Brockbank noted the plan would be revised to include duplex style units rather than four- or six-plex buildings.

Mr. Baird discussed Section 2, Conditions, and noted the changes were included to address the comments received from the council members and Town Attorney to the extent possible. He noted there were details still to be worked out.

Regarding the indemnification section, Council Member Dwinell asked what would happen if the indemnifier were to go bankrupt. Mr. Baird responded this was always an issue that could not really be solved. He noted Mr. Brockbank had the most exposure as the buyer, had made all appropriate environmental inquiries and would follow extensive procedures throughout the construction process to identify and remedy any potential environmental problems. He added Mr. Brockbank had engaged experienced environmental legal representation to help assess these matters.

Council Member Dwinell asked about the four-year term of the on-site environmental consultant. Mr. Baird clarified this was the indemnification period, which was standard for these types of contracts. He added the environmental consultant would be on-site throughout the development process. Regarding Section 2.2.4 Environmental Conditions, Council Member Severini asked if a longer period was possible. Mr. Baird responded this clause was drafted by the environmental attorney who would need to explain whether the term could be extended.

Council Member Dwinell noted the EPA OU1 site was still an active site and asked if it could be expanded over time as more materials were moved to the location. Mr. Baird noted this land had been designated as OU1 for more than a decade, and the language included in the document was standard and was drafted by the environmental lawyer. Mayor Rubin stated the final agreement would detail the procedures for baseline soil sampling and continuous environmental monitoring.

Council Member Dwinell discussed Section 3.3 Correlation Between Timing of Residential Units and Commercial Projects. He noted the proposed plan would include 120 houses to be built in the first 20% of the project, which he noted was more than the entire Rustler development of 88 units. He stated he was uncomfortable with this much residential construction being

completed prior to any commercial development which was already needed. He requested a better balance and asked if the initial phase could include residential and commercial development of the Town Center. Mr. Brockbank responded he understood this concern and would work with the planning team to revise this proposal. He stated he did not intend to delay the commercial component which he hoped to start as soon as tenants were committed.

Discussion ensued regarding sizing of a grocery store, definition of chain stores and inserting language to provide the administrator flexibility to set terms for commercial tenants.

Council Member Dwinell asked about items within Section 3.9 Parking which Mr. Baird agreed to revise. Mr. Eddington recalled it had been included in the first draft to give the town flexibility to minimize asphalt and on-street parking in the Town Center. Council Member Dwinell noted the goal was to avoid the types of traffic and parking issues as was on Main Street in Park City. Council Member Baier requested the plan have adequate parking for residents while maintaining flexibility for parking in the Town Center.

Council Member Severini asked about the references to dark skies ordinances in the document. Mr. Baird clarified the language was included to apply to any future dark skies policies the town might adopt. Council Member Baier noted the Council was working on adoption of such a town-wide ordinance.

Mr. Baird discussed Section 7.3.2 which covered the timing for the developer to complete trails.

Council Member Dwinell shared his concerns with potential HOA expense burdens for the affordable and attainable units and requested a larger portion of HOA fees be carried by the commercial tenants to ensure these homes remain as affordable as possible. He also shared concerns that HOA fees would increase dramatically and be an excessive burden for these units. Mr. Baird suggested including a disclosure clause for all such home sales contracts to remind buyers of these fees. Mr. Eddington suggested there could be a sliding scale on HOA fees for workforce/affordable housing units.

Council Member Baier asked how any future town-wide assessments such as special services districts would impact HOA's which were being required to cover such expenses in the agreement. Mr. Baird noted amendments could be made in the future to address and reassess such matters.

Council Member Baier noted amenities, such as bike trails, should be created early on to better promote and market the development and asked for a commitment to have a main trail constructed early in the project. Mr. Brockbank agreed to include main trails within the first phase and to provide details for scheduling construction of the remaining trails. Mr. Baird noted the implementation of all the changes discussed would take at least a day to finalize and would most likely postpone any vote until Thursday October 15, 2021. Mayor Rubin acknowledged this would fit within the schedule.

It was discussed that any construction of a chair lift would happen at a later phase of the development.

Discussion ensued regarding road access from SR 248 and the required approvals, traffic study requests, and expected increased traffic from Jordanelle Parkway. Council Member Dwinell requested any traffic generated from the new development be adequately serviced from new access points and not rely on the existing neighborhood roads such as Browns Canyon. Mr. Baird

noted it was not within the developer's ability to control the road connections from property outside the scope of the proposed annexation. Council Member Dwinell shared concerns regarding increased traffic. Mr. Baird noted the developer had agreed to build the planned roads but was subject to the approval of Summit County and UDOT (Utah Department of Transportation).

Regarding road construction, Council Member Baier asked what would happen if the fire marshal determined an existing road was not wide enough. Mr. Brockbank stated he would then widen the road as necessary. Mr. Baird stated all construction would be dependent on fire marshal approval and subject to the international fire code standards.

Regarding Section 7.7 Land for Public Service Facilities and Town Hall, discussion ensued regarding the developer's agreement to donate the properties, but with stipulation the town could not later sell the property to another developer. It was also discussed that the developer would not build those buildings for the town.

Mr. Baird reviewed Section 12.2 School Site Set Aside and noted the acreage was adjusted from seven to 8.5 acres. Council Member Dwinell asked if the town could trade the value of the land for building costs of the town hall if the school district did not want the land. Mayor Rubin clarified the land would be donated, not sold, to the school district to attract a school.

Mr. Baird discussed Section 12.3 Economic Feasibility Study and noted he had not yet incorporated comments received from the town attorney but with which he did not have any issues.

Council Member Dwinell asked for clarification on the expectation the development would be self-funded and not reliant on economic support from the town or county. Mr. Baird noted economic feasibility studies could not drive the effectiveness of the development agreement but could allow both parties, after the development agreement was signed, to later amend the agreement as appropriate. The intent of the economic feasibility study was to set a baseline for minimum requirements of the development which could be adjusted in the future.

Council Member Severini commented the current wording regarding the economic feasibility study did not seem adequate, and requested Mr. Baird reword the language to be more specific and less ambiguous.

Council Member Severini asked for clarification on change of control and assignment provisions in the document. Mr. Baird agreed to provide an updated redlined version of the agreement by the following day.

Mayor Rubin summarized several open issues and priorities for further discussion and asked Council Members to provide any additional comments in advance of the next session.

Council Member Baier asked about the senior/assisted living center and noted she had received a lot of positive support from the community for it. Mr. Baird responded he did not reference this in the agreement because it was not included in the current plan but would discuss with Mr. Brockbank. Mr. Brockbank stated he would be interested in building such a facility and it was agreed language would be added to the agreement.

**IV. 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 9:04 pm, Mayor Rubin asked for a motion to close the public portion of the meeting in order to hold a brief executive session.

*Motion: Council Member Dwinell made the motion to enter into executive session to discuss pending or reasonably imminent litigation, personnel matters, and/or sale or acquisition or real property as needed. Council Member Nadelberg made the second. Voting Yea: Council Members Baier, Dwinell, Haselton, Nadelberg and Severini. None opposed.*

Whereupon, the closed executive session convened at approximately 9:13 pm.

**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 and Others Present:**

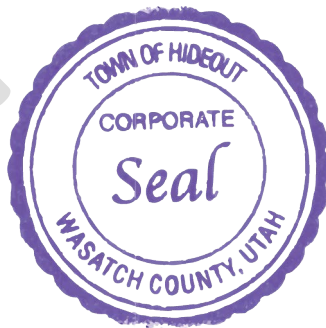
Town Attorney Polly McLean  
Summit County Litigation Attorney Rob Mansfield  
Town Planner Thomas Eddington

**V. Meeting Adjournment**

At approximately 9:50 pm, the Executive Session adjourned, and the meeting moved into public session.

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

The meeting adjourned at 9:50 pm.



*Alicia Fairbourne*  
Alicia Fairbourne, Town Clerk