

Town of Leeds

Town Council Meeting for Wednesday, October 9, 2019

1. Call to Order:

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

ROLL CALL:

	<u>Present</u>	<u>Absent</u>
MAYOR: WAYNE PETERSON	x	
COUNCILMEMBER: ALAN ROBERTS	x	
COUNCILMEMBER: DANIELLE STIRLING	x	
COUNCILMEMBER: ELLIOTT SHELTMAN	x	
COUNCILMEMBER: NATE BLAKE		x

Councilmember Roberts and Craig Hall joined the meeting via telephone.

2. Pledge of Allegiance by Councilmember Stirling .

3. Declaration of Abstentions or Conflicts:

Mayor Peterson said I have the museum relationship where my wife is on the board and is responsible for the gift shop and my son is on the board and is the Treasurer.

4. Approval of Agenda:

Mayor Peterson said the minutes of the special work session on September 26th will be approved at our next meeting. Drafts will be available to those interested.

Councilmember Sheltnan moved to approve tonight's agenda and Meeting Minutes of September 25, 2019. 2nd by Councilmember Stirling. 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: ALAN ROBERTS	x			
COUNCILMEMBER: DANIELLE STIRLING	x			
COUNCILMEMBER: ELLIOTT SHELTMAN	x			
COUNCILMEMBER: NATE BLAKE				x

5. Citizen Comments:

Darryl Lewis said I attended the Planning Commission meeting last Wednesday, October 2nd. Item 8b on tonight's agenda was on the agenda of the Planning Commission that night as Item 8b as well. As you will note later in this meeting, the Planning Commission is recommending that this request for a B&B be

approved. This recommendation is being passed on over the intense opposition of the house closest to and most affected by the proposed B&B. Much evidence opposing the B&B was presented. The answer to this opposition by the Planning Commission was that people had lived in the house for 40 years and that nothing would change since people would continue to live in it. The Planning Commission has, it appears, no understanding of the difference between a residence and a commercial rental. I felt it important to mention to the commission that the Town Council has been grappling with the issue of short-term rentals in the city for quite some time and has asked at least 2 requests for B&B permits to wait until the Town had clarified an ordinance on the subject. I was appalled when one Commissioner told me that the Town Council had no intention of breaking the law, hence granting its recommendation. I am asking the Town Council to withhold its approval of this B&B until a governing ordinance is passed by the Town. It is my opinion that this request is being made in an attempt to circumvent the governing ordinance and be grandfathered in. If this request is granted then I believe it is only fair, proper and right that all requests for a B&B be granted in the very same manner. I trust the Council to do the right and honorable thing tonight.

Kimberly Cook said we are very opposed to this. We have been dealing with the VRBOs from the same applicant for 3 years now and it has been a nightmare. We come to the Town with evidence. They say they cannot do anything because basically you have to be there to make any determination of what is really going on and what is happening. We know there has been a VRBO there. We have been told that they are going to live in the small house and the daughter is going to live in the other house and one of the floors is going to be the bed and breakfast. Last week, we were told something totally different. I would ask that you turn this down. I also brought up the neighbors that needed to be noticed and I was told by the Planning Commission and the Planner that this does not need to be done and it is only a courtesy to do that with people within 300 Feet, but on your application it says it is required that you do that. I was not very happy with the Planning Commission. I do not think that they looked at any of the information. The dust is a nightmare. They did not need to do anything as far as the conditions. It was like you are out of line and we do not have any rights at all even though we own the right-of-way. I know it is an easement and the 2 residences are able to access that. We also brought up the fact that it is not a road that can be used by the public. The Planner just said no, it is a public road and basically anyone has access to it which we totally disagree with.

Councilmember Sheltman said you said complaints were made when it was a VRBO. Were they made verbally or were they made in writing?

Kimberly Cook said they were made in writing and verbally.

Councilmember Sheltman said when was the one made in writing.

Kimber Cook said the first one was made in 2016 and then in 2019. We brought pictures. We are very concerned about the amount of traffic. There are people in the backyard. There are people in our yard. To me, it should be a dedicated road if you are going to have a business. In 2001, there was one lot and then they subdivided it into 2 lots and now we are going to open this up to VRBO, bed and breakfast. What is next? We are very concerned.

Councilmember Sheltman said I have one question on the complaints. Did you bring them to Town Hall?

Kimberly Cook said yes.

Councilmember Sheltman said who did you give them to?

Kimberly Cook said I brought some to the Mayor. I do not know who my mom talked to in 2016. I believe the Mayor.

Mayor Peterson said I would be happy to fill in that the owner of the rental who was being complained about was contacted and did respond indicating that their activity would change as a result of that correspondence.

Councilmember Sheltman said just for the record, I have never seen those complaint letters. I have been a Councilmember for 4 years. This is part of one of the disagreements that I have with the Mayor. I think that all Councilmembers should be involved in anything that is given to the Town so that we are in the loop. There is nothing worse than going to the post office and having someone come to me with a complaint that they gave to the Town and not know what it is all about. If I do not respond to it then I am part of the problem. I have not seen those letters and that was during my tenure here.

Mayor Peterson said I would like to respond. Councilmembers are certainly welcome to speak with me as Mayor, as are members of the public. The Mayor is the chief administrative officer of the Town. We as the Town Council are a legislative body. As an elected official who was elected to be the chief administrative officer, not everything that is done that is administrative is subject to legislative and is appropriate to bring to the Council's attention. If Council wants to talk to me about an item, I have never refused to return a phone call or speak with a Councilmember.

Councilmember Sheltman said I do not know how a Councilmember could talk to you about an issue they are not aware of.

Mayor Peterson said if someone talks to you about it at the post office, you certainly could ask me what it is about.

Susan Savage said I came in late, but I have a copy of the details of the complaint that were passed out to people at a public meeting.

Councilmember Sheltman said where was that at.

Susan Savage said here.

Councilmember Sheltman said when. During a Council meeting?

Susan Savage said I do not know if it was a Council meeting. It might have been Planning Commission. It was made very public.

Councilmember Sheltman said I am not talking about sharing information with Council, so we are all on the same page. I must not have been at that meeting. I have not seen a single document. I have asked for this repeatedly. It would be nice if there was some way that information could be shared with Council. Danielle, if you want to chip in on this, please do so.

Mayor Peterson said we are in the middle of Citizens Comments. Council could certainly have a discussion later on.

6. Announcements:

Mayor Peterson said Meet the Candidates Night will be held on Wednesday, October 16th, one week from this evening, at 7 PM here at Town Hall. It will be an up to 2-hour meeting with the candidates available to make some opening statements, closing statements and, in between, answer questions from the public.

The Leeds documentary film, Leeds A Town for All Seasons, will be shown in the park this Saturday evening starting promptly at 8 PM. Please bring your own chair or blanket. We are going to be benefiting from the Hurricane City Recreation Department which owns the equipment and they are willing to provide it free of charge.

7. Public Hearings: None

8. Action Items:

a. Discussion and possible action on Update Business License for Zion Trailer Rentals, 545 N Main St #3, Jeff Daxon

Mayor Peterson said this is an item that was brought up by a Councilmember a few meetings ago. The existing license was one that I asked Town Council about. It is for a trailer rental operation. Our ordinance allows for sales and service of trailers and the question was given if would have generally a lower volume of traffic and that was something Council was comfortable with as an acceptable use. The stipulation was that there would not be parking in front of the Mining Market Place where the business was going to be located and that the trailers would be located behind it. Subsequent to that, the owner of the business had reason to move some of the trailers, with permission of the property owner, to the lot that contains the binnies. I would ask our Town Planner to please add an update on how that review went at the Planning Commission meeting last week.

Scott Messel said one of the reasons that was brought up, why the applicant moved the trailers, is because the post office who has mail deliveries to that building and the trailers were in the way of the postal trucks. The owner of the strip mall also owns the other property, so he is allowing the applicant to store the trailers there. There was some discussion in the meeting about how many there would be, and would it fill the whole lot. The applicant said this is not his intent. His intent is to have only a couple of trailers and no one will be living in them. The trailers will be rented out to go out onto site from there. It is more of a storage area for him rather than like a car lot. The Planning Commission, after reviewing it, recommended that the amendment be made to the business license.

Mayor Peterson said we do have the business license holder here this evening. Does Council have any questions for the Planner or business owner?

Councilmember Sheltman said I do, the Planner. Section 6.7, Maintenance of Parking Areas, did you catch that one?

Scott Messel said no.

Councilmember Sheltman read Section 6.7.1. One of the items says each parking area should have a dustless surface. I think that parking area is dirt.

Scott Messel said it looks like there is some road base on it, but there is a lot of dirt there, too.

Councilmember Sheltman said I would think it is possibly under 6.7, specifically 6.7.1, you cannot park RVs there. Or at least it would be a question that I would have due to the fact that it is not a hard surface per our ordinance which is required.

Councilmember Roberts said I agree with what Elliott points out. It does need to be something that will not generate dust. I am also concerned about the possibility of how many trailers that they can park there. It is a pretty big size so there needs to be something in black and white that does not leave it open ended on the number.

Scott Messel said the Planning Commission said there would be around 5.

Councilmember Roberts said is that what the application says.

Scott Messel said it was brought up at the Planning Commission meeting and 5 was mentioned.

Councilmember Roberts said if that is in black and white, I am comfortable with that. Something needs to be done with that area to minimize the dust. Some kind of binder put on that. Something to minimize the dust. That is an ordinance that we have hammered other individuals very hard on in that same location.

Councilmember Stirling said the actual individuals that are coming are not going to pick these up. These will all be delivered so there will not be any customers on this particular area. Is this correct?

Scott Messel said that is correct.

Councilmember Stirling said I do agree with the fact that we do have to have some type of hard surface, but having said that, if there are not going to be any customers on this, I am not quite sure that will apply as much as it would if someone was going to be in and out. This is basically travel trailers to campgrounds. All trailers will be delivered to the campgrounds. I am not sure we are talking about apples and apples.

Councilmember Sheltman said it is a parking lot. What is the definition of a parking lot?

Councilmember Stirling said is it a parking lot or is it more or less a business parking lot because at this point it sounds like it is more of a parking facility. If you look at the next one over, it does not have anything either.

Councilmember Sheltman said it specifically says private and public parking, and I am assuming this is why the commercial plaza has asphalt because it is required by law.

Councilmember Stirling said I know what is on there is what was, I believe, leftover from when UDOT did their renovation of the freeway. It looks as if he is attempting to have some sort of hard surface. Does it specify exactly what the hard surface has to be?

Councilmember Sheltman said I do not know. It looks like stuff is parked there. I cannot find a description of a parking lot.

Scott Messel read the definition of a parking lot found in the General Provisions. He said it must be available for public use.

Councilmember Stirling said this is not available for public use.

Scott Messel read the definition again.

Councilmember Sheltman said would it have to specify trailers as opposed to automobiles.

Scott Messel said it is up for interpretation because it does not just say vehicles, it says automobiles. If people do come to the site, are they allowed to go out there and is anyone else in the strip mall allowed to park at that location? Or is it functioning more like storage? If it was a fenced off storage area, would it be required?

Councilmember Sheltman said the main thrust of the ordinance is to provide a dustless surface.

Councilmember Stirling said there is only going to be 5. Five trailers on it? I do not have a problem with it at all. I do not see that there is going to be a huge amount of people coming in and out. I do not think it will have a huge problem with dust. There is a hard surface on there. It was brought in, possibly, by the past owner and I do not see it is a problem.

Mayor Peterson said I would also note that the property owner does permit the binnies that are used for recycling be there. The binnies generate a fair amount of daily traffic. I have not heard of any complaints with regard to excessive dust being kicked up as people go to and from the recycling binnies. Are there any further comments or questions from Council?

Councilmember Sheltman said I am just reading the law. It does say dustless surface. It is not dustless over there. Maybe the binnies are illegal as far as I know. I am just reading from the ordinance and the ordinance states you have to have a hard surface. That is not a hard surface. I have been over there before and it is not a hard surface. At least it is not what is specified by the ordinance.

Scott Messel read an excerpt from the ordinance.

Councilmember Stirling asked Scott Messel to re-read the definition of a parking lot. I really do not think it is a parking lot. It says, "and available for public use." It does not appear this is available for public use.

Mayor Peterson said are there any further comments or questions from Council?

Councilmember Stirling said may I ask the applicant a question. Is there anything that you have in mind at this point for the rest of the area for a hard surface?

Jeff Daxon said I do not own the property. I am only leasing it. I am paying the landlord a monthly fee just to park up to 5 trailers there in the very back corner. As far as I know, it is ground asphalt that is covering the surface.

Councilmember Stirling said originally, you were parking behind the post office? Is that correct?

Jeff Daxon said we were trying to park all of them behind the building, but it got to be too difficult as far

as trying to stay out of the way of other folks and the dumpsters.

Mayor Peterson said are there any further questions or comments?

Councilmember Roberts made a motion to approve the Updated Business License for Zion Trailer Rentals with a condition that if it is determined there is a dust problem, the applicant must remedy the dust problem. 2nd by Councilmember Stirling.

Councilmember Sheltman said would a remedy be stated or just figured out if it becomes a problem?

Councilmember Roberts said I want to leave some latitude for people to use various types of ways to mitigate the dust which does not always mean actual asphalt, but some kind of binding compound that holds together and does not allow dust. I was not thinking of any specific composition.

Councilmember Sheltman said okay.

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

b. Discussion and possible action on Conditional Use Permit & Home Occupation Business License for Brian Hansen, Bed & Breakfast, 480 N Main St

Scott Messel said you have been given an updated version of the Staff Report. The Planning Commission reviewed the request for a bed and breakfast on the property located on North Main Street. He pointed out the property on the overhead screen. It is owned by Brian Hansen. He submitted the application for the bed and breakfast and the Planning Commission reviewed it. It was presented that a member of the family would be living in the home and that the remainder of the house would be used for the bed and breakfast. There was discussion at the Planning Commission meeting about the number of bedrooms and the number of people who would be allowed to stay there. There were concerns about it being more than a definition of a family. As mentioned in the public comment period in tonight’s meeting, there was concern about the access easement. He pointed out the location of the easement on the overhead screen. And he pointed out the residence that is opposing the bed and breakfast. He pointed out that there is adequate off-street parking. He pointed out the second residence owned by the applicant. There were concerns at the September Planning Commission meeting about visibility as people pulled out of the driveway onto Main Street. He pointed out visibility looking to the north and looking to the south. It was determined that there is adequate sight distance there. The Planning Commission did recommend approval based on the findings listed in the Staff Report that you have. He read the findings listed in the Staff Report. One thing I did not bring up is there were concerns about the property being located on

what functions like a flag lot, people may lose direction and end up knocking on the door at the wrong home thinking it was the bed and breakfast. The Town Ordinance does not permit signage for a home occupation, but it does allow addressing. The applicant has said he will put addressing out, so it is visible for people coming to the property. There was concern about dust and fumes and the amount of traffic and noise. The driveway is a mixture of gravel and dirt. The Planning Commission restricted the number of paying guests to 4 bedrooms and 8 individuals. The way a conditional use is set-up by the State and the requirements by State is even if it is approved by the legislative body that it is an administrative decision, it says conditional uses shall be approved if all reasonable concerns or issues can be mitigated. The Planning Commission recommended approval of the bed and breakfast. It has come to the attention of the Town that in the general definitions of the Code that the definition for a single-family dwelling He read the definition. I do not know what the intent was of the ordinance. I do not know if it was because there are 2 kitchens, you cannot rent it out as 2 units, or if it was, you just flat out do not rent it out if there are 2 kitchens.

Councilmember Stirling said as a multi-family is what it is saying. A single-family dwelling with more than one kitchen must be treated as a single dwelling. The other part cannot be rented out as a multi-family dwelling. You cannot say to someone you cannot rent out your house for any reason. It is illegal. I would interpret that as saying a single-family dwelling with more than one kitchen must be treated as a single-family dwelling unit which we are doing.

Scott Messel said I know there are changes being proposed to short-term rentals, but as our Code currently stands, at one point a bed and breakfast was considered to be appropriate enough in a residential area, it was allowed to be a conditional use. The legislative body, whether it was you or the previous Town Council members, put that in the ordinance. At some point, it was felt that is an appropriate use for a residential area.

Mayor Peterson said I do not mean to put our Town Attorney on the spot on the phone, but have you been able to look up the Land Use Ordinance Chapter 1, the definition of a single-family dwelling?

Craig Hall said I have not looked up the definition. When we worked on the short-term rentals, I do not recall looking at that.

Mayor Peterson said I believe someone suggested that it would be illegal to say what this particular clause indicates which says that "a building arranged or designed to be occupied by one family the structure having only one dwelling unit. Any single-family dwelling with more than one kitchen must be treated as a single dwelling unit and cannot be rented out under any circumstance." Is there any prohibition on that language that would cause difficulties?

Craig Hall said what this rented out under any circumstance means is that the entire dwelling or a portion of the dwelling. It is not illegal to rent your home. The question is do we get into short-term rentals of a mother-in-law's apartment or whatever you call it when there seems to be 2 separate dwelling units in one dwelling unit even though they may be connected by a stairwell or something else.

Scott Messel said then it functions more like a casita.

Councilmember Roberts said at the time we had discussion on that particular language, what we were looking at as Council was a potential like a duplex or individuals who may have 2 separate kitchens in their homes and renting out one portion of it. I am not sure it would be considered a casita because a

casita is definitely a separate dwelling. We were looking at a single residence that potentially another individual besides their own family could rent out a portion of it.

Craig Hall said if you look at the definition of a family...he read definition.

Scott Messel said, and this is just my personal opinion, as I think about the bed and breakfasts I have stayed in throughout the State, they were in single family dwellings and there was space for the caretaker to live. Something that we are dealing with at the County level is it is becoming more common for there to be what we used to call a wet bar having a sink and a mini refrigerator. This seems to be more and more common.

Mayor Peterson said are there any other comments or questions from Council.

Councilmember Sheltman said we just found this out today. Is there a reason we need to decide this today? This just came up and we have not had a chance to look at it. Do we have to do this tonight?

Councilmember Stirling said I do not understand what the question is that we cannot decide.

Councilmember Sheltman said because we have a Planner here who says we cannot approve it as it is written.

Councilmember Stirling said this is an interpretation of saying a single family versus multiple family dwelling which is what Alan said. I was on the Planning Commission for a long time and I think that this Planning Commission did a great job. They went through what they were supposed to. They looked at what is allowed and what is not allowed. We cannot pick and choose as a Town Council. They did a great job and it is thorough. And the saying that a single-family dwelling with more than one kitchen must be treated as a single dwelling unit, they are treating this as a single dwelling unit. A bed and breakfast establishment is a single dwelling unit. I do not have a problem making a decision on it tonight.

Councilmember Sheltman said besides that, my understanding as Council, is we can look at the recommendations and add to them. Right?

Mayor Peterson said yes or modify them. One thing I would highlight is that I listened to the Planning Commission meeting and what prompted me to look further into it was the statement that the presence of the homeowner of this home business occupation would be on a separate level behind a locked door. And that is where the concept of where they have their own kitchen and their own sleeping area, to me, had me wondering how do we define the owner being present in the residence if we are also saying they are, in effect, set it up more like a duplex. I was trying to understand what the different definitions were. That is what prompted me to look at some of the definitions and to ask exactly what is the reference here with regard to single family and multiple kitchens. What I have heard from the attorney this evening is that an idea of a family unit is up to 4 unrelated individuals which causes me to be a little concerned. If we are going to treat this as a single dwelling unit, and that you would be able to rent out one part of it, it does not seem like you could satisfy being there by being locked in the basement. And that is where the second kitchen is coming in. I have concerns with the idea of is 8 a reasonable number given this combination of events with respect to what is a family and then they are not there as a family, it being a bed and breakfast which is different. A family can have dozens of children. It is a different type of use and it does not necessarily conflict in terms of total usage as a home or household would, but the definition also mentions, it says people related by blood can be there. It does spell out who is allowed in a single-family home. And as I read the home business, we do not want to set it up in such way that we do

not prohibit bed and breakfast, but we do not want it set up in such a way that it would not be functioning as a private residence at that time. Our private residence definition that the attorney read indicated related by blood or up to 4 unrelated parties. I find it hard to go to 8 as the number of parties to rent to in a bed and breakfast if we are saying it is supposed to maintain the usage as a residence in this instance.

Councilmember Stirling said what is the definition of a kitchen. And does the applicant have any problem with not ... can I ask the applicant to come up? What exactly does the second kitchen entail?

Brian Hansen said originally, we had it as a candy kitchen. There is a sink and a lot of countertop. There has never been a stove or an oven hooked up down there. There is a refrigerator there, but it has not been used in a couple of years. It is a wet bar. It is convenient to have a sink there.

Councilmember Stirling said so there is a sink and a frig. I have that in my garage so is that considered a second kitchen? What is the definition of a kitchen? I do not think it sounds like he has 2 kitchens.

Mayor Peterson said Craig, do you have any insight to what the definition of a kitchen is. Or Scott, do you?

Scott Messel said it is probably defined in the building code. But looking through Town ordinances, there is not a definition of a kitchen.

Councilmember Stirling said if it does not have a stove...

Brian Hansen said it is plumbed for one.

Councilmember Stirling said it does not sound like it is a kitchen if it has just a sink. I think the Planning Commission did a great job of what their duty was supposed to be.

Mayor Peterson asked Scott Messel to read the requirement under Home Business Occupation for the owner's presence that is required.

Scott Messel read the Home Business Occupation requirement for owner's presence, Chapter 24.2.1... the property owner/resident or a family member of the property owner/resident must be the onsite manager of the Home Occupation Business.

Mayor Peterson said I think someone asked earlier whether or not this is something we might wish to table in order to get a better grasp of these definitions. It sounds to me like there is a little bit of ambiguity, but there is also the possibility of moving ahead this evening. Do we have a motion related to this item?

Councilmember Stirling said when the Planning Commission did this, did they look at 24.2.1 and agreed that the owner of the property was going to be the onsite manager of the Home Occupation Business?

Scott Messel said right. It was said that he or his daughter would be living there.

Councilmember Stirling made a motion to approve with all of the Planning Commission's uses and recommendations.

Councilmember Roberts said I am apprehensive of making the 2nd. It needs to be very clear that it is a bed and breakfast and not a short-term rental where individuals are providing their own food onsite and preparing their own food onsite. That needs to be taken care of in what we consider a bed and breakfast. That is one of the items that really changes between a bed and breakfast and a vacation rental. The onsite owner must be in the dwelling and that the individuals are not preparing their own meals. That is the difference between what I consider a bed and breakfast over a motel suite that has living facilities where you can live for an extended period of time.

Mayor Peterson said having listened to the Planning Commission meeting, what I understood was that the limited kitchen described with a sink and refrigerator would be where the owner would be present and that the door would be locked connecting it to the remainder of the house where the full kitchen and the bedrooms would be. As I understand what you were saying, Alan, is kind of consistent with your concern.

Councilmember Roberts said that seems counter to what I have going through my head.

Brian Hansen said I want a little distance with a locked door between my family and whoever is staying there. I want a barrier there.

Councilmember Roberts said I am supportive of the owner having a barrier there. I am not saying the individuals have to be where the guests are. But what is being presented here is really the guests have a house that they are taking care of. When I look at what bed and breakfasts are, individuals have a room to stay in and other amenities are there provided by the owner or manager that is actually onsite in the dwelling itself. It does not mean they are in same area with the individuals who are renting. This is where I am a little bit uneasy. I could very easily rent that place for 29 days. I could live there for 29 days and I could rent it again after 29 days. That is not consistent with a bed and breakfast where people go for a period of time.

Mayor Peterson said I believe there is still no 2nd to the motion.

Councilmember Stirling said what if I add a condition that breakfast must be offered, not taken, but offered in the main kitchen area every morning. It does not say that the resident has to eat with them. It just says that the property owner resident or a family member of the property owner resident must be the onsite manager of the Home Occupation Business. If she wants to go into her bedroom and lock the door, I do not think we can have a say in what they do while they are being the property owner resident. If in the conditional use, I say a breakfast must be offered in the main kitchen area daily there really should not be a big problem with it. I do not see how this is not a bed and breakfast if there is an onsite resident manager with a locked door to her room.

Councilmember Sheltman said this was brought to me when I was on Planning. I believe you were the applicant for that. We tried to figure out a way to make it work. Having a bed and breakfast is a generic term. Based on the way it is conditioned, I do not know if you can make the point that it will not be a B&B if the owner is not living on the property. I do not know if that is something you can deal with the way it is presently being presented. What we are putting in place, we are spending months and will have 14 or 15 pages of requirements.

Mayor Peterson said the new ordinance will probably be that length.

Councilmember Sheltman said we are pretty much sliding this one through and I do not feel comfortable doing that. I do not think this is detailed at all. I am not saying they did not do due diligence on this. I think they did with the amount of time they had. I do not see why this one is moving forward when it will not be covered by all the same regulations and rules. We have spent months to set it up. Without the owner living on the property, it is not a B&B the way we are defining it today.

Councilmember Stirling said I respect that except for our Home Occupations already allow for a bed and breakfast.

Councilmember Sheltman said with stipulations we put on there.

Councilmember Stirling said right, but the applicant is here now. And he has been here for the last, what did you say, year or 2 years ago?

Councilmember Sheltman said the applicant walked away from the process. And I guess, from what I understand, opened a VRBO. Of all the requirements that we already have in place or on paper, we can add to this. At least that would cover us a lot better than what this does.

Mayor Peterson said my understanding, and I ask Scott and Craig to jump in after I explain my understanding, as Town Council we do have the ability to modify the recommendations that are set forward as conditions by the Planning Commission and there are a variety of things that have come up this evening. I would just ask at this point does anyone want to make a motion that we table this until the next meeting and request that Town Councilmembers prepare any changes to the conditions, and it could be quite extensive as was mentioned, in advance of considering this as the Town Council meeting on October 23rd.

Councilmember Sheltman said I make a motion to table this application until further review including finding out about the single-family dwelling and kitchen definitions. 2nd by Councilmember Roberts. 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

9. Discussion Items:

a. Follow-up from September 26th meeting with Dixie National Forest, Washington County, Silver Reef Museum and neighbors

Mayor Peterson said does anyone wish to kick-off this discussion?

Councilmember Stirling said did we get anything back from the County Attorney?

Mayor Peterson said I have not received anything back at this point from the County Attorney.

Councilmember Sheltman said I have not had any response.

Councilmember Stirling said I would like to know where everything is going. What about the gun fights? Are they still off at this point for the nuisance?

Mayor Peterson said they are still off. They have not resumed them. There was one scheduled the day after a meeting that did not take place and there was one scheduled on the 4th Saturday of September that did not take place. And I have been informed that they will not be resuming them while this is still being discussed here at Town Council.

Councilmember Stirling said just for the fact that we need a paper trail, I would really appreciate a letter written so that we all know what is on the floor at this point. We do not think that the nuisance ordinance should be taken into account again. The Dixie National Forest said that they had some more information they were going to provide. Did anyone give anything back from the original meeting?

Mayor Peterson said what is the additional information.

Councilmember Stirling said he wanted to do some information about the signs.

Mayor Peterson said right. I have not heard back.

Councilmember Stirling said he said he would have it back before this meeting, from what I understood.

Mayor Peterson said it sounds like there is a desire to hear back from Washington County regarding the legal questions and then the signage. One of the things that I took away from the meeting is that there seems to be a very different view among parties as to what the current zoning is of the particular parcels that the County owns. I think that is something with the very different views that it gets you to very different conclusions. I noted in terms of listening to the meeting again that there was a statement about a non-conforming use that would expire in 5 years from 9.5. Chapter 9.5 is from Hazardous Sites. I do not think that anyone suggested that it is a hazardous site. It was a poorly designed site with regard to how it got annexed into the Town, but I never heard anybody saying it is a hazardous site. That is just one point that I bring up. It was about a non-conforming use. To me, non-conforming use says that it is zoned residential. What I have seen in terms of documents is Ordinance 2003-03 which brings the land in under annexation with the undeveloped property being zoned residential R-1, and the developed property, which would be the buildings owned by the County, as they are in use and zoned by the County at that point in time. I have asked the State Archives, and I have not heard back from them, if they can provide any written information about the zoning of this particular area owned by Washington County leading up to the annexation. I think it would be very helpful to have that. I believe Washington County had indicated that they were not finding anything in their records. What their letter indicated is that they viewed it as a historic site at the time of annexation and since annexation, as well. I think it is going to be important for us to figure out what is the actual zoning. The one thing that I know is that for zoning to change, it is something that requires action by the Town Council with a recommendation from the Planning Commission. I do know that our existing map shows it colored in as residential, but what I do not find, in going through the records from 2003 onward, is anything indicating that there was any kind of zone change that took place. I will say that there have been other instances with our zoning map, when one goes back to the record, that there is no support for what would be a change from a previous zoning map to the one that was currently prepared with the help of the Assessor's office in Washington County.

That is where our original map originated. We get assistance in the preparation of that, they have the equipment to print it and I know there have been instances where there have been zoned properties that do not match based on decisions made at a Town Council meeting, changing them to something other than what they were earlier. I ask our attorney and Planner, is this unique to Leeds and what would be the right way to sort out what is the proper zoning when there has not been any action taken on it?

Craig Hall said let's go back to the annexation that allegedly took place in 2003. Normally, on the annexations that I have been involved in, the annexation process also includes generally a Public Hearing from Planning Commission on a recommended zone attached with a map or some indication of designation of zones to be implemented in the annexation. I would say that the annexation ordinance of 2003, probably in all likelihood, satisfied the requirements for rezoning the property with the annexation with restitution in the ordinance provided there was adequate exhibits so that people would understand what the changes were. If we cannot find a map from Washington County, it seems to me to be inconceivable that there is not a zoning map from 2003. It is not possible to me. Somebody has a record somewhere regarding that. If it is not Washington County, hopefully, the State Archives. If it was not done with the annexation, the law in the process that you indicated is correct. A recommendation from the Planning Commission Public Hearing, either the Planning Commission or Town Council, or both, an adoption of an ordinance that resolves one parcel or an area of the city from X to Y is what is necessary and with an affirmative vote, obviously. It is important that we go back and see what history is in 2003. To me, that is my prime question. Did they have a historical zone in 2003? Or was it some conditional use in a residential zone or commercial zone? We need to find that out. That will answer a lot of these questions.

Councilmember Sheltman said zones are just confusing the issue. Can I ask you a question and I think the answer will take care of all of this? Who controls that property legally? I know the County owns it, but do we control it? Does our law control that area or not?

Craig Hall said what do you mean, control?

Councilmember Sheltman said are the laws of Leeds in effect on that property? In other words, the laws that we have in effect in our ordinance book that we have in front of us tonight, are those laws in effect on that 18 acres of property?

Craig Hall said if you are talking about criminal nuisance laws, if they are misdemeanors, the Town of Leeds has the ability to seek criminal complaints and prosecute offenses for criminal nuisance.

Councilmember Sheltman said I am talking about non-conforming use of land. It does not matter what kind of zone. A lot of our ordinances, it does not matter what the zone is. For instance, non-conforming use of land. That is what was brought in. That is what the County is acknowledging. Its pre-existing non-conforming use. Do the laws that we have in effect in our town, that I have on my house, do those laws cover that property, too?

Craig Hall said if it is a non-conforming use, it comes in and will be regulated by the uses that it was approved under so long as the non-conforming use has continued on a continuous basis and not abandoned for whatever period of time our ordinances talk about.

Councilmember Sheltman said and the County is the same if I remember correctly. Is that right, pretty much?

Craig Hall said I do not know the answer, Elliott.

Councilmember Sheltman said the Wells Fargo Museum, Gift Shop, whatever anyone is calling it, was brought in, grandfathered in, when we took over that property. Correct?

Craig Hall said let's do not use the term grandfathered.

Councilmember Sheltman said I know that is not a legal term. It was brought over; pre-existing non-conforming use was allowed to continue because

Craig Hall said hang-on one second. I am not sure that is true. It could have been a permitted use in the County. It could have been a permitted use. That is what we do not know. If it was a permitted use in the County, and if the terms of the ordinance in 2003 say we accept the use and the zoning of the County, then it is not a non-conforming use. But we have to find that out. I do not have an answer for that question.

Councilmember Sheltman said let's go into another part of that. What about setbacks? Are setbacks in effect on those properties?

Craig Hall said if the effective date of the annexation, no structure that requires a building permit can be installed or built on a property unless it meets our applicable setbacks.

Councilmember Sheltman said that is one I can deal with. What about the jailhouse?

Craig Hall said what about jailhouse. What do you mean?

Councilmember Sheltman said the jailhouse has a negative setback. It is on over 2 lots. It does not have a 25 Foot front setback which is required by Town law.

Craig Hall said let me see if I can answer the question part by part. If the same owner owns 2 adjacent parcels and if there is a property line that goes from north to south and the property fronts on a street that goes from east to west, a property owner has the right to put a structure over a boundary line or property line. That is not improper, but it still needs to comply with setbacks.

Councilmember Sheltman said so it is not in compliance with the setbacks that are required by the Town.

Craig Hall said you are talking about the setbacks from the roadway.

Councilmember Sheltman said from the property line.

Craig Hall said okay. We are talking the same thing.

Mayor Peterson said I am not sure you are. I am just trying to understand. There are 2 parcels side-by-side that both front on the road. Your concern is the setback because it is straddling the property line and, therefore, it is not setback from the adjoining parcel.

Councilmember Sheltman said there is not setback from the line lot.

Mayor Peterson said so, I believe, Craig, you are saying if they are owned by the same individual that is permissible for someone to straddle their 2 property lines.

Craig Hall said they can combine those 2 parcels. And, generally speaking, they do not require a setback on an interior parcel or boundary line where it meets the setback on the exterior of the 2 parcels. There is plenty of setback, and I am making up directions, north and south, to the other adjacent property. That is what setbacks are intended to provide for.

Councilmember Sheltman said as far as the structure being brought over and placed there, were there any requirements before they did that? Or do we have to find out who controls the law that you were talking about earlier?

Craig Hall said we assume when people put structures up on the property, they have written permission of the property owner to put a structure on the property. The Planner indicated we would never let someone come in and attempt to rezone a piece of property unless he has the owner's permission in writing. It is the same thing with the placement of a structure on a property. We generally assume if a structure was placed there, they have the permission of the owner, especially in this case, when the structure was placed a number of years ago. If the owner did not want it there, they would have objected.

Councilmember Sheltman said what I do not understand is how you can just take a structure, and if that is under the control of Leeds, how can you just take a structure and plop it down on a lot?

Craig Hall said I did not say the intent. If it is a structure that requires a building permit, or permission under the enforceability code, they need to follow those provisions.

Councilmember Sheltman said the reason I am bringing it up is if you look at our Code 510, Chapter 5... he read Chapter 5. I would make the argument that the jailhouse is an expansion of the non-conforming use that the Wells Fargo had. It was put on an adjoining property.

Craig Hall said unfortunately, I have looked on the internet, I have looked on Google maps, I have looked from an aerial standpoint. As I told the Mayor, I will be in Leeds on October 24th & 25th so that we can sort through some of these factual questions to see where we are. We really need to go back to the basic premise and question what was the property zoned when it was annexed into the Town. And then find out what the regulations were in existence in 2003 and then make a determination from there. If it was legal then, it is my preliminary opinion, the ordinance that Town Council passed in 2003, Town Council committed that you would live by that zoning for the future. Whatever it was. That is what that ordinance says to me.

Councilmember Stirling said can I ask a couple of questions. From listening to both sides, it did not appear that anyone wanted to shut down the museum, but there was a great concern about health, safety and welfare of anyone who comes up to that area because of the fact that there are blind corners, there is not a lot of parking area. It is just a situation where apparently there are no permits that were taken out for any of the events. In reading through Washington County, the event information has to have a site plan, trash facilities, sanitary facilities, supply of water for dust control, emergency services ... this has never occurred through the Town office. I saw on Facebook that they are having a Halloween Night and it specifically states that there will be no moon, that they will be crossing the main road and to bring

flashlights. What responsibility does the Town have to permit things that Washington County does for their events? But we do not have anything in our ordinance for something where ...

Craig Hall said let me throw out a couple of observations – We have, for the lack of a better term, a business that is conducting business on the side. If they want to hold a special event that goes beyond, I would say, their property, their buildings or facilities, where they use public roads for the event, that includes extra ordinary parking, they need a special event permit. It is a one-time special event. That is different than their ongoing programming that occurs on the property. The ongoing programming includes these periodic simulated gun fights. But that is a different question whether or not that creates a criminal or civil nuisance. We have a number of questions. I would suggest that we all, and I asked Elliott to do this the other day, I would like to know for the Town's purposes in trying to resolve these issues that we identify by bullet point, not discussion, but by bullet point our concerns. What is the zoning? What are these Halloween events? Is it a special event that goes beyond the general location of the museum, etc.? What are the applicable setback requirements? When was the jailhouse put on the property? Were the appropriate permits, if necessary, applied for and granted to do that? I think if we identify, with reasonable and rational people, with bullet points and we get a small group of people together, 1 or 2 from the museum, 1 or 2 from the residents, a couple from the Town, couple from the Forest Service, couple from Washington County. If we identify the issues, I think we can come to some sort of understanding of what should happen in the future. And where are we going. It sounds to me, and the Mayor will tell you this, we have had a number of discussions in an attempt to educate me as to what the museum is. It sounds like they are very successful. We need to figure out if the Town wants to have that resource, how do we work together as a community so that residents understand what is going to happen that is reasonable and the museum understands what their boundaries are. We figure out what the zoning is so we can figure out what the uses ought to be and then we go forward. Until we identify the issues, I think we will go round and round and not solve anything. I would suggest that the Council think about doing something like that. I have thought about this for the last week and I tried to figure out a method by which we can identify issues, sit down and work through the issues with facts and come to a resolution for the good of the community.

Councilmember Stirling said I understand you are talking about zoning. I am talking about a bullet point for health, safety and welfare.

Craig Hall said Danielle, that is part of it.

Councilmember Stirling said ...

Craig Hall said that is part of this whole discussion. A business cannot create ongoing safety hazards.

Councilmember Stirling said that is my only concern. Listening to a lot of the residents out there, health, safety and welfare was one of their biggest concerns, especially the nuisance ordinance of the noise. And that is health. We did have a small rendition of the noise and it was under the nuisance ordinance, especially in a residential area. They are in the middle of the road which is blocked for a special event. I agree with your bullet points, but I also think we need to look at the fact that it is not necessarily people thinking it is successful and they want it to stop. This is their homes and they are trying to have a quiet environment in an area where we have a lot of visitors, and that is understood. My question again is would Washington County doing their permits, even if the zone is decided on, what is our responsibility as a Town for permits?

Craig Hall said reasonable regulations.

Mayor Peterson said an event that we saw recently was the St George Marathon. I think that is the type of event that they are speaking of when they speak about these needs. When you mentioned sanitation facilities and the like, the Ironman is another one that causes street closures and as a result requires rerouting of traffic and the like, and has large numbers of people that might need to use the facilities, I do not think an event means if someone is giving a lecture on the history of Pine Valley Mountain. That certainly is not an event like a marathon, but I do agree that the Ghost Nights is an outdoor event and, therefore, with crossing public streets and all is something different from the other types of events. I do think we need to delineate those as opposed to saying an event ... currently you say Washington County has an event permit, we do not. And the question is how do we update it. I think what Craig is suggesting is put down a bullet point that there is a need for an event permit, but I think we need to define what kind of event needs a permit as opposed to just normal type of activity.

Councilmember Stirling said Craig, what other municipality do you represent that has something we may look into in way of their permits that is about the same size as Leeds?

Craig Hall said Holiday, Midvale may ... I think in Salt Lake County, the County Health Department requires that any time you are going to have a gathering of more than blank number of people, and I do not remember what blank is, you must have a mass gathering permit and that may not be applicable to less than 100, or less than 200. We can jump on that tomorrow. I can see if I can find some example special use permits. Holiday has one for their marathon and they had one for a 3-day bicycle race that they used to have. With your permission, I will do some homework in the next couple of days and see what we can find.

Councilmember Sheltman said what is it we need from the County? You said we are searching for documentation to see

Craig Hall said I want to see what the zoning was in Washington County on that parcel that was annexed in, I believe, 2003. When we know that it was zoned X, I will go over the zoning ordinance to see what was allowed as a permitted conditional use in that zone and find out the regulations. If it is non-conforming, then we need to enforce a non-conforming provision. If it was a permitted use, then we may be stuck with that use.

Councilmember Sheltman said what if we do not find any paperwork?

Craig Hall said I cannot believe that ...

Councilmember Sheltman said just so you know, 2-1/2 years ago, I went to the County, the County Commission lead attorney, and I asked for all of that. I asked specifically for that in writing and verbally. They produced nothing. They threatened a lawsuit on the Town if they Town pursued that line of questioning. That was Mr. Victor Iverson, who is still a County Commissioner.

Craig Hall said I have seen that letter.

Councilmember Sheltman said that was 2-1/2 years ago, and I got zip. If they do not have something, they have about 25, 30 or 100 lawyers working for them, if they do not have that, at what point do we say as a Town, okay, you do not have proof of that and we are moving forward with our ordinances to protect

the people of Leeds from being affected by this. In other words, we are going to have some rule of law here. We are not going to keep bouncing this back and forth like a ping pong ball saying it is this or it is that. That is all I have heard for 2-1/2 years, are these zoning questions, and I do not see a single answer yet. I think we need a deadline on this like either you produce this, or we are going to enforce the laws. And that does not mean the museum is going to disappear. It was grandfathered in, brought in as non-conforming use, pre-existing. We need a deadline on this because, again, 2-1/2 years ago I did not get anything from these guys except a threat.

Craig Hall said Elliott, I hate to say this, but you are reasonable in this regard. That is pretty patient. With your permission, and permission of the Council and Mayor, let me formulate a very detailed GRAMA request and I will reach out, I do not know any of the Deputies down there personally, but I can make some phone calls to the City of St. George and they can give me some heads up on who is the most responsible over there. Let me see what I can get in the next week or 10 days. All I can do is try.

Councilmember Sheltman said one other question about the Nuisance Ordinance 2000-02. Do we have that control over the property? Is that a legitimate complaint for the Town?

Craig Hall said for ongoing nuisances, the answer is yes.

Councilmember Sheltman said so technically, that law is in effect now over that property. The gun fights basically have ceased. Is that correct?

Craig Hall said I did not say that. I have not been asked to make a decision on whether or not the gun fights are per se a nuisance.

Councilmember Sheltman said did you see the actual nuisance ordinance?

Craig Hall said it is a State Statute.

Councilmember Sheltman said would Council be open to have you investigate and give us a ruling on that, so we know that once and for all?

Craig Hall said that is a criminal statute. If Town Council wants to get people to file a formal complaint, we will screen it with the prosecutor and ask her whether or not she wants to prosecute.

Councilmember Stirling said I do not think it was a real gun fight.

Craig Hall said it is noise coming from simulated guns on a regular basis.

Mayor Peterson said I would like to bring up a couple of things. I do think it makes sense to try to move forward with you investigating these particular items. One of the things with the side setback that I encountered where we had a property in Leeds, it is not required for someone to get a permit to build a stone wall on the edge of your property or on your property. An individual who bought the adjoining property came into Town Hall and said I know I bought this property knowing that this wall was 10 feet into my property and then asking what is the Town going to do about it. You were not our attorney at that time, but when I consulted our attorney I was told emphatically that it was a civil matter between those 2 parties and it was not for the Town to get involved with something between 2 property lines that was not requiring a permit. Is that accurate? We have a new attorney in you, and I was just wanting to

make sure that is still accurate. Otherwise it does change things as far as these types of things that come up here.

Craig Hall said the Town does not regulate surveys and we do not regulate private property disputes. We do not regulate title disputes and those types of things. Those are private civil matters for the property owners to enforce themselves.

Councilmember Sheltman said just so I am clear, you are going to do a formal request from the County?

Craig Hall said yes. It will be based on Ordinance 2003-03, the annexation ordinance. Correct me if I am wrong.

Mayor Peterson said that is the correct annexation ordinance.

Craig Hall said Mayor, please fax or email a copy of that ordinance to me.

Mayor Peterson said I will do that by tomorrow morning.

Councilmember Stirling said let me make sure I understand this. If I have 2 parcel IDs and I want to build a house on it, and I own both parcel IDs, I can go ahead and place my home on top of the middle line of both parcel IDs?

Craig Hall said the interior lot line, the answer is yes.

Councilmember Roberts said our ordinances would not allow that because our ordinances say you must combine those 2 properties because of the potential to try to sell one of the properties. If it went through our process, that would be a moot point of what you are bringing up as an example because it would not get that far. It would be resolved before it got to that point. You are talking about a dwelling unit. What Elliott is talking about, the jail structure, it is 100 square feet. There is no permit that is required for that in our Town. You can build a 100 square foot, actually a little larger than that, and place it on your property. So, when you ask the question there are different things that are required for permitting in Leeds because we went through this just a month ago when the property line adjustment on a commercial property where the storage units are. If you recall, we mandated that those properties be combined because....

Mayor Peterson said it would have generated a landlocked property.

Councilmember Stirling said Alan, that was the whole reason why I was asking that question because of what we intended for the applicant to do with that land.

Councilmember Roberts said let's say they wanted to put a 100 square foot shed on that property, it would not need to be permitted for that.

Councilmember Sheltman said are you talking about an accessory building?

Councilmember Roberts said it does not matter if it is an accessory building or a tool shed. We allow a 120 square foot accessory building to be on any property without a permit.

Councilmember Sheltman said but we do have requirements for an accessory building, right?

Councilmember Roberts said if it is larger than that or if it contains electrical or plumbing then yes.

Councilmember Sheltman said an accessory building is legally defined as a subordinate non-essential structure. I do not think one could make that argument for the jailhouse that is advertised nationally or internationally. And it has a lot number on it as part of their walking trails.

Councilmember Roberts said it is the size of it that brings it into that category of not needing a permit. And there is no electrical, mechanical or plumbing in it. Almost every municipality in the State operates under that same type of understanding. They may have different sizes, but this is not uncommon for most municipalities within the State of Utah.

Councilmember Stirling said Craig, do you want to tell us your two cents about that as well?

Craig Hall said Scott, what is the threshold for a building permit?

Scott Messel said I believe it is 120 in the Town of Leeds. In unincorporated areas, it is 200 square feet.

Craig Hall said you are right on our process. If a person or an applicant comes in and wants to put a structure that requires a permit on an interior lot, it is very prudent to make him combine the parcels or do a property line adjustment so that we do not have these issues. There is a city in Salt Lake County that has homes on 2 streets that are straddling the lot line and they have done so for 50 years. It has been a mess for 50 years. We all gave up trying to resolve it. It is not the best practice, but it is not illegal.

Mayor Peterson said a couple other things that I would like to bring up. There was an email sent about concern about my allowing a member of the public who was the person to whom, in effect, 22 petitions were directed to allow him to see them after the meeting. As I see it, after those documents were handed to the Town Council, they became a public document. I informed that individual, and I would have told anybody at that meeting, they are welcome to look at them in my sight and they would then be taken into our office and our Clerk/Recorder would respond to any request for a GRAMA request for copies of them. A GRAMA request was subsequently filed for those documents and that is when a copy of them was provided. I would ask our attorney if there is any concern that you see with allowing a member of the public at a meeting where it was presented to see a document without having to submit a GRAMA request before just looking at it.

Craig Hall said you followed the law and how you apply that in a practical sense is totally independent discretion of you as an official of the Town. Once a document petition was submitted, it became a document of the community, and from a technical standpoint, a GRAMA request was necessary to give that document.

Mayor Peterson said the second question is that I have been requested on a couple of occasions to issue a cease and desist letter. I do not see in the files of Leeds any instance where there has been a cease and desist letter issued in my search effort, and I hate to say it, but I read about it on the internet, because that is not a reliable source, but it is where I read about it. It seems to indicate that there is a need to determine guilt with respect to something and then you issue a cease and desist letter to notify them that any future activities such as that. I am not certain that 2 or 3 or more members of the community saying something is an issue from a nuisance standpoint immediately convicts somebody of that. It is more of a

complaint that is being filed. I am also very hesitant in giving the motive of cease and desist notices encouraging 3 or more members of the community to complain about any particular thing they do not like. I think we would be a dog-less community if that were the case. I think we would be a 4th of July celebration-less community if that were the case. And I think there is a need to utilize some discretion and take people at their word when they say they will no longer do and will suspend it and will not be doing an activity that was of concern to neighbors. I do not think there is a need to pursue it legally as no requirement for cease and desist to prosecute on a future violation if somebody chooses to ignore the suspension that they agreed to and just go ahead with it. But I would ask our attorney with the public present here tonight if I am right or wrong on that.

Craig Hall said I think you are absolutely correct. If an event or organization has agreed to cease that type of activity until a meaningful discussion can be held, they would be absolutely crazy to breach the trust that they have indicated. The nuisance no longer exists until they do it again.

Mayor Peterson said is there anything else from Council regarding the discussion item? To summarize, the attorney is being asked to look into submitting a GRAMA request with regard to the Washington County zoning as of 2003. As I mentioned, I have a question into the State Archives about the ability to search that. Obviously, if I hear anything, I will coordinate. I will be emailing a copy of the Ordinance 2003 annexation ordinance to our attorney for him to work on. And I believe it was suggested by our attorney that members of Council put down bullet points on things that they see of concern that would be properly addressed if we were to go forward and determine in the future what would or would not be something permitted in this particular setting. Is this accurate?

Craig Hall said it is my understanding.

Councilmember Stirling said Craig, instead of a cease and desist, can we have a letter of understanding?

Craig Hall said Mayor, what type of comments, what type of memorialization, did we receive from the museum regarding their voluntary suspension of the so-called gun fights?

Mayor Peterson said it was verbally made during a public meeting and reflected in the minutes of that meeting. But if desired, I will send a note to the President of the Foundation that operates the museum just saying that the Town appreciates their suspension of it and expects them to follow that, and if for any reason they are looking to change their view on that they would be expected to come to the Town Council before resuming that activity.

Councilmember Stirling said I would appreciate that and then have it in the records for the next meeting, so we have something on the records showing that we listened to the complaints of the nuisance ordinance.

10. Citizen Comments:

Lynn Potter said this is in regard to Brian's bed and breakfast. I have a couple of questions. If he receives the bed and breakfast Conditional Use Permit, is he required to get a business license?

Mayor Peterson said yes.

Lynn Potter said then you are correct. This is not apples and apples. That ordinance he was talking about 2 kitchens, that was talking about converting a single residence into a multi residence. That does not apply to this. This is a business. I think you guys are creating a couple of mine fields here. I am going to be a devil's advocate. Requiring the owner to live at the business, when typically, many businesses hire people, there are many successful bed and breakfasts that have managers. I can see where you would require attendance by the owner on an AirB&B, but when you start doing a business license you are talking about a whole different cat. In regard to allowing only families, you are creating a mine field there because that is discriminatory. If an unrelated group comes into Town and you say you cannot rent to them, they will say I am suing you. And the 2-kitchen rule, I have some questions about that. I read through it quite a bit and you do not really say you cannot have 2 kitchens. There really is not anything that says no second kitchen quarters. As long as you are not renting it out and it is for assistance.

Councilmember Sheltman said just to make sure I am clear, under a conditional use, the requirement that the property owner on record be there is because

Scott Messel said it says in our home occupation that is what is required and the way that the Code is written is that home occupations are handled as a conditional use.

Councilmember Sheltman said that can be a family member, too?

Mayor Peterson said it says it can be a family member.

Councilmember Sheltman said so we are clear on that. And that would not be a requirement on this one because of the way it is coming in? A home occupation, right?

Scott Messel said right.

Councilmember Sheltman said for a bed and breakfast, we were talking about putting in a stipulation that the record property owner has to be there, but that would not come into effect on this one because of the way it is coming into us. Am I correct?

Mayor Peterson said it is a conditional use request for a bed and breakfast.

Frank Lojko said I am willing to offer my services. As many of you know, I worked for Dixie State University and helped them get 12 academic buildings and about half a billion dollars. I have worked with legislators both in DC and in the State. I am willing to provide my services for free to write some grants, not guaranteeing if would happen, but it would take care of some of the congestion concerns on bike paths and walking paths, for the museum to have some more space. We need to look at alternatives in finding solutions to problems rather than trying to get rid of something without really processing the activity. I am providing my services for free if the Town would like to have some help writing some grants.

Mayor Peterson said thank you for that offer and we will certainly keep it in mind going forward.

Councilmember Stirling said can you tell us some things that you would recommend.

Frank Lojko said we have a lot of people with ATVs zooming up Silver Reef Road. If we had an area for people who want to hike or ride their bikes off to the side and had some type of bike path that would eliminate that concern as people are driving. The concern you mentioned of not having visibility, so there

may be some things that can be done to make it a little safer. And maybe put in some kind of parking that blends in with the area.

Councilmember Stirling said do we own any of that land

Mayor Peterson said we do have a right-of-way along the road. There are some areas where it is pretty tight on one side or the other. But for the most part, we do have some right-of-way along that road up towards the museum. As you get down towards Main Street, that is a whole other story. We are paving every inch of every right-of-way we have. On Silver Reef Road down by Main Street, we are very constrained.

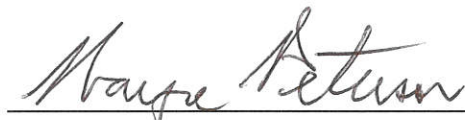
11. Staff Reports: None

12. Closed Meeting: None

13. Adjournment:

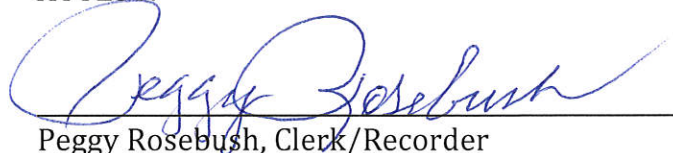
Meeting was adjourned at 8:53 PM.

APPROVED ON THIS 23rd DAY OF October, 2019



Mayor, Wayne Peterson

ATTEST:



Peggy Rosebush, Clerk/Recorder