Town of Leeds

Agenda Town of Leeds Town Council Wednesday, January 9, 2019

PUBLIC NOTICE is hereby given that the Town of Leeds Town Council will hold a **PUBLIC MEETING** on Wednesday, January 9, 2019 at 7:00pm. The Town Council will meet in the Leeds Town Hall located at 218 N Main, Leeds, Utah.

NOTE: IF YOU WISH TO SPEAK DURING CITIZEN COMMENT, PLEASE SIGN IN WITH THE RECORDER.

Regular Meeting 7:00pm.

- 1. Call to Order/Roll Call
- 2. Pledge of Allegiance
- 3. Declaration of Abstentions or Conflicts
- 4. Consent Agenda:
 - a. Tonight's Agenda
 - b. Meeting minutes of December 12, 2018
- 5. Citizen Comments: No action may be taken on a matter raised under this agenda item. (Three minutes per person).
- 6. Announcements
 - a. Dog vaccinations at Town Hall, Saturday, January 12, 1:30 2:30 PM
 - b. Dog license renewal deadline January 31, 2019
 - c. Business License & Home Business License renewal deadline February 1, 2019
- 7. Public Hearings
- 8. Action Items:
 - a. SITLA Easement for Silver Pointe Estates
 - b. Resolution 2019-01, Designation of a 2019 Representative to Washington County Special Service District No. 1
- 9. Discussion Items:
 - a. Main Street storm water update
 - b. Short-Term Rental Ordinance
- 10. Citizen Comments No action may be taken on a matter raised under this agenda item. (Three minutes per person).
- 11. Staff Reports
- 12. Closed Meeting- A Closed Meeting may be held for any item identified under Utah Code section 52-4-205.
- 13. Adjournment:

The Town of Leeds will make reasonable accommodations for persons needing assistance to participate in this public meeting. Persons requesting assistance are asked to call the Leeds Town Hall at 879-2447 at least 24 hours prior to the meeting. The Town of Leeds is an equal opportunity provider and employer.

Certificate of Posting;

The undersigned Clerk/Recorder does hereby certify that the above notice was posted January 3, 2019 at these public places being at Leeds Town Hall, Leeds Post Office, the Utah Public Meeting Notice website http://pmn.utah.gov, and the Town of Leeds website www.leedstown.org.

Peggy Rosebush, Clerk Recorder

Town of Leeds

Town Council Meeting for Wednesday, January 9, 2019

1. Call to Order:

Mayor Peterson called to order the regular meeting of the Leeds Town Council at 7:00 PM_ on Wednesday, January 9, 2019, at Leeds Town Hall, 218 N Main.

ROLL CALL:

	Present	Absent
MAYOR: WAYNE PETERSON	x	
COUNCILMEMBER: ALAN ROBERTS	x	
COUNCILMEMBER: DANIELLE STIRLING	x	-
COUNCILMEMBER: ELLIOTT SHELTMAN	X	
COUNCILMEMBER: NATE BLAKE	x	

Craig Hall, Town Attorney, joined the meeting via telephone.

- 2. Pledge of Allegiance by Councilmember Blake.
- 3. Declaration of Abstentions or Conflicts: None
- 4. Approval of Agenda:

Councilmember Roberts moved to approve tonight's agenda and meeting minutes of December 12, 2018. 2nd by Councilmember Sheltman. Motion passed in a Roll Call Vote.

ROLL CALL VOTE:

	Yea	Nay	Abstain	Absent
MAYOR: WAYNE PETERSON	x			
COUNCILMEMBER: ALAN ROBERTS	x			
COUNCILMEMBER: DANIELLE STIRLING	x			
COUNCILMEMBER: ELLIOTT SHELTMAN	x		***************************************	· · · · · · · · · · · · · · · · · · ·
COUNCILMEMBER: NATE BLAKE	x			

- 5. Citizen Comments: None
- 6. Announcements:
 - a. The Annual Dog Vaccinations will be on Saturday, January 12th, at Town Hall. It will be from 1:30 PM to 2:30 PM. Dr. Bice will be here and will provide the vaccinations as he has in the past.
 - b. Dog license renewal is due January 31, 2019. Leeds ordinance says it is due the later of the dog vaccination day or the actual 31st of January. January 31st it is.
 - c. Business licenses and home business licenses have a deadline of February $\mathbf{1}^{\text{st}}$ for renewal.

Mayor Peterson said that a few other announcements came in after the agenda was posted.

Hurricane Valley Tourism is inviting everyone to an open house on January 17th from 5 PM to 7 PM at the LaVerkin City Office which is at 35 N Main St., LaVerkin. They said you can find out who they are and what they can do to help you and how you can get involved.

2019 marks the 150^{th} Anniversary of the Golden Spike of the Continental Railroad being completed here in the State of Utah. They are hoping to have 150 events around the State in celebration of this 150^{th} anniversary of the actual date which was May 10, 1869.

In front of the Town Council table, there are some samples of the pavers that the 150th Anniversary committee is looking to make available for purchase by Town residents and others who might be interested. They will be put around an Oak tree that will be planted in front of Town Hall. It is desired that there will be a 10 Ft. radius that will not be driven on where it could damage the tree. If you have any questions, you can contact Town Hall or LoAnne Barnes who is also very much involved in this effort and Frank Lojko has also been very involved. These particular pavers have been used at Dixie State and they have been quite durable. This was one of the concerns that was focused on. There are certain rocks that might deteriorate over time. When we do place these pavers, there will be a time limit placed on it as far as how long they will be left in place. This will be discussed at the next Town Council meeting. We want the people to be able to leave a lasting memory, but we also realize that forever is a little bit too long a time.

Mayor Peterson asked if there were any more announcements.

- 7. Public Hearings: None
- 8. Action Items:
 - a. SITLA Easement for Silver Pointe Estates

Mayor Peterson said that at a previous Town Council meeting we approved the application for this easement. As it came back, there is a little more that is being offered in the easement, and as a result, I wanted to bring it to Town Council for their review. We have here this evening a representative of the applicant, Rick Sant, and he will explain what is different between the application and the easement.

Rick Sant, one of the owners of Silver Pointe Estates, said Silver Pointe Estates is attempting to connect their waterline and their access road up to Silver Reef Road. In order to do this, we need to go through the Crosby property and SITLA. Initially, we proposed to SITLA an easement for the waterline and they agreed to it. He said they brought it to Town Council and Council approved the easement. When it went back to SITLA, they decided that they would rather go ahead and give us the complete easement of 66 Ft. in width with the understanding that we would not be able to build the road until the environmental study was done. They are allowing us to put the waterline in without the environmental study, but in order to put the road in we will need to do the environmental study at that time. This will not be done for probably 2 or 3 years. We are now requesting that you approve the new terms of the easement. Town Council approved 25 Ft., but now it is 66 Ft. wide. Nothing has changed except for the width of the easement.

Mayor Peterson said he would like to add that he had a conversation with Aaron Langston with SITLA. He wanted to emphasize to me that the language in the easement states that if any work is done on the waterline it would require an archeologist from SITLA to be present because of their concern even though there is no environmental study that is needed, and he also reiterated that the environmental study would need to be done before anything beyond the waterline could be put into that particular area that they are granting for the easement.

Councilmember Stirling said that it is her understanding that they did a ground soil clean-up. She asked if this is correct.

Rick Sant said it is correct.

Councilmember Stirling said at this point, it says that the clean-up is not complete. She asked if they are still working on this. She said it says that they still need to develop a site management plan and environmental covenants for Phase I. It says at this point, the clean-up is not complete. She asked Rick Sant if he knows when this might be completed.

Rick Sant said they have a letter from DEQ stating that the physical work of the clean-up was completed to their satisfaction. He said they need to follow-up with legal documents and a maintenance agreement and that needs to be added to the CC&Rs that were recorded with the first phase. He said his attorneys are working on this. It has been a very difficult and trying time to try and work this out with DEQ. We just had a meeting yesterday and I believe that we are real close to providing these two documents.

Councilmember Stirling said she would like our attorney's point of view on what we can do if the clean-up is not complete on this particular site.

Rick Sant said it has a drop dead date of within 4 years.

Mayor Peterson said work must commence within 3 years and must be completed within 4 years as stated in the document that Council has.

Mayor Peterson asked Craig Hall, Town Attorney, if he has any input at this point.

Craig Hall said in his experience in working with DEQ, they will not allow any conveyances or moving forward unless the clean-up has been done. The maintenance agreement is the second or third step in the process. The maintenance agreement tells the world and you as the owners, what and how you can do any development on the property while insuring that the public, any residents or commercial business owners are protected from the environmental hazards of radon and radium. There are protections that are contained in the maintenance agreement and in the Easement Agreement, especially for the waterline. He said he anticipates that the soil will be dug out, the lines put in and then the same soil will be put back in. He said he does not have a lot of concern provided they follow the Maintenance Agreement and other agreements that they will be required to sign by DEQ.

Rick Sant said he hopes to have this completed by the next month or two. It is a very complicated process plus DEQ's attorney resigned in the middle of the whole thing and they had to start all over again. He said it has been very frustrating.

Mayor Peterson said he would like to add that he had a conversation with Dave Bird from DEQ who did speak at Town Council about three or four years ago about the project when the soil remediation was ongoing. He indicated that in January, 2006, they certified the completion of the soil remediation. As described, the management plan is still outstanding. He said he also asked about the installation of a waterline. Dave Bird said there are portions of it that have not been characterized. This is the term they use to describe it. Dave Bird said it is permissible to put in utilities without first characterizing the actual land that you are going through and that it would be appropriate to have an environmental engineer look at the soils to be removed from the trench. He said utilities generally refer to it as a clear channel. If it is clear soil, they will put it back, and if it is known that the channel was a clear channel from a standpoint of contamination for future maintenance needs. He asked Rick if they were planning to follow these procedures.

Rick Sant said that will be contained in the Maintenance Agreement.

Mayor Peterson asked if there were any other questions from Council.

Councilmember Sheltman said it is his understanding that in the State of Utah no one has ever put residential development on an area that has been cleaned up of radioactive materials. He asked Rick Sant if this is true.

Rick Sant said he did not think this is true. He said there have been other instances up north.

Councilmember Sheltman said he has not found any from the DEQ. He told Rick Sant if he knows of any, he would like to know about them. He said there is some concern in the community about this.

Rick Sant said this is why they cleaned it up. They have an authorized representative of the State who certified that it has been cleaned up.

Councilmember Sheltman said he may be incorrect, but it is his understanding that there is still some radioactive rock there. He asked if this is true

Rick Sant said there is radioactive rock all over the world.

Councilmember Sheltman said there are exact spots that you have located and have talked about doing something. He asked if this correct.

Rick Sant said areas have some radioactivity and it is this way all over town.

Councilmember Sheltman asked if there are some that you have identified, correct?

Rick Sant said that is correct. And they will be addressed in the Maintenance Agreement and CC&Rs.

Councilmember Blake asked if legal has had a chance to look at the easement.

Mayor Peterson said Craig hall has had it for several days and he believes he read it.

Craig Hall said he had reviewed the easement. He said it is a SITLA form and he has no problem with it.

Councilmember Sheltman said the only problem he has with it is that it has a signature line for LDWA. They were not involved with the process. He asked why they are required to sign. He thinks it should just be basically the Town.

Mayor Peterson said from having read the agreement, what they do reference is that it is specifically for a waterline to be installed. They mention that they do not want the work done without the presence of a SITLA staff member who would be an archeologist. He said he thinks they are trying to find a way to make sure the LDWA is aware of that restriction. The Mayor asked Craig Hall whether this is something that should be in a separate agreement or part of this agreement.

Councilmember Sheltman said he thought it would be better if it was between us and the utilities since we have control over the easement. He said he prefers not to bring in another entity for signature. He said this is his opinion on it. Other than this, he does not have a problem with it.

Craig Hall asked who will own the waterline.

Councilmember Sheltman said it would be whoever is controlling the utility. He said if anything is ever developed all utilities will want to go that direction. Along the road is where utilities want to be. He said he does not understand why we are picking one utility. If we are going to deal with them as a group, it should be consistent. No matter who comes in, we should say these are the requirements that we have because of the particulars of the area.

Craig Hall said this is a very fair request.

Mayor Peterson said perhaps the shortest way to get an acceptable resolution would be to instruct our attorney to speak with the SITLA attorney to work out the details and to explain the concern we have and the desire to get the initial agreement between us and SITLA, and that we will interact with any utility to make them aware of the restrictions that are being put forward whether it is water or otherwise.

Craig Hall said he can do this. He has a legal contact at SITLA.

Mayor Peterson asked Council if they are comfortable with this. We will look to have this on the agenda for the January 23rd meeting. He asked Craig Hall if this timetable will work for him

Craig Hall said yes.

Mayor Peterson asked for a motion to table the SITLA Easement for Silver Pointe Estates until the January 23, 2019, meeting. Councilmember Stirling made a motion to approve. 2nd by Councilmember Sheltman. Motion passed in a Roll Call Vote.

ROLL CALL VOTE:

	Yea	Nay	Abstain	Absent
MAYOR: WAYNE PETERSON	X			
COUNCILMEMBER: ALAN ROBERTS	x		-	-
COUNCILMEMBER: DANIELLE STIRLING	X			
COUNCILMEMBER: ELLIOTT SHELTMAN	x		2 5-2-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-	
COUNCILMEMBER: NATE BLAKE	100000000000000000000000000000000000000	x		

B. Resolution 2019-01, designation of a 2019 representative to Washington County Special Service District No. 1

Mayor Peterson said this is to appoint a representative. What I have put forward is a suggestion that we re-appoint Alan Roberts to this position. He asked Alan Roberts if he would be willing to continue to serve.

Councilmember Roberts said he will.

Mayor Peterson asked for a motion to approve Resolution 2019-01designating Alan Roberts as our 2019 representative to Washington County Special Service District No. 1. Councilmember Blake made a motion to approve. 2nd by Councilmember Sheltman. Motion passed in a Roll Call Vote.

ROLL CALL VOTE:

	Yea	Nay	Abstain	Absent	
MAYOR: WAYNE PETERSON	x				
COUNCILMEMBER: ALAN ROBERTS	x	-			
COUNCILMEMBER: DANIELLE STIRLING	x				
COUNCILMEMBER: ELLIOTT SHELTMAN	x				
COUNCILMEMBER: NATE BLAKE	Х	(1) (1) (1) (1) (1) (1)		 y	

9. Discussion Items:

a. Main Street storm water update

Mayor Peterson said at the last meeting we had a presentation by Karl Rasmussen of Pro Valley Engineering regarding opportunities to pursue UDOT funding as well as some grant funding. I was made aware of a deadline of January 5th in order to be on the list for CIB 2019 consideration. We did submit the Main Street storm water project to the CIB for funding. It would have about 80% of the funding coming from UDOT, a significant portion (over \$100,000) coming from CIB and \$12,000 from the Town. This includes money that has already been spent on the engineering work to date. This is not officially an application, but when the time comes you need to be on the list if you want your application to be considered. Karl Rasmussen will continue to look for other sources of funding because there may be others that can help to come up with the portion that UDOT will be looking for from the Town.

b. Short-Term Rental Ordinance

Mayor Peterson said that a few days ago he was contacted by an individual who has a property that has been involved in this type of activity here. Normally, we have the citizen comment period, but this has generated a lot citizen comment. Comments are usually limited to three minutes, but Douglass Forsha has requested time for a 10 minute presentation via PowerPoint to try to explain his views on short-term rentals. I would like to find out if Council would be amenable for a 10 minute presentation.

Councilmembers Stirling, Roberts, Blake and Sheltman said they have no problem with this.

Douglass Forsha's PowerPoint presentation included the following highlights:

- History of the Forsha Family
- History of B&B Hospitality
- History of Vacation Rentals
- Reasons To Consider Allowing Vacation Rental
- Impact on Neighborhood

Mayor Peterson suggested that they continue the discussion as a Council and then we will open it to citizens' comments as we usually do at the end of the meeting.

Mayor Peterson said there was another newspaper article related to the Las Vegas situation. They are trying to severely limit short-term rentals in the Las Vegas market because of their concerns about how they played out. I have had discussions with our Town Attorney and would expect that at our next meeting on January 23rd, there would be some proposed language that we can start to discuss at that point. I do not think it will be ready for action, but I think with the starting language we can start to move towards action. He asked if there is anything else Council would like to mention at this time before we end the discussion item and move on to citizen comments.

10. Citizen Comments:

Ray Crandall said he has concerns with the CC&Rs. He said he feels sure the residents are protected by the CC&Rs that are already in place.

Mayor Peterson said, just to reiterate, CC&Rs are something that the subdivisions are able to enforce, if it is something beyond what the Town requires, but they cannot weaken any Town requirement. The current Town requirement is that in order to operate a bed & breakfast, you must get a Conditional Use Permit and you must have the owner present on the property at the time business is conducted. What we are looking at is some language that will set some specific limits with regard to what has been proposed by Council and working to get drafted up as far as what will be permitted by the Town. There would then be the opportunity for the Home Owners Associations to oversee the development agreement. They would then be able to be more stringent, but not less stringent.

Ray Crandall said it is his understanding this is not an ordinance now.

Mayor Peterson said it would be additional language.

Douglass Forsha said the CC&Rs for Silver Reef Estates were written in 1975. It was at a time when bed and breakfasts were available. The internet was about 30 years beyond them. Now he thinks vacation rentals are at about 95% and B&Bs are at about 5%. Guests want their privacy. He said it is his wish that someway it can be incorporated into the CC&Rs that are 45 years old.

Councilmember Blake said that Town ordinances override CC&Rs.

Alan Cohn said he just recently moved into the community and did not realize he would be living next to a hotel. Plus the way it was done by not talking to the neighbors, it seemed pretty underhanded the way it was snuck in. This was not fair to the community or the residents in Silver Reef. Obviously, there is an overwhelming majority of the people in Silver Reef that object to that house being operated as an air B&B. He said Douglass Forsha talked about the model being antiquated. The thing is when you have a B&B, you have someone who is present, and if something goes wrong, you can go knock on that person's door and say your guests are making a lot of noise or their dog is running loose. You cannot reach the management companies any time day or night.

Douglass Forsha explained to Council that he and his family started the vacation rental in Silver Reef for additional income to help pay for his mother's nursing home care. He said once he found out vacation rentals are not allowed, he shut it down. He said he did not consider a Conditional Use Permit because they did not intend to have a bed & breakfast. If they are going to need someone on site, they will consider moving in a trailer for a family member to stay in. He asked if this would be acceptable.

Mayor Peterson said this would need to go to the Planning Commission who is the first group to review a Conditional Use Permit application. However, there are regulations that a visitor to a home may live in a trailer for up to 30 days in a calendar year. You are not allowed to live in a trailer on a residential property. You must be in an RV or motorhome park that are in town. Or if you are building a home on a vacant lot, you are allowed to live in a trailer for something like 6 or 9 months and this can be extended by a short period.

Douglass Forsha said if they owned a trailer on the property, and used it each time the home was rented, would this be acceptable? The home is not a residence, it is a vacation home. It would be for the owners to stay in just when the home was rented.

Mayor Peterson said he did not want to answer this on the fly. It would need some investigation. He said he thinks there would be some areas that would need to be checked.

Terry Danielson said that he lives in Bonanza Estates. He said he has one comment regarding Councilmember Blake's comment on whether or not Town ordinances would override CC&Rs. The way he interrupts the CC&Rs, if that is true, is if the ordinance existed before the CC&Rs, it would, but not for ordinances after the CC&Rs if the CC&Rs already existed. It has always been up to residents and CC&Rs to have the majority (75%) to override or to make a decision on accepting these requests.

Mayor Peterson asked the Town Attorney if the CC&Rs existed before a Town ordinance, does that supersede the Town ordinance on that particular topic?

Craig Hall said the answer is yes and no. It depends on the restriction that would be proposed in the ordinance. Cities are entitled to pass ordinances dealing with health, safety and welfare. Generally, CC&Rs talk about conduct of property owners and what can take place on the property such as a building type, color, etc. City ordinances can trump CC&Rs. CC&Rs 6 or 7 years ago, a lot of them contained prohibitions regarding respective residents who could buy a piece of property. He said he does not care what a CC&R does; city ordinances, State statutes or Federal laws will trump that in a minute. This is an example where city laws and ordinances can supersede CC&Rs. The CC&Rs traditionally have been dealing with conduct on the property, home occupations, etc. A city may allow certain home occupations, but CC&Rs may prohibit it. CC&Rs cannot change this. The answer is it depends on the subject matter in CC&Rs versus city ordinances.

Mayor Peterson asked if the public was able to hear the teleconference phone. Everyone said yes.

Terry Danielson asked what is the interpretation.

Mayor Peterson said it will depend on the specific clause that you are requesting in terms of whether or not it would be superseded. He said Craig Hall mentioned that there are some specific CC&Rs that are going after some of the restrictions against Federal classes. The Federal classes trump where you cannot discriminate against someone when the CC&Rs of olden days evidently had clauses in them that said discrimination was fine and you couldn't do things with certain groups out there. Some can be trumped by future legislation and others would remain even in the face of future legislation by a town or municipal city body. He said it depends is the answer. If there are specific issues, they certainly could be investigated.

Terry Danielson said he was going back to when the ordinance first specifically stated that ordinances must honor CC&Rs as they were written. For example, our CC&Rs state it must be passed by at least 75% of members in the community to approve any change. This was my argument before and I still maintain this position that the CC&Rs in place should be recognized by the city.

Mayor Peterson said they can certainly check into these things and follow-up rather than trying to answer here on the fly.

Mayor Peterson said he would like to mention a couple of things, since there are members of the public present – (1) Douglass Forsha may not be aware that one of the hats that I wear is that I am the Chairman of the Fire District. They did not conduct more than 30 or so inspections across the entire District for vacation rentals in December. He said he did not want people to misstate and go to LaVerkin and find out that maybe the numbers you quoted are not the case. (2) The State legislature, two years ago, said you cannot prosecute somebody simply for advertising an illegal short-term rental in your community. We do follow-up when activity is observed and we do contact people. If they are listing, for example, the local ordinance might require 30 days which is an example of the one raised in the presentation. That entity has been contacted and we said there is no might about it. Local ordinance does require a 30 day minimum rental in order for a rental to be permitted in the community. There is advertising out there, but we are not allowed to prosecute against that advertising, but there are steps we can and do take in order to try to make sure our ordinances are followed. If the ordinances are changed, this is how something different might get permitted, but the

ordinances that are there, we cannot because the State trumps us in this regard. We cannot write an ordinance and say based on the advertisement, we are going to prosecute. We can only do it basis observed activity on the rental property.

11. Staff Reports:

Mayor Peterson reported on 2 meetings that he attended. One is the COG and one is DTAC. They are both looking at corridor acquisition. It is an attempt to be looking in areas that do not have any development right now to line-up what might be needed in the future for roads and this is something that continues to receive focus and continues to have monies dedicated to it in order to have the availability for roads that are planned for in master transportation plans. But these plans go right up to the border of the next community and the effort is to coordinate this from one community to another to avoid one community acquiring land in order to have a corridor that is 100 Ft. away at the point of the border where the other community has acquired. This is a very coordinated effort to take care of that.

Mayor Peterson said there was a Mayor's Association meeting that is purely an association, they take no action. But there was discussion about a variety of transportation taxes that are being proposed in the way of changes to them at the State level. There are five different quarter of a percent taxes that are related to trying to expand the infrastructure of roads and maintaining the roads and there will be ongoing updates as the State legislature gets into session here soon regarding some of these different ones. Some of these require ballot initatives and some have been changed at County Commissions. One of the things that was highlighted is it is now estimated that it is over 30%, with the number of visitors increasing at Zions and a number of other areas in our County, the sales tax paid by people not living in the County is now expected over one-third of all sales tax paid within our County. We maintain our roads with funds from UDOT, and things that go beyond that, we do it from Town revenues. Our only variable source for that revenue is property taxes which have not gone up in many, many years. He said he is not suggesting that he wants to increase the taxes, but it is an area where the County Commissioners are going to be looking at. Many of the towns and cities in our County are spending operating funds and revenues to maintain their roads because they need to do it. We have been able, for the most part, to stick with B & C road funds. If it is a Main Street project, we need to come up with project monies because B & C does not include State roads, which Main Street is. The State takes part and takes care of it from edge of curb to edge of curb, but beyond that we then have some obligation to it and it is not automatic that a State road needs to have a curb and gutter. Our most recent project, we were able to do with over 80% funding from UDOT on our Main Street curb and gutter and sidewalk that was added.

12. Closed Meeting: None

APPROVED ON THIS 2300 DAY OF January Maye Peterson Mayor, Wayne Peterson	, 2018
ATTEST: Peggy Rosebush, Clerk/Recorder	

13. Adjournment:

Meeting was adjourned at 7:58 PM.