

Town of Leeds

Town Council Meeting for October 8, 2014

1. Call to order:

Mayor Peterson called to order the regular meeting of the Leeds Town Council at 7:03pm on October 8, 2014, at Leeds Town Hall, 218 N Main.

2. Roll Call:

ROLL CALL:

	<u>Present</u>	<u>Absent</u>
MAYOR: WAYNE PETERSON	x	_____
COUNCILMEMBER: RON CUNDICK	x	_____
COUNCILMEMBER: ANGELA ROHR	x	_____
COUNCILMEMBER: JOE ALLEN	x	_____
COUNCILMEMBER: NATE BLAKE	x	_____

3. Pledge of Allegiance by Nate Blake.

4. Declaration of Abstentions or Conflicts: None.

5. Approval of Agenda:

Councilmember Allen moved to approve tonight's agenda and meeting minutes of September 24, 2014. 2nd by Councilmember Cundick. Motion passed in a Roll Call Vote.

ROLL CALL VOTE:

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
MAYOR: WAYNE PETERSON	x	_____	_____	_____
COUNCILMEMBER: RON CUNDICK	x	_____	_____	_____
COUNCILMEMBER: ANGELA ROHR	x	_____	_____	_____
COUNCILMEMBER: JOE ALLEN	x	_____	_____	_____
COUNCILMEMBER: NATE BLAKE	x	_____	_____	_____

6. Citizen Comments: None

7. Announcements:

Mayor Peterson, on October 11 from 9am to noon will be Leeds Proud Cleanup Day and the Fire Department will be having a yard sale from 8am to 1pm at the Peach Pit Pavilion.

8. Public Hearings: None.

9. Action Items:

a. Notice of Award for the Main Street Curb & Gutter Extension

Mayor Peterson indicated there were 4 bidders on the project. The high bid was \$87,027.50 and the low bid was \$64,192.60. Sunrise Engineering has recommended approval of the low bid of \$64,192.60 as it meets the specifications they set forward. The name of the entity

on it was Goran LLC. The UDOT grant was for \$50,000 and the Town will provide the Asphalt work that would connect the curb and gutter to the existing road way. That is part of the \$64,192.60 bid, so we would not have any additional costs there. The other thing the Town provided was the Engineering service with Sunrise Engineering. The actual cost from the road maintenance program would be \$14,192.60, plus Engineering fees; which, we have already budgeted for and expended at this time.

Councilmember Cundick asked if this company has done any work around here?

Mayor Peterson responded, I am not familiar with them. They are located in Cedar City.

Councilmember Allen, the letter from Sunrise Engineering stated that they are the lowest responsible bidder, so we would just need to have faith in Sunrise.

Councilmember Cundick will they be bonded?

Mayor Peterson responded, in the Notice of Award, it does indicate that they are required to carry a contractor's performance bond and Certificate of Insurance and discussed it further.

Councilmember Rohr, LDWA water project was done by PP&I out of Cedar City, so I consider Cedar City local.

Elliott Sheltman asked where is this going to be?

Mayor Peterson responded, on the West side of Main Street where the curb ends up to Vista Betty McKnight, so is that like 3 or 4 blocks.

Mayor Peterson responded about 3 blocks worth of work.

Councilmember Allen made a motion to award the bid for the curb and gutter extension on Main Street to Goran, LLC in the amount of \$64,192.60. 2nd by Councilmember Blake. Motion passed in a Roll Call Vote.

ROLL CALL VOTE:

	Yea	Nay	Abstain	Absent
MAYOR: WAYNE PETERSON	x	_____	_____	_____
COUNCILMEMBER: RON CUNDICK	x	_____	_____	_____
COUNCILMEMBER: ANGELA ROHR	x	_____	_____	_____
COUNCILMEMBER: JOE ALLEN	x	_____	_____	_____
COUNCILMEMBER: NATE BLAKE	x	_____	_____	_____

10. Discussion Items:

a. Discussion of Ordinance 2014-02, amendments to the Land Use Ordinance Chapter 20, Hillside Protection Overlay Zone

Mayor Peterson, this is a continuation from the last Town Council meeting. As requested, I did talk to Gary Kuhlmann, the Town Attorney, about some of the ideas about adding language. Perhaps limiting it to one side of Main Street, or even getting more specific with where that exception may take place. What Gary indicated in general was he would advise against legislating to specific cases and that Ordinances are generally best stated in a more general sense to allow you to apply it to situations that may come up over time. Having said that, he did mention that St George did an Ordinance just for the Airport land and discussed the language of the amendment further. Gary did highlight that you are not going to eliminate the chance that the Ordinance could be amended at a future point in time. Something that the Mayor has heard repeatedly in trainings sessions with Utah League of Cities and Towns is that under no Circumstance is there the opportunity for a Council to try to bind a future Council to something that is the purview of Council. We are not allowed to say to them that they must go forward in the future to do something that they technically as a body are authorized to take action. Similarly we are not in any way bound into things that somebody could

have done previously to us. When it comes to recorded deeds, there are things that bind the Town, but when it comes to Council action which changing an Ordinance is, that is not something we could try to bind future Councils to doing. Gary suggests that we could consider it how we wanted. His initial guidance would be to look towards doing it in a more general format.

Councilmember Blake, I think we are just going to opening up a flood gate.

Councilmember Cundick, as I understand it, the genesis of this is really for a road for Silver Pointe so they can have another access.

Mayor Peterson, as I read it in the record, they came proposing that it would be an internal road in that area. Town Council at the time they were proposing the Preliminary Plat and the Development Agreement, both of those documents. In the Development Agreement, the Town Council pushed for a second access connecting by the area leading out toward Cemetery road. Then during the Preliminary Plat, the Engineer raised the point that it was going to be over a steep slope area. No specific numbers were mentioned; just that it was over a very steep area. The Developer offered to just make it an internal road as they originally had, but not going into the extremely steep area, and the Town Council again stated their desire that a road be built to the edge of the property at that point so it would allow for future connection into Cemetery Road at some point in time.

Councilmembers discussed the road and amendments further.

Councilmember Rohr, I think the language there is a little loose and I know in other Ordinance's those are limited to 12 or 15% or less, but a variance could maybe go as high as 15% grade. I don't have any numbers on this, just having looked at the land in the past, were talking about maybe an overall from beginning to end, maybe a 10 or 20% grade. So the problem is on this road is, there are I don't know how many, but I would say at least 2 pretty big dips where the grade is significantly in the 30% grade or way more. As Bob Nicholson has explained on more than one occasion, that the 30% would mean you couldn't disturb this, you couldn't build this, you couldn't put utilities over it or a road over it and this is what we are looking at with the Sant's project. The way it is currently worded, it would seem that we could have a 30% grade and someone can come into a Town Council in the future and say "we already have it on the books, you can do that" and then maybe they would have to do a switchback road or something like that. So I think that if its limited to certain portions of the road that are more than 30% or where the utility is going to go, that might be a more defining way of putting into an Ordinance like this.

Councilmembers discussed the amendments further. The Towns portion of the costs associated with building the road might be funded through future road impact fees. Mayor Peterson will contact Gary Kuhlmann for amendment language recommendations.

Mayor Peterson, I received an email with the future annexation expansion area for Toquerville. He gave Councilmembers each a copy. If you look at our expansion area with their expansion area they overlap. I have not had an opportunity to understand how these future expansion areas work yet to see if there is a problem or not, but I thought it was eye opening where this expansion area extends interior to Leeds. There is a process as I read through the email. They will be having one preliminary review and then, after objections get raised to that, a second proposed annexation document and then objections may be lodged against that. It is not obvious to me that just because you object, that causes it to not to occur. Mayor Peterson discussed who Toquerville would be required to notify of the expansion area. Councilmember Cundick, Just looking at the map, I would have strong objections to the way they boxed in Leeds. It seems to me we need to come forward with our own proposed

annexation plan to show what the conflict would be. Not just an objection, but it conflicts with what our plan is.

Councilmembers discussed the proposed future annexation area and Mayor Peterson will get legal counsel on it.

11. Citizen Comments:

Betty McKnight, I am trying to get ahold of what the issues are here. I have a couple of questions that might clarify my concerns. On your drawing over there, his property goes to the water tank which would be below the 40%, is that correct Angela.

Councilmember Rohr responded, it was just a fictional drawing. It's so steep I haven't been able to walk it.

Betty McKnight, you said he would pay for part of the road, is that down to the water tank?

Mayor Peterson, the current Preliminary Plat approval was subject to a road that could ultimately connect with Cemetery Road being built to the edge of the property by the water tank.

Betty McKnight, so he would be down to the water tank?

Mayor Peterson, correct.

Betty McKnight, ok, he really has the hard part because he has all those crevices to fill. Has anyone checked with the County because that is County land? To check to see what their requirements would be.

Mayor Peterson, the land up to the water tank I'm pretty certain is Leeds land. It's part of Rick Sant's Development that he annexed in.

Betty McKnight, I mean from the water tank down, that would be County land.

Mayor Peterson, correct.

Betty McKnight, so, the County needs to be involved in that project. We need to know what their requirements are on that.

Mayor Peterson, we need to talk to the County not only on that but on other areas surrounding Leeds. I would like to prevent getting us into a situation where we've gone past 100 homes and we don't have a second access because development has taken place. Partially in Leeds and in the County, so a cooperative effort with the County is something that is going to be forthcoming. I don't think that impacts given that the Leeds Town Council has through a Development agreement and Preliminary Plat put this condition to the edge of the property. I think we still want to pursue what would be involved in getting the road to that point at this point in time and then we would need to figure how we would develop it. I think that the idea that there is a road there that needs to be developed is certainly a possibility. If you don't allow for a road in that direction right now, you will never have the opportunity if homes are there. It will just be prohibitively expensive if the Town is suddenly saying "that's the route we need to follow" and you have allowed a home to be built right in the path that needs to be followed through the end of the property.

Betty McKnight, if that is correct, we are just trying to prevent problems in the future. The County can give us good direction and let us know what the requirements are. It's very straight forward.

Councilmember Cundick, I think we need to distinguish between the Ordinance that would allow the road to be built and the road that would have to meet all the requirements thru the County and the Town before it could be built. We really have 2 issues here, one are we going to give permission for someone to build a road and then if they want to build a road

then they have to come and demonstrate to us that it meets all the requirements. Is that how you understand it Mayor?

Mayor Peterson, that is how I understand it. I don't think it's that the County should be contacted first. I think we need to decide first if we are going to go to that point where we are approaching County land and then say to the County if this is going to be the situation, what is going to be your requirement going to be for a road going through this particular area?

Betty McKnight, ok, that's going thru private land, have we contacted the owner to see what their concerns are?

Mayor Peterson responded, I think at this point what we are not trying to do is plan the whole thing out. The way the documents read, the way it has been negotiated is, the only thing the Developer has control over is putting in a road so the Town has made that corridor available for future use. Whether or not it gets used immediately, whether or not there is a need to work with private land owners in order to expand the road beyond that point are separate issues as I see it. We are not sitting here tonight trying to say how do we build this road. What we are talking about is a situation with a Developer who is before the Planning Commission for approval who has a very important corridor and it's on our Master Road Plan. The Master Road Plan does indicate there will be a road that goes and ultimately connects to Cemetery road.

Betty McKnight, the land owner needs to know. A road that leads to nowhere is not a road. We all bought our homes without a second access. Has anyone ever gone to you and said "I want a 4 bedroom house and a second access". No, nobody ever says that. In my long life I haven't had a need for a second access and I know that's short sighted.

Councilmember Blake, you're in a residential home and we are talking about a residential neighborhood. That's two different stories.

Betty McKnight, unfortunately when you look at Leeds, you got Vista, you got all these areas that do not have second access and we developed them and we bought places there.

Mayor Peterson, if I can just try to make something clear, there is a very important distinction that Chief Lewis has brought up repeatedly. This is a State requirement, that if you have over 100 homes being accessed with a single access that you need a second access. All of the other examples you're bringing forward are nowhere near 100 homes being accessed by a single road. If you asked me, the question that you have brought up did I ever go to the realtor and say "do you have a second exit because I realize there are over 100 homes that is in violation of a Utah safety requirement?" I assumed that when I bought that home, the Town of Leeds would not be allowing homes to be built where there was a violation of the State safety requirement. That's not the case; the case is there are homes that are up there in violation of a State safety requirement. Now we can stand here in 2014 and point fingers and explain why it is that it's not our fault somebody else did it, but the reality is we have that situation as a Town Council setting here in 2014. That situation has developed and I don't think that's fair to say "well people that bought homes don't care about a second access". I assumed that the home was safe from a stand point of State Fire Code. I assumed that the number of exits to my home was the necessary number for that particular type of a structure and that I was not going to have something that would violate the code in that regard and I think that is true. It is a surprise to me to find out that the home is situated in a network of roads that do not have the State requirement, from a safety standpoint, as to the number of accesses.

Betty McKnight, when was that State regulation made

Mayor Peterson, it's been long standing is my understanding, it's nothing new.

Councilmembers and Betty McKnight discussed the amendment to the Ordinance further.

Elliott Sheltman discussed his concerns about the amendments.

Betty McKnight discussed some more of her concerns.

12. Staff Reports: None

13. Adjournment:

Councilmember Blake adjourned the meeting.

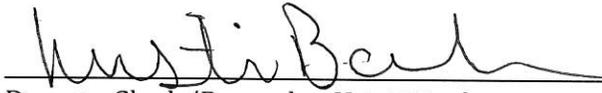
Time: 8:06pm.

APPROVED ON THIS 22 DAY OF October, 2014



Mayor Wayne Peterson

ATTEST:



Deputy Clerk/Recorder Kristi Barker