

Minutes
Town of Hideout
Town Council - Special Session Work Meeting
September 4, 2020

The Town Council of Hideout, Wasatch County, Utah met in a Special Session Work Meeting on September 4, 2020 at 6:30 PM. Due to the ongoing COVID-19 pandemic, the meeting was held electronically via Zoom online conferencing.

Special Session Work Meeting

I. Call to Order

Mayor Phil Rubin called the meeting to order at 6:34 pm and provided a brief overview of the work meeting.

II. Roll Call

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

Staff Present: Town Attorney Polly McLean
Town Administrator Jan McCosh
Town Clerk Alicia Fairbourne

Others Present: Park City Mayor Andy Beerman, Becca Gerber, Bonnie Park, Kim Carson, Lindsay Payeur, P. Frechette, Sean Higgins, Thea Leonard, Dave Rockwood, Mary Mouthaan, Scott Bigger, Celia Peterson, Kent Culliard, Stewart Gross, Susan Richer, Kurt Shadle, David Bennett, Jack Walkenhorst, Linda George, Margaret Plane, Sally Elliott, Sean Morgan, Rob Mansfield, Ellen Moore, Robert Hughes, Ralph Severini, Alex Butwinski, Amy Donaldson-Brass, Brad Cahoon, Jack Walkenhorst, Jim Gray, Emma Prysunka, Linda Kottler and others who may not have signed in using their proper name or full name via Zoom net meeting.

III. Agenda Items

- 1. Work Session to discuss Judge Brown's September 3, 2020 Ruling and options related to the possibility of an annexation across county lines and the possible boundaries of such annexation. The potential annexation area includes areas in Summit County in the vicinity of Richardson Flat. The work session will also address the advisability of rescinding the Pre-Annexation, Development, and Reimbursement Agreement entered into between the Town of Hideout and N Brockbank Investments, LLC on July 14, 2020 and material terms that may be included within any new pre-annexation agreement relating to the potential annexation that is the subject of this work session.**

Mayor Phil Rubin asked legal counsel to provide an update regarding Judge Brown's September 3, 2020 ruling and the status of the legislative repeal related to annexation. Town Attorney Polly McLean reported she attended the court hearing wherein the court ruled Hideout could go forward with the annexation and Judge Brown would not enjoin the Town from proceeding while the law remained in effect until mid-October.

Ms. McLean noted the ruling was on the injunction and was not a ruling on possible Open Public Meetings Act violations. The court allowed Hideout to move forward on an annexation during the sixty-day window. The pre-annexation agreement was on hold based on the injunction. The judge stated this would not be an advisory opinion and she had not found any express violations of the Open Public Meetings Act.

Based on state law, Hideout may consider moving forward based on the fact that the legislature did not make the law effective for 60 days. Ms. McLean added if the decision were made to proceed, this would be a new annexation consideration to be conducted with full public transparency. The outstanding items for discussion included whether to enter into an indemnification agreement based on the pre-annexation agreement which is on hold, as well as the next steps the Town Council should consider.

Mr. Rob Mansfield added it was important that everyone understood this was a new annexation agreement under consideration.

Council Member Jerry Dwinell asked why the legislature did not make the law's repeal effective immediately. Mr. Mansfield said there were differing opinions on this, and it was not clear. Mayor Rubin asked if the Council members had any other questions regarding the legal matters.

Council Member Chris Baier asked what date the 60-day timeline started. Mayor Rubin responded August 20th, 2020 with a deadline of October 19th. Council Member Baier also asked if the previously approved pre-annexation agreement was now null and void given the injunction; Mr. Mansfield confirmed it was. Council Member Baier asked if the entire agreement was null and void. Mr. Mansfield said in order to be conservative, the Town should not proceed on any portion of that agreement without further order from the court.

Council Member Dwinell referenced a recent publication of the Utah League of Cities and Towns which reported on the Land Use Task Force's current discussion of cross-county annexations, and asked if the topic remained an open issue with the State Legislature. Mr. Mansfield responded the State Legislature had expressed possible interest in revisiting this in a future session.

Mayor Rubin reiterated the purpose for this meeting was to consider the potential for starting anew on the annexation process, and noted several open topics for discussion.

Deed Restricted Parcels: Regarding the enforcement of potential deed restrictions on any properties under consideration for the annexation, Ms. McLean explained the Town would not be a party to such deed restrictions or be responsible for their enforcement. Such deed restrictions would not necessarily preclude the property from annexation, would remain with the land under a potential annexation, and it would be between the deed holder and the property owner to ensure the property was being used in accordance with the restrictions. Mr. Mansfield and Ms. McLean agreed.

Council Member Baier asked to see the map of any parcels that were possibly deed restricted. The map of the deed restricted property was displayed and reviewed. Mr. Nate Brockbank confirmed the status of the land he owned, and noted the pieces which were under discussion with Park City regarding deed restrictions. Mr. Brockbank also noted the deed holders for the properties under consideration were entities he owned or had under contract (with either Jordanelle Special Services District or Mayflower). The deed restrictions for these properties were held by either Park City Municipal or United Park City Mines/Wells Fargo.

Regarding parcel SS-86 which included two acres owned by Summit County and subject to pending litigation, Mr. Brockbank reported the parcel had been removed from the proposed annexation. Mr. Brockbank also noted Parcel PP-28-A (also under litigation with Summit County) was also removed from the proposed annexation and development plan.

Mayor Rubin reiterated no actions or decisions were being made during this session, and the purpose of this meeting was to provide the council members with information to consider as they contemplate whether or not to proceed with the proposed annexation.

Access to Services: Mayor Rubin noted access to services was not required as part of the annexation process, however would be required for future development. It was confirmed part of any development process would require the developer to provide the necessary Will-Serve Letters from various utility providers.

Environmental Concerns: Mayor Rubin noted a significant amount of soil testing had been conducted to better understand existing ground conditions. He further noted the area for proposed annexation had been reduced due to concerns over these results. Documents regarding these test results were provided in the meeting materials for the council members' review, and an environmental expert could be invited to attend a future meeting to discuss in more detail. Mayor Rubin stated the council members should think through these potential issues, and any such issues would have to be mitigated prior to development.

Revisions to the Proposed Land Use Plan: Mayor Rubin asked Mr. Brockbank to review revisions to the proposed development plan. Mr. Brockbank presented the potential land use map and noted it would consist of approximately 500 homes on 626 acres, and with 272 workforce housing units. He highlighted various park and open space areas including 20 acres of bike trails; city town center (26 areas) to be planned in conjunction with the Hideout town planner; and residential development to consist of single-family and town homes. He also noted a site for a school (five acres). The development would leave approximately 60 percent of the property as open space. In response to a question from Ms. McLean, Mr. Brockbank confirmed the specific numbers of homes and commercial units would be applied for later in the planning process.

Mr. Brockbank discussed a potential indoor surf facility and noted retailers had already begun reaching out to him prior to the launch of any marketing for the project. Council Member Baier asked if there would be sufficient space for a large grocery store, to which Mr. Brockbank responded yes.

Council Member Baier referred to the general plan created with Brigham Young University's Planning Department which addressed the town's needs for various commercial services, a better school solution for students currently being bussed 16 miles to Heber City, and the fiduciary need for tax revenues to support the growing population of Hideout and surrounding HOAs. She added much of the public does not understand since the town's 2008 incorporation, and well before the current elected administration, most of the land in Hideout was already approved for development. The neighborhoods were already pre-defined and planned and the town was not left with many options for the needed commercial, community, and school development. Council Member Baier stated she was pleased with the amount of planned bike trails, and noted their importance as an alternative to HWY 248 for pedestrians and bikers and to provide connectivity to Park City. She also noted the proposed annexation and development would be important for older members of the community who require closer access to services in order to age in place.

Council Member Bob Nadelberg stated the population growth was coming; the infrastructure was needed and he hoped that Hideout could work with Park City and Summit County to address the needs of the broader community.

Council Member Dwinell noted Wasatch and Summit Counties were responsible for the vast majority of the development of the Jordanelle corridor, but did not take into account the services these communities required. He noted the Wasatch County Development Plan was not current, and excluded Hideout from the General Plan. He also noted within Mayflower, there were just five small parcels zoned for neighborhood commercial development, and there was a school parcel zoned, but no plans to build a school.

Council Member Dwinell reported on a recent conversation with Park City Mayor Andy Beerman who shared plans for the Silver Creek development, near Home Depot. These plans included a school, stores, restaurants and affordable housing. Summit County did not respond to a request to share its development plans which could help inform the decisions that Hideout was considering.

Council Member Dwinell added he was struggling with the needs of the Town and the surrounding area, as well as with the Legislature's action and intent, given the 60-day window provision. He did not understand whether the legislative intent was to provide a window in order for Hideout to annex, or not, and added these were difficult concepts to consider.

Council Member Baier noted that counties should not be responsible for urban planning, which may be why the requested development plans were not provided. Urban planning should be done by cities and towns. She noted Wasatch and Summit Counties have very different agendas which had left Hideout in a challenging position of being ignored by Wasatch County and despised (at least currently) by Summit County. She added that while Hideout did not want to be in this situation, the Town Council must think ahead to anticipate the needs of the community. She stated that as elected officials, the Town Council was true local representation and must live with any decisions made. Council Member Dwinell noted the frustrations of Hideout residents who conduct most of their business in Summit County while paying property taxes to Wasatch County, which had not provided adequate services.

Mayor Rubin asked the Council to consider starting the annexation process anew, and noted additional legal challenges would be faced if the decision was made to move forward with the proposed annexation. He added the need to provide complete transparency in the process. Mayor Rubin asked the council members to think about the information discussed at this session, and proposed Council meet again next Tuesday to speak further on whether or not to move forward with a new annexation process.

Council Member Dwinell asked to add a discussion of the traffic study to the list of issues for further consideration. Ms. McLean stated this may be more appropriate to discuss later in the process; however Council Member Dwinell noted that Summit County had expressed concerns over the increased traffic and therefore he would like to address this early on in the process. Mr. Brockbank stated he would provide an updated traffic study based on the revised development proposal. Ms. McLean noted as this would be a new potential annexation process, an updated traffic study would be more relevant.

Mayor Rubin asked the Town Council to meet again at 5:00 pm on Tuesday, September 8th, 2020 to discuss next steps regarding an annexation decision. Mayor Rubin confirmed it would be a public meeting, as opposed to a public hearing.

Council Member Baier stated she was still concerned about the indemnification portion of the pre-annexation agreement and what the judge ruled in its regard. As public servants, she noted the need to make the best decisions possible for the Town. Mayor Rubin stated if it is decided to move forward, the Town Council would be asked to agree on a new pre-annexation agreement. He stated a draft agreement would be provided for Council's review at that time.

Council Member Carol Haselton stated she moved to Hideout because of the sense of community and neighborhood, and it was not until after she moved in that she understood the poor planning of the previous administration and original developer. She noted she too was torn about the annexation decision

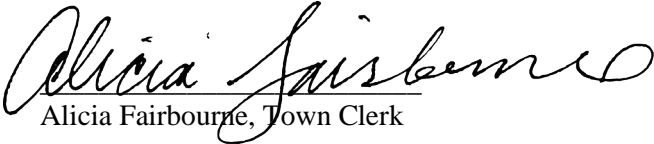
and wanted to do what was right for Hideout and the surrounding community. She noted her desire for a community center and gathering places for the Town in addition to commercial development. She added her desire for better communication and more regional planning to address the needs of Hideout and the surrounding Jordanelle area.

IV. Meeting Adjournment

There being no further business and no Executive Meeting needed, Mayor Rubin asked for a motion to adjourn.

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

The meeting adjourned at 8:12 pm.


Alicia Fairbourne, Town Clerk



APPROVED