Town of Leeds

Agenda
Town of Leeds Town Council
Wednesday, August 10, 2016

PUBLIC NOTICE is hereby given that the Town of Leeds Town Council will hold a **PUBLIC MEETING** on Wednesday, August 10, 2016 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 July 13, 2016.
5. Citizen Comments: No action may be taken on a matter raised under this agenda item. (Three minutes per person).
6. Announcements:
   a. Monthly community pot luck barbecues. Last Friday monthly at 6:00pm, May to September in Town Park
   b. Leeds Wild West Day Saturday, October 8
7. Public Hearings:
8. Action Items:
   a. Town Prosecutor
   b Canyon Creek Improvements
   c. Old Highway 91 chip seal
9. Discussion Items:
10. Citizen Comments: No action may be taken on a matter raised under this agenda item. (Three minutes per person).
11. Staff Reports

    Closed Meeting- A Closed Meeting may be held for the discussion of the character, professional competence, or physical or mental health of an individual as allowed by Utah State Law 52-4-205(1)(a); or for the discussion of pending or imminent litigation; as allowed by the Utah State Law 52-4-205(1)(c); or for the discussion of the purchase, sale , exchange, or lease of real property, including any form or a water right or water shares; as allowed by Utah Code 52-4-205(1)(d).
12. 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 August 9, 2016 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.

Kristi Barker, Clerk/Recorder

Town of Leeds

Town Council Meeting for
July 13, 2016

1. Call to Order:
   Mayor Peterson called to order the regular meeting of the Leeds Town Council at 7:02pm on July 13, 2016 at Leeds Town Hall, 218 N Main.

ROLL CALL:

	Present	Absent
MAYOR: WAYNE PETERSON	x	
COUNCILMEMBER: RON CUNDICK	x	
COUNCILMEMBER: ANGELA ROHR		x
COUNCILMEMBER: ELLIOTT SHELTMAN	x	
COUNCILMEMBER: NATE BLAKE		x

2. Pledge of Allegiance by Councilmember Sheltman.

3. Declaration of Abstentions or Conflicts: None.

4. Approval of Agenda:
   Councilmember Cundick moved to approve tonight's agenda and meeting minutes of June 8 and June 23, 2016. 2nd by Councilmember Sheltman. 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: ELLIOTT SHELTMAN	x			
COUNCILMEMBER: NATE BLAKE				x

5. Citizen Comments: None.

6. Announcements:
   Mayor Peterson announced the following event:
   a. Monthly community pot luck barbecues. Last Friday monthly at 6:00pm, May to September in Town Park

   Councilmember Rohr arrived to the meeting at 7:04pm.

7. Public Hearings: None.

8. Action Items:
   a. Planning Commission Appointment – Danny Swenson
      Mayor Peterson, Danny Swenson filled in for the past final year on a term. I have spoken with

him and he has asked if I would make available the term that has 2 years remaining, which I am willing to do and I put forward the reappointment of Danny Swenson.

Mayor Peterson asked for a motion to approve Danny Swenson's reappointment to the Planning Commission.
Councilmember Rohr, I so move. 2nd by Councilmember Cundick. 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: ELLIOTT SHELTMAN	x			
COUNCILMEMBER: NATE BLAKE				x

b. Discussion and possible action regarding adoption of Land Use Ordinance 2016-05, Chapter 17, Commercial District.
Mayor Peterson, this was at a public hearing where it was viewed by Planning Commission a week ago and after the public hearing, the Planning Commission unanimously recommended approval of the changes. The changes are underlined in the document; it is in regards to the Commercial District. The reason why they were looking to take it up is because when we eliminated the Mixed Use, we eliminated several of the commercial uses that were in that and also because we do have some issues with language in our different zones. We have permitted uses, conditional uses and then we say "anything that is not a permitted use, or conditional use, is a prohibited use". Courts have ruled that you may not be that exclusionary by saying "everything else is prohibited". Bob Nicholson is the one who brought forward the language that was reviewed by Gary Kuhlmann.
The Mayor read the amendments.
Councilmember Sheltman, it pretty much looks like it is open ended at this point with the part that we are adding. Other uses recommended are pretty much anything isn't it?
Mayor Peterson, well they can be recommended and then it would be something where they deemed it appropriate to recommend and they do reflect that it is in harmony with the intent and purpose of the zone, which presumably would be consistent with, or similar to the types of uses that are listed above. The difficulty I see is that if you try to list the prohibited uses, you will never succeed in thinking of every bizarre or undesirable thing that you may not want to have taking place in the Town. So if you try to satisfy it by saying we will have a prohibited use section, I think although this is open ended, I think it almost becomes more open ended if you don't happen to think of the most bizarre thing somebody would propose as a commercial activity here in Leeds.
Councilmember Sheltman, I can see that but it pretty much puts it on our shoulders because it gives the Planning Commission an out now to say "let's pass it on" because it looks to me like it fits the intent and purpose of the Ordinance. So I guess my other concern is, what power does it take away from Planning and how much more power does it give to us? Not the way it is written, but the way that it could work in practice.
Gary Kuhlmann, it works fairly similar to a conditional use application, not strictly, but the same process. I don't know that it is adding or taking away any authority anywhere. It's trying to

cure a problem that was created by case law.
Councilmember Sheltman, is there other jurisdictions that have this kind of wording?
Gary Kuhlmann, yes and there is other jurisdictions that have a list for all commercial zones; a list of everything they could think of and they put prohibited if they don't want it in that zone, but what the courts have said is, you can't use the blanket of everything else is prohibited. You have to designate it and if you do not designate it, you have to consider it under this type of language to see if it is going to meet the purpose of your zoning.
Councilmember Sheltman, so does this give us an out if we say "we considered it" for the way this is written?
Gary Kuhlmann, if you make findings that are not in harmony with the zone and meet the purpose of the zone, absolutely. The courts are moving that way; it's the same thing with the Conditional Use Permit. Conditional Use Permits now are such that you; basically the code was changed some years ago based on a court case that said "if you can put conditions on it, you have to allow it". The only time you do not allow a Conditional Use Permit is if there is no way to substantially, but not completely, but substantially, mitigate the impact of the business it is going to create. So they are all moving that way and limiting our ability to prohibit. The intent of this is not to get into the language of prohibit it, but to leave it up to the Planning Commission and Town Council to determine whether it actually is. Now if you find it is not in harmony and purpose of the zone, then you can contest that. You have a little bit of help there because zoning is really a legislative function, so you have some protection in regards to that.
Councilmember Cundick, if there were several uses that we were wanted to prohibit, could we have a list of those prohibited uses? Then you wouldn't get into the argument of if it was in harmony or not.
Gary Kuhlmann, you just say "despite that language of whether it is in harmony, the use is prohibited".
Councilmember Cundick, as I see it Elliott, if we were aware of some things that we strictly want to prohibit, we could do that and then the issue wouldn't arise unless they challenged it, but at least we wouldn't get to the harmony test if it was prohibited.
Councilmembers and Gary discussed it further and the following section was added:

17.3.15 Adult Oriented Business in accordance with Land Use Ordinance 7.9.2.1

Mayor Peterson asked for a motion to approve the amended Chapter 17 of the Land Use Ordinance, which will be known as Ordinance number 2016-05.
Councilmember Cundick, I so move. 2nd by Councilmember Sheltman. 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: ELLIOTT SHELTMAN	x			
COUNCILMEMBER: NATE BLAKE				x

9. Discussion Items:
   a. Wild West Day
      Councilmembers discussed Wild West Day and were in favor of holding a one day event. The tentative date was set for October 8th.

b. Road Works Update

Councilmembers discussed the 2016-2017 road work reconciliation. The total for the work completed on the maintenance schedule was $41,559.43. Cherry lane and Old Hwy 91 will still need to be completed. The low estimate on Cherry Lane came in at $1,987.50 and the estimated cost for Old Hwy 91 is $4,000 dollars. No additional action will need to be taken because the total cost came in under the already approved 2016-2017 amount of $50,000 dollars for road maintenance.

Councilmembers discussed Provalue Engineering's estimate that came in on the Canyon Creek improvements. The estimate came in at $21,581.00 dollars for the repairs and does not include bidding for the work or Engineering oversite. The item will be placed on next month's agenda.

Councilmember Sheltman asked about the Main Street curb and gutter project.
Mayor Peterson indicated UDOT and Ensign Engineering are still working on redesigning it to get more work for the money that is involved. The work should be completed by the end of the year.

10. Citizen Comments:

11. Staff Reports:

Mayor Peterson, Gary is here, we have had in the last few weeks some incidents in Town and will you (Gary) please address the prosecutor issue.
Gary Kuhlmann, I was contacted by the County Attorney's Office as well as the County Justice Court a few weeks ago. An individual had been arrested out here for assault and we advised them we do not have a prosecutor at this point. I can't do it, I am prohibited from doing it and so the County decided they were going to decline prosecution and so I just told the Court that we can't do much until we get a prosecutor. It was agreed that the Court would set it out for a review hearing for the middle of August to allow us to get a prosecutor in place and then we could decide whether to file on that case or not. About a week later there was another charge on the same individual for trespassing with the same situation. They set both of those out towards the middle of August for review by the Court. Yesterday or the day before, the individual was arrested again and this time for domestic violence. I spoke with the County Attorney and he decided that he would go ahead and file on that charge just out of concern that it seems to be escalating and I agreed he shouldn't just be cut free. So, they are filing on that but they are expecting us to get a prosecutor in place and they are going to hand that case off to be prosecuted.
Gary Kuhlmann and Councilmembers discussed the options for hiring a Town Prosecutor. It will be an action item on next month's agenda.

Councilmember Blake arrived to the meeting at 7:55pm.

Mayor Peterson discussed the budget update. Money was moved off the codification line to the insurance line to cover the cost of the increased insurance premium for the Town's liability insurance. No action is needed because it did not change the State reports.

12. Adjournment:

Councilmember adjourned the meeting.

Time: 7:57pm.

APPROVED ON THIS _____DAY OF _____, 2016

_____

Mayor, Wayne Peterson

ATTEST:

_____

Kristi Barker, Clerk/Recorder

DRAFT

ProValue Engineering, Inc.
20 South 850 West, Ste 1
Hurricane, UT 84737

QUOTE
November 18, 2015

Leeds Town Canyon Creek Drive
Box Culvert and Ditches

TO: Town of Leeds
Wayne Peterson, Mayor
218 North Main Street
Leeds, UT 84746

Dear Mayor Peterson:

We are pleased to submit a bid to complete the design, construction representation, and project management for the Canyon Creek Drive box culvert rehabilitation design and street rip rap rehabilitation design. The quote is as follows:

SURVEY:	$360.00
BRIDGE & STREET DRAWINGS:	$1,800.00
PROJECT MANAGEMENT/MEETINGS:	$1,760.00
TOTAL:	**$3,920.00**

We can begin immediately after you give me the go ahead. We look forward to work with you on this project. You can call me at 435-668-8307 if you have any questions.

Sincerely,

Karl Rasmussen, President

Approved for Contract: _____

ESTIMATE

DATE
26-Jul-2016

TO:

TOWN OF LEEDS
218 N. Main St.
P.O. Box 460879
Leeds, Ut. 84746
Attn. Mayor Wayne Peterson

DATE	INVOICE ITEM	AMOUNT

"Estimate includes single chip sealing on Leeds section of Old Highway 91 from Washington County to Toquerville Line".

1500ft. Length x 24ft. Average width of road way.

OIL: 7.81 Tons of LMCRS-2 from Ergon @ $342.00/ton "w/short load included"	$2,671.02
CHIPS: 52 Tons of 3/8 chips from Interstate Rock @ $18.00/ton	$936.00
Transportation of chips are not included in this price, "material only".	**$3,607.02**
Materials are figured for a single chip seal coat.	
CHIPPER: 1 Hrs. @ $180.00/hr.	$360.00
LOADER: 0 Hrs. @ $100.00/hr.	$0.00
DUMP TRUCKS: (4) 2 Hrs. each 8 Hrs. total @ $85.00/hr. "Trucks haul chips day of"	$680.00
ROLLERS: (2) 1.5 Hrs. each 3 Hrs. total @ $70.00/hr.	$210.00
BROOMS: (2) 3 Hrs. each 6 Hrs. total @ $60.00/hr.	$360.00
Brooming includes: Initial brooming before first layer of chips and one week after chipping has been completed to remove loose chips.	**$1,610.00**
DISTRIBUTOR: 2 Hrs. @ $150.00/hr. includes 1 Hr. of travel time	**$300.00**
STRIPING: 4,500 lineral feet @ $.09/ft.	**$405.00**

Town of Leeds will complete all patching, shoulder work, road repairs prior to chipping and is not figured in this estimate.

Town of Leeds will arrange for and purchase all materials including oil, chips, striping, and the distributor. The chips will have to include transportation to the site location by another party and is not figured in the price of chips or in this estimate.

Total Estimate :	**$5,922.02**