

Town of Hideout
Town Council Meeting
March 14, 2019
6:05 p.m.

REGULAR MEETING

The Council of the Town of Hideout, Wasatch County, Utah, met in their Regular Meeting on March 14, 2019, in the Council Chambers located at 10860 N. Hideout Trail, Hideout, Wasatch, Utah,

Present Mayor Philip Rubin
Council Member Hanz Johansson
Council Member Chris Baier
Council Member Kurt Shadle

Excused: Council Member Dean Heavrin
Council Member Jim Wahl

Also, Present: Town Administrator, Jan McCosh
Lynette Hallam, Town Clerk
Kent Cuillard, Public Works
Dan Dansie, Town Attorney
Brian Blazzard, Accountant

Others in attendance: Ken Block, Melyssa Davidson, Jerry Dwinell, Chris Ensign, Jaren Fields – Mustang Development, Vytas Rupinkas and Jack Walkenhorst

1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Rubin called the meeting to order for March 14, 2019 at 6:05 pm-. Mayor Rubin led the Pledge of Allegiance.

2. ROLL CALL

Mayor Rubin polled the Council for roll call. All members were in attendance with the exception of Council Members Heavrin and Wahl.

3. MINUTES – Consideration and Approval of Minutes for Regular Meeting of February 19, 2019

Council Member Baier made some corrections to the minutes. She noted on page 7, there was a green highlight because she thought they didn't know the name for Mustang Development. She went on to correct 40 ERAs to 40 ERUs. On page 8, halfway down, the bill for Horrocks Engineering was for the Impact Fee Study. On page 9, in reference to guide markers in order to draw attention to the edge of the roadway; she wanted to add for better snow removal.

It was suggested to make edits to the minutes in "TEAMS".

Council Member Hanz Johansson moved to approve the minutes for the Regular Meeting of February 19, 2019, as amended. Council Member Baier made the second. The motion passed unanimously.

4. RATIFY – Council to formally ratify the members of the Planning Commission

Mayor Rubin indicated they made a change in the Planning Commission last year. They went through the process of sharing who the new Planning Member were, and the Council at the time was fine with it, but they did not formally adopt and ratify the members.

Mayor Rubin went on to say the Code indicates Planning Members are ratified with the advice and consent of the Town Council. At this time, he was going to ask the Town Council to ratify these members and accept their actions and recommendations that have been done so far. He noted the Planning Commission Members were: Jerry Dwinell, Chair; Ralph Severini, Vice-Chair; Bruce Woelfle, Member; Sara Goldkind, Member; Vytas Rupinskas, Member; Kurt Shadle, Alternate, and Tony Matyszczyk, Alternate.

Mayor Rubin asked for a motion to ratify the members and accept their actions and recommendations that have happened so far.

Council Member Shadle moved to approve the hardest working Planning Commission Members in the State of Utah and accept the things they have asked the Council to review to this point. Council Member Johansson made the second.

Discussion followed regarding the motion. Mr. Dansie indicated he wanted to make one clarification. He said that he thought it was implicit in what Council Member Shadle was saying. By accepting their actions and recommendations, it does not mean that anything they have recommended had to come to the Council for a vote; by this motion recommendations would have to be accepted. The motion is recognizing the work and the recommendations they have made so far to the extent it requires a separate vote of the Council, and they will address those issues one by one.

Mayor Rubin inquired if what Mr. Dansie said was a note for the minutes, or do they need to amend the motion and put in additional language. Mr. Dansie stated if the note was put in the minutes, he thought it would be fine.

Council Member Baier questioned if the clarifying note was good enough for the Council to make it clear the Council is accepting the work to date of this Planning Commission and also include their recommendations.

Mr. Dansie said he was not trying to make more of it than necessary. His point was something statutorily or by town code required a separate vote of the Council after a recommendation. By accepting their work and recommendations so far, what they were saying was the Council accepted that work and recommendations for further consideration and to the extent that it requires a separate vote of the Council; they would address those issues one by one.

Call the Question: Council Members Voting Aye: Council Members Baier, Shadle and Johansson. Council Members Voting Nay: None. The motion passed unanimously.

5. RESOLUTION – MIDA Agreement - Resolve to allow the Mayor to sign the Interlocal agreement with MIDA

Mayor Rubin indicated that during the last meeting the MIDA project was working on an expansion to their project zone and wished to incorporate the north end of Hideout where the Deer Spring property adjoins the Jordanelle Parkway because it was all a part of their deal. He went on to say, they had offered to bring Hideout into the MIDA expansion phase and as a result of that, share revenue with the town that would come from their collection of taxes.

Mayor Rubin recalled that MIDA gave the Town a version of the proposal back in December; however, MIDA only gave the Town three days to review the proposal. Therefore, the Town said differed action because there was not enough time to review. The mayor went on to say, the Town now has an opportunity for such an agreement before MIDA's council meets in April.

Mayor Rubin indicated two points needed to be addressed: one, the agreement, and we need to clarify a few things on the agreement; two, there was the ability for him to act and sign an interlocal agreement once they have the language the way they want it to be.

Mayor Rubin referred to Section 5B, which has some language that was not clear on water and sewer responsibilities for the Hideout portion of the MIDA project. The mayor indicated that he asked Mr. Dansie to work on some language to clarify that the Town of Hideout was responsible for water and sewer services there. Mayor Rubin referred to 5E, there was some language about taxes; and he asked Mr. Dansie to clarify if the Town of Hideout acts to increase tax revenue. The portion of the project inside the MIDA district would be subject to those same taxes. In addition, language would need to be added concerning impact fees; properties in the portion of Hideout inside the project would be required to pay the appropriate impact fee.

Mayor Rubin indicated the other issue he was working on was to validate the financials as requested last meeting. The mayor has a meeting on Tuesday with Zions Municipal Organization to go through and get their input. In addition, he provided the agreement to the Town Engineering firm for their review because they worked on the Wasatch agreement.

Council Member Shadle inquired when the agreement had to be signed. Mayor Rubin explained what he really needed was to have the authorization to sign the Resolution; he doesn't have to have the agreement signed. The mayor said he has to have the Resolution signed before the end of the month. If they have the Resolution signed, then the mayor has the power to sign the interlocal agreement so that it could be adopted by MIDA. MIDA's meeting is the first Tuesday in April.

Council Member Shadle questioned if Mayor Rubin thought he would be able to get Zions to provide an analysis of the financial aspect. Mayor Rubin stated it was not that complicated; it was all set by law. Zions just makes sure it is articulated properly in the agreement.

Council Member Johansson inquired, as it was written today, who had written the agreement. Mayor Rubin explained the MIDA group wrote it, but Mr. Dansie had been working on it as well. The agreement was similar to what they had signed with other municipalities.

Council Member Baier said she does not understand the benefits to the Town except for the backstop for UTOPIA Fiber. She needed someone to explain to her the revenue and financial benefits. Council Member Baier indicated she had a question for Mr. Dansie. In the recitals, there is a reference to LUDMA, and Councilor Baier thought the way it was currently written, the Town cannot impose impact fees into their area, which would be the Hideout area. Mr. Dansie said that was one of the issues he and

Mayor Rubin had discussed. The Town needs to make sure they clarify with MIDA what the Town's abilities are with respect to impact fees and some of the other issues in the MIDA area.

Council Member Baier clarified any Hideout property may be added to the Military Recreation Facility (MRF) Project Area in the future by MIDA with the consent of the land owner; however, there was nothing in there about the consent of the Town. Mr. Dansie explained they are talking about a Hideout zone. He went on to say, the way he understood it, they would identify what they want to consider as the Hideout zone and which would be specifically delineated. What they are doing, was the Town was saying yes; we consent to that being added to the Project Area. If for some reason, there was a land owner within that area who does not agree at this time or for whatever reason MIDA does not choose to accept that area at this time, the document says was MIDA acts with the Town's consent to the inclusion of those particular properties in the MRF Area. If it doesn't happen now, they don't have to come back to the Town and get their consent with respect to what they had identified as the Hideout zone.

Council Member Baier referred to Municipal Services, 5A. She inquired if it somehow usurped the agreement they already had with Deer Springs to pay for the road plowing and park maintenance. Mr. Dansie indicated he and the mayor discussed this matter with Paul Morris at one of the meetings – specifically the areas that would come under their land use control and how it would work out, and if they feel like there would be additional clarifications they need or want to make. He went on to say, he thought this would be one of those things they could go back and discuss. He reiterated they had already raised the issue with them once, and he thinks they are agreeable to discussing it.

Council Member Baier referenced Section 10. She noted that passenger ropeways were mentioned. She inquired if they were talking about chairlifts at Deer Valley that are planned in the future. Mayor Rubin said that was their standard language and what they would be empowered to do; he didn't know if a ropeway would apply to them. They could clarify or take out that statement.

Council Member Baier referred to Page 7, 10E. She wanted Mr. Dansie's opinion regarding this section. The section states, the MIDA Board finds that of the infrastructure and improvements to be constructed in the Hideout zone and within the boundaries of Hideout that are outside the MRF Project Area are a benefit to the MRF Project Area and these findings adopted by the Resolution approving this agreement. Council Member Baier indicated she was thinking of trails, parks, etc. and if they were connecting through here or they were outside of the project area, they were to be for the benefit of MIDA as well. Mr. Dansie stated the requirement of MIDA were the funds that MIDA collects, which are expended, had to spent in a manner that benefited the project area. He thought this was a recital that the expenditures envisioned do in fact benefit the project area so they can comply with that statutory requirement. It was said in discussing this section with Paul, it was like any sort of trail system that would extend all the way across, which would include Deer Springs, and that was the way he was able to see including Deer Springs in the project and benefiting them.

Mayor Rubin added if they were to find funds to improve the water front at the state park, that would be considered a benefit of the project area because the people in the project area would want to come down and utilize it. However, MIDA gets to decide whether the improvement benefits the project area or not.

Council Member Baier referenced Section 20 the amendment. She said it states, "The terms of this amendment may be modified or amended at any time through execution by the parties of a written amendment hereto. Any amendment of the agreement shall specify the changes hereto and the effective date of the changes." She indicated her question on that was if they do end up amending the agreement,

would that require Council approval, or are they giving the Mayor power going forward to make amendments without the Council. Mr. Dansie stated typically their stance had been that agreements that affect the land use provisions or the way land was utilized required Council permission. He said they could include such a requirement in any motion approving the agreement or approving the Resolution. Council Member Baier stated she would want to include that; they don't know who the mayor would be down the road. Mr. Dansie stated he didn't think MIDA would have a problem with a provision that said any amendment had to be approved/ratified by the Town Council.

Council Member Shadle stated he didn't have any issues with the terminology or the provisions of the agreement. His concern was the outcome, which was with the financial implications are of the agreement. He indicated he felt uncomfortable providing the Mayor with the Council's authorization. If the financial implications look bad, he would like to be able to take another look at it before they authorize the Mayor to sign it. He thought it was appropriate to have a review of Zions' financial impact before they said yes.

Discussion followed regarding an additional meeting. Council Member Baier inquired if Mayor Rubin would know by next Tuesday; Mayor Rubin noted he would not. He was meeting with Zions next Tuesday; he doesn't know if he would have the answer by then.

Council Member Baier stated that she agreed with Council Member Shadle. They had to know what they were signing; it was a big deal entering into an agreement with MIDA. Council Member Shadle added he supported the matter 100 percent, and Mayor Rubin did a masterful job of getting in the middle of it. However, Councilor Shadle did not think they were performing their fiduciary duty if they didn't know what they are authorizing the Mayor to do.

6. INFORMATION ITEM – KLAIM presentation of elevations and review of materials

Chris Ensign addressed the Council. He indicated that he had a conversation with Mr. Dansie today, and they reviewed what his approval was. Whether it was a final with conditions or a conditional final item. He said he received one of those items, and it had three items that he needed to complete for final approval without conditions moving forward. Mr. Ensign went on to explain, based on an e-mail from Mr. Dansie, Dave Ericson had a few more notes on his civil set, and he and Mr. Ericson had been communicating on that. He said that ultimately, he would have him provide a letter stating he had fulfilled those items.

Mr. Ensign informed the Council he was still planning on phasing his project as he moved through it. He explained the last item was the exteriors. He said he was not in the HOA of Hideout; he will have his own HOA and wants to know what process the Council wants. He questioned what steps would be good for the Council.

Mr. Ensign showed a mockup of what the architecture will be. Solstice Development is fine continuing with natural materials. It is cheaper for them. Mr. Ensign questioned if the Council would consider a 20-year product instead and showed the Council a metal print stamped product which would keep its quality forever. He stated if the Council wanted wood, he would do wood; however, if the Council was open to alternative materials, he would like to propose some alternative materials.

Council Member Shadle indicated that he loved Mr. Ensigns design. It's time to stop employing 20-year old architectural designs, which date the look of the Town. The mayor wondered if this matter would be better handled through a design review committee like what they will do in Deer Springs which would have a couple of town officials and a couple of the developer's officials. The mayor said he would love to see it, but his suggestion was for it be handled by individuals who are spending time thinking about it.

Council Member Baier noted they had not adopted any design standards at the Town level. Mayor Rubin said they had indirectly. The Town has a Master Development Agreement (MDA) with Deer Springs, which describes the materials for construction, window types, elevations, etc.

Mayor Rubin acknowledged that Mr. Ensign brought some interesting things to the table, which had not been thought of before. The mayor was not against having a working committee to look at those things; Councilor Baier agreed. She indicated that she lived in a home with wood siding and had to stain something every year. She added they are having issues with their HOAs and keeping items maintained appropriately. /The Council Member thought something that looked natural, but had a longer life, was better for the community.

Mr. Ensign said he thought it was a great look, and he had almost any color available. Discussion followed regarding the proposed materials and how they would be utilized. Mr. Ensign indicated he thought the materials were at least a 15-year product; after the 15 years, it would be like any other product, it would have to be painted.

Mr. Ensign ultimately just wanted to confirm the process, and it sounds like it was a design review committee. He added that he appreciated the monthly development meeting, and Hideout was the only Town he had worked with that had these meetings.

Chris Ensign asked when he does his signage could he do a signage plan for his new development. Mr. Ensign talks about life-size photos at the entrance of his project. The Council referred him to the signage ordinance and said it was based on acreage.

Council Member Shadle inquired about Internet fiber; what were Mr. Ensign's plan to provide Internet. Mr. Ensign indicated that they plan on putting in the conduit for Internet Fiber.

Mayor Rubin referred back to the signage issue. He suggested that Mr. Ensign work with the Planning Commission.

Mayor Rubin said what he was hearing from the Council was they were prepared to setup a design review working team with him to finalize and make recommendations for the materials of construction. In addition, they could modify the MDA to reflect those if they are adopted.

Mr. Ensign thought that was ultimately their plan to identify tonight if he is essentially meeting the requirements by fulfilling the new requirement of his final approval. Mr. Ensign stated what he was asking was, if he received his letter from Mr. Erichsen saying he had fulfilled all his civil requirements, and he if he keeps with the phasing of his project, would he fulfill his final approval condition by agreeing to meet with the new committee for design review.

Mr. Dansie added a few thoughts. He thought the way they discussed it on the phone they could incorporate that process into the MDA which they are working on. They talked a little bit about Deer

Springs; and they outlined some design guidelines, in addition to outlining the design review process. He thought if they incorporated that process into the MDA, he would fulfill that condition of meeting with the design review committee and having them approve his elevations.

Council Member Johansson inquired about the roof design of flat roofs. Discussion followed regarding square footage of the homes and price range.

Council Member Baier inquired about access routes to the project. She asked if they were going through someone's driveway or was it a UDOT access. Mr. Ensign indicated it was a bit confusing; it was someone's driveway and it was also part of their access. They have been working with UDOT for six months. Mr. Ensign said it was his understanding that they are changing an amendment to better accommodate this situation. They are still in the process, but he believes they are in a good spot.

Council Member Baier expressed concern with the safety of ingress and egress; in addition to acceleration and deceleration. Mr. Ensign indicated they were allowed an allotment. It was a total of 88 units was what they had, and he didn't think there was any alarm with one phase. He indicated he would have to figure it out past that, and he believed there were multiple solutions to get there.

7. TRAINING – Open and Public Meetings Act

Mayor Rubin introduced the next agenda item. He noted they would watch a video on the Open and Public Meetings Act. Mayor Rubin said he was working to make sure everyone had the training. If everyone would rather do it on their own, he would send them the link. He went on to say, after the training, they would receive a certificate, and they could send it into the office.

8. ORDINANCE - Timelines concerning planning commission agenda items

Mayor Rubin indicated the next agenda item was an Ordinance providing deadlines relating to the items to be included on the agenda for the Planning Commission Regular meetings. He reminded the Council Members they adopted a similar Ordinance requiring the content for Council meetings to be provided ten days in advance. The Planning Commission wanted to do a similar Ordinance; however, they want content 15 days in advance.

Mayor Rubin reviewed the proposed Ordinance with the Council. He indicated that he was in favor of the ordinance; in addition, Mr. Dansie had reviewed the ordinance. Mr. Dansie explained he told the Planning Commission that the changes he would make are inconsequential.

Council Member Johansson moved to adopt the ordinance for providing deadlines relating to the items to be included on the agenda for the Planning Commission Regular meetings. Council Member Baier seconded. Roll Call Vote: Council Members Voting Aye: Council Members Shadle, Baier, and Johansson. Council Member voting Nay: None. The motion passed unanimously.

9. RESOLUTION - Establishment of the Hideout parks, trails, common spaces committee

Mayor Rubin informed the Council the resolution was originally drafted as an Ordinance; however, Mr. Dansie indicated it should be a Resolution. The intent of the Resolution was to establish the Hideout Parks, Trails, and Common Spaces Committee, which was to describe the intent of what they want and plan to do. Mayor Rubin indicated the committee has been identified.

Mayor Rubin inquired what they were going to do with the committee they already had working on the green space. Council Member Baier said they were going to roll it into this committee.

Council Member Shadle pointed out it initially was just parks and trails and then open space was incorporated. It was noted that it was included in the planning of the General Plan. Council Member Johansson inquired what would happen to the Systems Trails Committee that was a project of the Wasatch Trails Foundation. Councilor Baier stated they could still be affiliated with them; she went on to say, any other local non-profit that deals with trails, they would want to coordinate with them. The money would be held by the Town. She added this committee was an advisory committee for the Planning Commission. Whereas, the Wasatch Trails Committee sponsored and managed projects to deliver to the public.

Council Johansson questioned what would happen to the funds that are currently assigned to the Wasatch Trails Committee. Council Member Baier said it was Wasatch Trails Committee's money. They had fronted the money in the past, and they got reimbursed. She reiterated it was important to keep the relationship with the other committees to do things like fund raising.

Chair Dwinell said from the Planning Commission perspective, it was not their intent to restrict their current affiliations; it was to expand this Council's mandate. The committee was not looking to change what the Council was doing but to add to it the idea of working with the Planning Commission to create a Master Plan for parks, trails, open space, and common space. Council Member Baier indicated she thought they needed to carve that out that they would continue to work with non-profit organizations and be affiliated with them.

Council Member Baier stated for the record there will be no beach. The reservoir levels fluctuate too much. Discussion followed regarding beach. Council Member Kurt Shadle felt Council Member Baier was addressing an issue which was just a suggestion – not a directive. Council Member Baier reiterate she would like to see any reference to a beach crossed out. Council Member Shadle inquired why they should cross it out; it's just one of the many things that they have. She would rather see things like trails, winter grooming, non-motorized boating, fishing; the kinds of things that are a part of the parks. She thought those were better examples, and they were in line with the Resource Management Plan that the Bureau of Reclamation and their agency had put together. Council Member Johansson suggested they could add those items in addition to what was already there. Mayor Rubin explained it was never meant to be an exhaustive list.

Council Member Baier commented the park could support public concessions. Items such as kayak rentals or whatever concession it was, it would be great. It was thought whatever concession it was, it was very possible the park would approve that.

Mayor Rubin acknowledged Council Member Baier would like to make some changes to the Resolution; and he questioned if she had other changes she would like to make as well. Council Member Baier indicated she did. He inquired if she wanted to send back a new draft because he didn't see that they could adopt the Resolution at this point because they did not have the language to adopt it. Council

Member Baier said she thought they could adopt the Resolution; she would add the language to the motion.

Council Member Baier said she would like the name to be the Hideout Parks, Trails, and Open Spaces Committee. She indicated she would rather have open space than common space. The reason was open space was more broad and common space was the basis for things like parks and trails.

Commissioner Dwinell said open space is an umbrella over some of them, and they don't want to forget that component; it was agreed. It was mentioned Hideout does not have any parks. It was agreed the Committee would be named the Hideout Parks, Trails, Open and Common Space Committee.

Council Member Baier referenced the definition of a trail. It says a hiking, biking or walking trail etc. She stated she would like to add non-motorized to the definition of a trail with an asterisk for e-bikes in the future until they adopt an Ordinance allowing e-bikes.

Council Member Shadle said in the future they should think strategically. He pointed out the committee was providing for a Town Council member, a Planning Commission member and a Mayor appointee. He inquired if they were leaving it up to those three people to determine the size of the committee. He questioned when they would know who the Town Council member would be. Mayor Rubin indicated it was not a vote; the member was assigned by him according to the way the Resolution was written. Council Member Shadle disagreed; he indicated the Council voted for their member, and the Mayor appointed his member. In addition, the Planning Commissioner Chair appointed their member. Councilor Shadle said he would like to get going, and he inquired when the Council would vote on their member.

Mayor Rubin said they had another committee going based on the input for the General Plan, which Council Member Baier, Commissioner Goldkind, contract planning and Ms. McCosh and himself, and they are working on starting to create this vision, and they had a kickoff meeting. Council Member Shadle said this was the first time he heard of this committee. Mayor Rubin reminded Council Member Shadle he got Commissioner Goldkind's name from him. It was Council Member Baier's opinion that this group be done; there had only been one introductory meeting. She thought they needed to adopt the proposed Resolution and make sure members were appointed. Mayor Rubin stated, to be clear, the Chair of the Committee had to be the Council Member or Planning Commission Member.

Council Member Baier moved to adopt the Resolution establishing a committee for parks, trails, open and common spaces for the Town of Hideout, Utah, with the change to the definition of a trail to include non-motorized with an asterisk for e-bikes or Segway's until something else was adopted and to add additional recreational opportunities such as, non-motorized boating, paddling, fishing, and winter grooming. Council Member Johansson made the second.

Council Members Voting Aye: Council Member Shadle, Baier and Johansson. The motion passed unanimously.

Mayor Rubin indicated with the adoption of the Resolution, there needed to be membership for the committee. He said they had already identified some individuals that were working on these matters. He inquired if Chair Dwinell was okay with appointing Commissioner Goldkind; Chair Dwinell stated the Commission appointed Commissioner Goldkind. Mayor Rubin went on to say Council Member Baier had been working on this and asked if the Council was okay with that. Mayor Rubin indicated his appointment was Jan McCosh. Discussion followed who appointed the Chair. It was indicated the Chair

was appointed by the committee. and it had to be either the Council Member appointee or the Planning Commission appointee.

Council Member Shadle moved to appoint Council Member Baier as the member of the newly formed body. Council Member Johansson made the second. The motion passed unanimously.

10. INFORMATION ITEM – Review of Financial Report for Quarter ending 12/31/19

Brian Blazzard, Town Accountant, addressed the Council regarding the Town's financial second quarter. Mr. Blazzard indicated the first page was the balance sheet of the General Fund. He indicated the assets were more than the liabilities, which was good.

Mayor Rubin pointed out there would be a significant jump in the third quarter, which was not yet complete, due to snow removal. In addition, they hired another person to help support Mr. Cuillard that had not been in the budget so far. Mr. Blazzard addressed the Street line item on Page 3, the original budget through the end of June is \$139,000 for Streets. He noted though December, they spent \$55,000. Mr. Blazzard pointed out when they created the budget a year ago, they anticipated appropriating \$108,000 from the General Fund. He indicated that was from their Reserves. If they looked at the last page, they could see their net position is negative \$30,000. He pointed out of that out of the \$108,000 they had utilized \$30,000, but it was hard to look at it that way because their revenues would change between now and the end of the year.

Mr. Blazzard indicated that sales tax was a little bit low. He pointed out with building permits and the corresponding engineering fees and inspection fees, they would not come out exactly; they just know the line item would not create a deficit. The building permits cover the engineering and the administrative overhead.

Mayor Rubin said on the revenue side, they have a small team working to get their billing up-to-date and get their fees out so they have monies that are due to the Town to offset the \$30,000. Mr. Blazzard noted the Town is within budget.

Discussion followed regarding the building forecast, and if the Town was on track for the number of building permits they expected to have. Mr. Blazzard informed the Council they budgeted \$150,000 and through December they already had \$148,000. Discussion followed regarding the Town's fees for building permits and when the property tax revenue stream begins to come into play after occupancy.

Mr. Blazzard reviewed the Water Fund; the report showed assets and liabilities; in addition to revenues and expenses. He stated nothing appeared out of line.

Mr. Blazzard indicated they would need to review these items a little bit closer after the third quarter completed and determine if they need to amend the current year budget and start creating next year's budget.

Council Member Shadle inquired where their reserves were in the reports. Mr. Blazzard referred to the General Fund, and at the bottom is a fund balance of \$243,000, which were basically the funds they could utilize. Mr. Blazzard stated it was a non-cash item. Discussion followed regarding the fund balance on

the water side. Mr. Blazzard noted they wouldn't really see it on that side, and he explained why. The number is utilized to determine depreciation and how much it may cost to replace the services.

Mayor Rubin informed Mr. Blazzard they had already kicked off the budget committee; they were not ready as of yet for his level of detail. He noted they were getting ready earlier this year because the Town has some significant things coming up and needs to know early on what the budget picture will be.

11. CONSIDERATION AND POSSIBLE APPROVAL of a Franchise Agreement with All West Communications for High Speed Internet Connections in the Rustler Subdivision

Mayor Rubin gave some background on the agenda item. He said All West had come to the Town as a public utility to exercise its rights to install infrastructure. Typically, the way this is handled is through a franchise agreement with the municipality that defines how that happens. The engineering identifies a lane in the underground systems where they can install infrastructure.

Mayor Rubin explained this had been going on for a few months. Mr. Dansie had been heavily involved with the legal team. Chair Dwinell and Council Member Shadle had been involved from a Planning Commission perspective. He knew there was a discussion today between AllWest, Council Member Shadle and Chair Dwinell. The mayor asked they share that discussion; and Mr. Dansie had some perspectives as well.

Council Member Shadle indicated they had a productive meeting today with Jack Walkenhorst (All West). All West was interested in answering their questions. Councilor Shadle noted that he and Chair Dwinell had been working on the project for a long time. They are all in favor of competition; they think it was very good. Therefore, they welcome another General Plan action item kicked off. He said they collectively had some concerns that they shared with Mr. Walkenhorst; some Mr. Walkenhorst had answers for and some he did not. Mr. Walkenhorst assured the profile of the utility boxes at Deer Mountain was not what they plan on installing; they plan on installing a lower profile.

Council Member Shadle explained one of the issues they brought to Mr. Walkenhorst's attention, and he acknowledged it was something they had to do, which was a two-step process. They would have to pull fiber through the right-of way, and then they have to take the fiber from the right-of-way to the building. He went on to say, AllWest's focus is on Rustler and all of that pull from the right-of-way to the residence is across HOA property. Therefore, they could be putting fiber throughout Rustler causing disruption and not be able to complete the installation because the HOA might not allow it. Council Member Shadle said he and Mr. Dwinell urged Mr. Walkenhorst to move on that and Mr. Walkenhorst said he understood the issue. Council Member Shadle added that they wanted All West to incorporate into the franchise agreement that it would bring fiber to the whole town, not just one segment of the town and to incorporate into the franchise agreement the fact that at a certain threshold every neighborhood in the Town would have fiber pulled through it in a time sensitive manner.

Mr. Dansie addressed the Council and said in his review of this issue he approached it from a prospective that was different than Council Member Shadle's. He went on to say he recognized the hours that everyone had put into the issue of getting Internet to the Town in a way that enhanced the resident's ability to access high-speed fiber. He believed the Town collectively owed a debt of gratitude to Council Member Shadle, Chair Dwinell, Mayor Rubin and others for trying to spearhead this effort and to make the metes and bounds of this stride; it was his opinion it was incredibly admirable.

Mr. Dansie stated his role in looking at this was different than Council Member Shadle's and Chair Dwinell's. They are saying what do we want to see from our utility providers, specifically our telecommunication providers; and he thought that was important. He said his view was different; his perspective was to look at the issues and say what was the legal framework that governs these issues that have been presented to us by AllWest with their request for franchise agreement and how could we incorporate the goals and objectives the Town had.

Mr. Dansie explained that he spoke with AllWest's attorney, and they discussed some of the concerns that Council Member Shadle raised. In addition, he spoke with Council Member Shadle and Chair Dwinell about those concerns. He said not discounting the importance of those concerns, the draft they had put together and the one he worked on with AllWest's attorney and recommend to the Town for consideration does not address specifically those three issues that Council Member Shadle addressed – mainly the issue with the HOA granting access; the size of the boxes; and the requirement to provide Internet throughout the entire Town.

Mr. Dansie indicated he did not attend the meeting with AllWest, and he did not know where the discussion led to on those three points and if a consensus was reached. However, at the end of his discussion with the attorney, the agreement did not include those issues. He inquired if Council Member Shadle had any more information regarding the outcome of that meeting.

Council Member Shadle indicated that Mr. Walkenhorst was very forth coming, and he thought they had lowered their threshold of concern on the utility box in the right-of-way. The issue of HOA consent was important in that AllWest could be disrupting the Town in all kinds of ways, and the HOA could then say they wouldn't allow access to AllWest across HOA property. However, that is a business decision. The final point Councilor Shadle was adamant about, and it is not just an All West problem, parts of the community is planned to be covered, and part is not. The part of the Town that is not is in All West's plan is demanding access to high-speed internet and they don't have any ability to get access to it. Council Member Shadle's point was if All West is going to have a franchise agreement, which is a utility, act like a utility and service the entire town. Councilor Shadle added that without that, he would not agree to the franchise agreement.

Mr. Dansie said the one issue that was of real concern goes back to the legal framework in terms of what the rules and regulations are that govern utility providers. He went on to say because utility providers, in particular telecommunication providers, provide a service that constitutes interstate commerce. These types of operations are within the scope of the U.S. Constitution and therefore regulated by Federal law. There are Federal Statutes that govern telecommunication providers and because that statutory framework exists there is a certain level of what is called preemption where state and local governments are precluded from exercising a level of regulation.

Mr. Dansie explained, in this case, what the Town can do is regulate how, when and where the right-of-way is accessed if they are reasonable. He stated he thought that was what the proposed agreement did. It provides for a reasonable and fair methodology for AllWest to get permits to access the right-of-way, to restore the right-of-way, to not interfere with other utilities, and to indemnify the Town if they do.

Mr. Dansie noted with respect to Council Member Shadle's point about requiring AllWest to provide service throughout the town, he thinks this is something the Town cannot require. He does not think it was a valid basis to deny a franchise agreement because there are two layers of regulations above the

Town that preempt it. He pointed out Council Member Shadle indicated if AllWest wanted to be a utility, they should behave like a utility, which was correct. However, AllWest had a certificate of public necessity from the Utah Public Service Commission. As a holder of a certificate of public necessity, they had certain obligations and duties that are imposed on them by the Public Service Commission. There are certain circumstances under which the Public Service Commission requires a utility to provide service to certain locations; but that is for the Public Service Commission to regulate.

Council Member Shadle said he was sure what Mr. Dansie stated was correct, and he admired his advice and legal counsel. He cannot in good conscience vote to allow someone to cherry-pick in their town. He would hope and urge AllWest to reconsider this and come up with the framework that allowed the entire town to be served. He stated that an agreement was an agreement; it is between two parties. He would ask them to reconsider and try to come up with a framework that included all the residents.

Council Member Johansson said it sounded like AllWest would only provide service to Rustler. Mr. Dansie indicated they had to consider what their role, mandate and authority was. As a provider and a holder of a certificate of public necessity, AllWest had the right to operate in the right-of-way. They had chosen to regulate that right by means of a franchise agreement. The Town cannot deny them an agreement for reasons that are preempted by Federal law. Mr. Dansie encouraged the Council to recognize that AllWest had the right to operate in the public right-of-way. The Town could regulate that reasonably, but the Town cannot simply deny that for reasons that go beyond the scope of the Town's ability to regulate.

Council Member Johansson inquired if they could regulate the boxes. Mr. Dansie explained they had a Planning Commission meeting where that was discussed; and in his opinion, the Town could investigate adopting ordinances that specify certain standards for the providers and the standards do not preclude their ability to operate in the right-of-way.

Council Member Shadle said he would like to hear from the representative from All West to see if there was anything they could do to advantage all their citizens. Mr. Jack Walkenhorst, All West Communications, addressed the Council. He made one clarification stating, never at any time had they said the only section of Hideout they want to serve is Rustler.

Mr. Walkenhorst recalled when All West first came to the town, which was before Hideout was a town, they worked with the powers to be at that time and were willing to serve everything in Hideout. They were not allowed to do that. He indicated that they stepped back and tried to work with those in charge at the time. Additionally, they came back several times over the years after Hideout became a town and tried to work with various entities and people in the town. Now they are dealing with areas that are built, and it's a very difficult situation. Mr. Walkenhorst stated that he reached out to Mayor Rubin during his campaign and asked if they could start the discussions again. Mr. Walkenhorst indicated he took exception to the comment of not being a good neighbor. They have tried to be a good neighbor and want to be a good neighbor.

Mayor Rubin indicated they had several developments going in that are installing tubing; they are putting conduit into the ground. He asked how they could understand what the threshold was for All West and what could be done to make it easier for them to expand beyond their phase one. How can they go further, faster?

Mr. Walkenhorst said he reached out to the gentleman that was here previously, Mr. Ensign, on three occasions; in addition, he had discussions with Solstice Homes, and they are working directly with them. He indicated they had told every developer, all they need was an open trench. They would bring the conduit over and install it. Also Mr. Walkenhorst said they were working directly with Nate Brockbank on Deer Springs and Deer Waters and had from the very beginning. He stated they were very willing and open, and he felt he had expressed that to Council Member Shadle and Commissioner Dwinell.

Council Member Kurt Shadle addressed thresholds. Mr. Shadle the thresholds had been left out of an earlier version of the agreement. Mr. Walkenhorst indicated they cannot have that in the franchise agreement. Council Member Shadle inquired if they could have it in a side agreement. Mr. Walkenhorst said possibly after they get the franchise agreement taken care of. Mr. Walkenhorst noted All West is self-funded; they are not asking anything from the Town. He noted they are financially stable; however, they are not flush with cash either. He stated they want to have a good relationship and be a partner with the Town, but it must be a win-win both ways.

Council Shadle questioned what Mr. Walkenhorst thought was a win-win. Mr. Walkenhorst indicated a win-win was the Town getting the best service they can provide and state of the art service, and AllWest remaining financially viable to do that.

Mayor Rubin said we understand where you are trying to get to, and we think you understand what our concern points are. The mayor appreciated the fact All West might be open to talking about expansion down the road. The Mayor wanted to clarify one comment, if the developers lay the right size pipe, and they leave the ends available to him, why does he need an open trench? Mr. Walkenhorst replied, so they know how it's going in and so they know it's not crushed. He went on to say, everything they can do in the most cost-effective way makes it that much easier for them to serve as many as they possibly can. Further discussion followed regarding open trenches versus pulling fiber through existing conduit.

Mr. Walkenhorst reiterated they want to be a good corporate partner; they live here just over the mountain. He believed the attorneys had worked well together; they were just trying to get the best agreement that they could under the Federal laws and guidelines. He went on to say they would like to get started as soon as possible, weather permitting. Mr. Walkenhorst added something regarding Rustler, they would certainly not come into an area and do work if they could not finish and get revenue out of it. Before All West does any work in the town, they would do their due diligence to know that if they make the investment, there would be revenue at the end of the project.

Mayor Rubin asked Mr. Dansie if the Town were not to adopt the franchise agreement, assuming this would get into some type of legal challenge, what would it look like from his perspective. Mr. Dansie said there were a lot of factors, such as, if they are not quite there yet; they were still negotiating the terms of the agreement. However, they want to reach an agreement with AllWest, but they need a little bit more clarity and finality; he thought that was one thing. The standard the courts would look at was if the Town engaged in an unnecessarily onerous approval process. Mr. Dansie said he would describe that as requiring provisions that are preempted by Federal law; or if the Town engages in an unnecessarily long approval process, then the applicant could seek recourse in court. He went on to say that he thought that All West probably feels like it has been unnecessarily long, but it would be their burden in the courts or the FCC to say Hideout was engaging in an unreasonable approval process, but we would have to come back and say, no, we are working toward an agreement and we are doing, "A, B, C and D". However, at the end of the day, if AllWest was able to meet its burden to say the Town is engaged in denial for prohibitive reasons or was engaged in an unreasonable approval process, the remedy they would ask for is

to require the Town to grant the agreement. He added the terms the court may employ may or may not be the terms that they had worked out in this agreement.

Council Member Johansson stated it sounded like there were a few more things to address, and maybe All West could get the boxes flush to the ground. He said he would be in favor of having one more meeting and bringing it up at the next monthly meeting in April.

Mayor Rubin pointed out AllWest had been dealing with the matter since 2005; however, this Council had only been dealing with it a short time. The mayor requested that AllWest and the Internet Committee have a cordial discussion and see if they could come up with something that made everyone happy.

Council Member Baier noted as a point of order, she did not receive the franchise agreement until 3:30 p.m. today; she believed they have an ordinance that states they have to have the materials a week in advance. Therefore, they cannot vote on the item; she has not even read it.

Mayor Rubin said some there was some content that Mr. Walkenhorst had agreed to provide. At that point, they need to take some version of the agreement to the Council and have time to read it and find a way to get it to vote. He noted that the Council's next meeting was April 11, 2019, however, there was the possibility of a special session. Mr. Walkenhorst indicated he was out of town on April 11, 2019, but he would send a representative.

Mayor Rubin asked Mr. Dansie if they tabled the item for a revisit once the agreed upon content discussed today was delivered, then they could modify the agreement to reflect those things – assuming what was delivered was satisfactory. Mr. Dansie said that was an option.

It was questioned if they could clarify what was agreed to. The first item was the March 1st notice deadline, which had already passed; the second item was clarification on who would pay the engineer and those sections where it called for the Town Engineer to be involved. The third item they discussed a matrix for each development what the threshold would be. Whether it is in the agreement or not, they would like to know what the thresholds are to get into those neighborhoods. Mr. Walkenhorst stated he could not do the matrix before the agreement was signed. The fourth item was a visual of the boxes.

Mayor Rubin indicated they would table the agenda item, do the work, and bring it back.

12. CONSIDERATION AND POSSIBLE APPROVAL of an agreement resolving the timing for a second access road for the Golden Eagle subdivision

Mayor Rubin indicated they had been working with Mustang for some time to establish a plan for a second access road and the timing for the second access into Golden Eagle Subdivision. He noted it had been stuck for a while but had recently moved forward.

Mr. Dansie said it was an issue that involved the Golden Eagle Subdivision. The subdivision had been divided into three plats, and the plat for the first phase was approved and signed last summer. The plat for phases two and three were also presented to the Town for review and approval last summer; however, for several reasons, the Town felt they could not approve the plans. The Town interpreted the approval as requiring either a secondary access or a performance bond for the secondary access road be posted prior to the time of recording the plats. Mr. Dansie went onto say Mustang disagreed with the Town's

interpretation and took the position it was a condition and requirement that exceeded the Town's authority. Mr. Dansie stated they were unable to resolve their differences and it ultimately led to litigation between the Town and Mustang but never got into any sort of active litigation process.

Mr. Dansie referenced the document presented to the Council. In this agreement they put together the following: one, it provided for Mustang to put in the secondary access road over an easement, which they hold. This agreement indicated they would build an emergency secondary access road; it won't be a full-paved access road, but it would be built to the standards necessary to accommodate emergency vehicle access and emergency egress. They would do that after the town issued 30 building permits. Mr. Dansie said he felt like that accomplished the goal that they wanted to achieve on the plats last fall. It resolves the litigation, and it allows Mustang to move forward with development and marketing of Phases One, Two and Three of Golden Eagle.

Mayor Rubin clarified when Mr. Dansie said they would construct a road after the 31st permit he meant before. Mr. Dansie indicated by the time the 31st permit is issued, they had to have the road completed to the standards required in the agreement, and those standards are outlined in the International Fire Code.

Mayor Rubin presented the map showing where the road would be located. Discussion followed regarding the secondary access road and how it would tie in. Mayor Rubin stated the road is not actually where the easement is; it would eventually come up and connect in another area. It would allow a secondary access into Golden Eagle. The mayor said the road was on the UDOT plan as well. Mayor Rubin said it was a great step forward for a matter of public safety; what he had been holding out for was public safety. The mayor encouraged the Council to consider and adopt the agreement.

Council Member Shadle thanked Mayor Rubin for working on the agreement and indicated he fully supported the agreement.

Mayor Rubin said he knew Mr. Dansie reached out to Clint Neerings at the Fire District. Mr. Dansie informed Mr. Neerings the Town is planning on moving forward in this direction. He said he would not speak for Mr. Neerings; however, he did not think the Fire District was particularly enthusiastic about the scope of the Golden Eagle Development. Mr. Neerings noted they were down the road from that, and what they can do and enforce where they are with this agreement. He knew that Mr. Neerings looked at it, but he did not have a follow-up discussion with him.

Mayor Rubin noted that Mr. Neerings was aware of the access road and their intentions. He may have other comments, such as, turning radius. There are provisions in here that eliminate the litigation and protects the Town. The mayor felt it was a generous offer.

Mr. Dansie said there was one question that was raised, which was about engineering review. The engineering for Phase One was performed by Steve Jackson, and it is his understanding that Mr. Jackson has also completed the engineering review on Phases Two and Three. He has not confirmed that.

Chair Baier reference Section 4, Terms which says the parties agree the developer will construct the access road before the Golden Eagle Subdivision Phase One, Phase Two and Phase Three. She inquired if that meant they could have more than 30 homesites of homes under construction. Mr. Dansie indicated the way they tried to clarify that was the next sentence down. The development shall submit a certificate to the Town from a licensed engineer certifying the completion of the construction of the access road prior to issuance of the 31st permit. If the access road has not been completed by that time, the Town may withhold the 31st building permit and all building permits applied for thereafter.

Council Member Chris Baier moved to approve the agreement regarding construction of the secondary access to Golden Eagle Subdivision per the document that is in front of us and authorize the Mayor to sign the agreement. Council Member Johansson made the second. Council Members Voting Aye: Council Members Shadle, Baier, and Johansson. The motion passed unanimously.

13. DISCUSSION ITEM – Recycling for Hideout

Council Member Shadle shared a presentation regarding recycling. He noted that one of the tasks stemming from the General Plan was to look closely at recycling.

Council Member Shadle explained at the outset of the General Plan process, citizens were polled on a number of subjects including recycling. One of the questions was how committed the respondents were to recycling. He noted that out of the participants: 100 were committed, 16 were neutral, and 27 were not committed. He indicated that almost 77 percent of the Town was committed to recycling. The next question was, would you be willing to pay for curbside recycling services. He said that 66 respondents said yes, 50 said maybe, 30 said no, and 2 said sort-of yes. He indicated that between the yeses and maybes, it was just under 80 percent. He went on to say there were a lot of solicited, individual responses. There seems to be a desire for recycling.

Council Member Shadle stated he saw four recycling options: they could establish a recycling center in the municipal public works building once it was completed; they could negotiate curbside recycling service with a private contractor; they could encourage citizens to utilize the recycling facility located in Park City; or they could do nothing. Council Member Shadle discussed the options in further detail. Council Member Shadle indicted the reason he wanted to bring this to the Council's attention was to get their input so he could continue to investigate what the Mayor and Council would prefer.

Council Member Johansson said they should definitely support it; it was a great presentation. He liked the RSU; however, it was expensive. Councilor Johansson asked if they could have a trash pickup every other week and recycling the other week. Council Member Baier said doing nothing was not the way to go, but she did not think the Town should be in the recycling business. She thought they could use RSU or be more proactive.

Discussion followed regarding mandating recycling. Council Member Shadle inquired if the Town could provide recycling for all full-time residents and charge an annual fee whether residents utilized it or not. Mr. Dansie provided feedback regarding the idea; and it was his opinion it could be an option.

Mayor Rubin expressed he thought they should publicize RSU and let residents know it was an option for them. In addition, they could work on what the adoption rate was; and based on that, they could decide if they want to go forward from there.

14. CONSIDERATION & APPROVAL OF BILLS TO BE PAID – Consideration and Possible Approval of Payment of February Bills

Mayor Rubin indicated that he was working with the Administrative team to get the bills to the Council sooner; in addition, the descriptions have improved. This month's bill was self-explanatory.

Council Member Kurt Shadle moved to approve the payment of bills for the month of February 2019 as presented. Council Member Baier seconded the motion. The motion passed unanimously.

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

Planning Commission Chair Dwinell indicated that he noticed UDOT had replaced all the fencing from Jeremy Ranch all the way to the wildlife bridge with some nice-looking fence. He was wondering if they could get UDOT to replace their wildlife fencing and enclosing gaps. Mayor Rubin said he was not certain that was UDOT's fencing. Chair Dwinell noted that he was told it was by his builder. Discussion followed regarding fencing in the area. Mayor Rubin indicated he would add it to the list.

Council Member Shadle referred to the franchise agreement. He asked that they take into account that in some of the properties, the spacing between the homes where they will be placing lines, is very tight. In addition, take into consideration the snow that would bury the boxes. Mayor Rubin indicated they are prepared to take the risk.

Council Member Baier said she would like to recommend having a special meeting of the Town Council and the Planning Commission to talk about the possibility of a temporary zoning ordinance/moratorium. She thought it would be an important activity to have a joint meeting. Mayor Rubin inquired what the moratorium was for. Council Member Baier explained there was a precedence set by other communities around Hideout who were working on their town code in order to catch up without being bombarded with development applications.

Mayor Rubin ask Mr. Dansie if that was a valid concern to justify considering a temporary zoning. Mr. Dansie said he was not ready to offer an opinion on that right now without doing some work. He would be happy to have the discussion with the Town Council and Planning Commission; however, before he offered an opinion, he would want to spend more time with it. Mayor Rubin indicated if the Council said they wanted to do that, how much time would Mr. Dansie need to work on it. Mr. Dansie said whenever the next meeting would be, he would be ready for it – he said he could be ready in a couple weeks.

It was decided to schedule a special meeting with the Town Council and the Planning Commission, and they would identify a date. Council Member Baier indicated she would coordinate the meeting.

16. ADJOURNMENT OF PUBLIC MEETING

Council Member Shadle moved to adjourn to closed executive session to discuss pending or reasonably imminent litigation. Council Member Baier made the second. Council Members Johansson, Baier, and Shadle voted in favor. The motion passed unanimously.

Meeting adjourned at 9:15 p.m.

Lynette Hallam, Town Clerk