

Town of Leeds

Planning Commission Meeting for Wednesday, July 1, 2020

1. Call to order:

Chairman Swenson called to order the regular meeting of the Planning Commission at 7:05 PM on Wednesday, July 1, 2020. This was an electronic meeting.

ROLL CALL:

	<u>Present</u>	<u>Absent</u>
CHAIRMAN: DANNY SWENSON	<u>x</u>	<u></u>
COMMISSIONER: BRAD ROBBINS	<u></u>	<u>x</u>
COMMISSIONER: KEN HADLEY	<u>x</u>	<u></u>
COMMISSIONER: TOM DARTON	<u>x</u>	<u></u>
COMMISSIONER: MARK ROSENTHAL	<u>x</u>	<u></u>

2. Invocation: Commissioner Darton

3. Pledge of Allegiance: Chairman Swenson

4. Declaration of Abstentions or Conflicts: None

5. Approval of Agenda:

Commissioner Darton moved to approve tonight's agenda and meeting minutes of February 5, 2020 and May 6, 2020. 2nd by Commissioner Rosenthal. All voted. Motion passed.

ROLL CALL VOTE:

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
CHAIRMAN: DANNY SWENSON	<u>x</u>	<u></u>	<u></u>	<u></u>
COMMISSIONER: BRAD ROBBINS	<u></u>	<u></u>	<u></u>	<u>x</u>
COMMISSIONER: KEN HADLEY	<u>x</u>	<u></u>	<u></u>	<u></u>
COMMISSIONER: TOM DARTON	<u>x</u>	<u></u>	<u></u>	<u></u>
COMMISSIONER: MARK ROSENTHAL	<u>x</u>	<u></u>	<u></u>	<u></u>

Chairman Swenson said because I had surgery earlier today, I am going to turn the meeting over to Pro Tem Darton. I will go off video but stay on audio.

6. Announcements:

Pro Tem Darton said the July 4th festivities in the Town of Leeds have been cancelled. There will not be any official July 4th festivities.

7. Public Hearings: None

8. Action Items: None

9. Discussion Items:

a. Petition related to animals in residential areas – Chapter 1 (Definition of Animal Units – Small & Large) & Chapter 13 (Animal Units)

Pro Tem Darton said this is a petition that was submitted by Sharon Johnson. I would like to ask Sharon to introduce her petition and then we will allow others in the community to comment.

Sharon Johnson said I was told by the Mayor that for every half acre you are allowed 1 unit of animals. He said a unit is 1 large animal or 2 small animals, not and, but or. One large animal consists of cow, horse, goat, pig and sheep. All of those are considered as large animal. Small animals would be dog, cat, chicken or rabbit. I believe that we should be able to have more animals on our properties. I think people move to Leeds because that is what they want. They want to have an agricultural experience. They want to be able to have agricultural animals. I think the law written is limiting. In the Town of Leeds General Plan, it says that the goal of the Town is to preserve agricultural lands. It says Leeds would like to promote the continuation of agriculture, keeping of animals and maintenance of farms and gardens. With the ordinance that you have written right now, I think it is arbitrary the way it is written. Where a horse is the same as a pigmy goat, it is a big difference. I think having both of those as a large animal is not a correct thing to have. They should be separated more by weight rather than just put them in a lump sum. I would personally love to see the ordinance be more of a nuisance ordinance because right now, the Mayor told me, the only time the ordinance is enforced is if a neighbor complains. Most of the people who do have agricultural animals in this Town are out of compliance. And unless they have a neighbor complain, a blind eye is turned on it. I think if we made it more of a nuisance law then it could be enforced across the board, that way if a neighbor complains then the Town Council could go and visit the site and determine whether it is truly a nuisance or if it is just being nit picky. If there is going to be a number put on there, I think we could discuss that. I also wanted to talk about the agricultural animals. They are herd animals. They do better with companions. That is a true fact. Anyone who has had animals know that. Having just 1 large animal, 1 goat, 1 horse Most people have 2 horses. They do better in pairs. The 4H and FFA are awesome programs. If the Town's General Plan talks about preserving the agriculture experience, 4H and FFA are awesome programs for the kids to keep agriculture alive and it teaches them responsibility. That was the best thing for my kids. It taught them so much responsibility and work ethic. But if you can have only 1 animal which kid do you choose who gets to do it. I would much rather say all my kids can participate in the program because it is going to teach them so much. It is essential in keeping agriculture alive. We have the resources here. We have enough property and we have the capability of doing it. We should be able to do it. How awesome is it we have an area where we can have food storage, we can have chickens, beef or goats? We live in a great Town where we are able to have that and I would love to see it could be changed to that. You have probably seen the petition. We have collected a lot of signatures. The response has been overwhelming and positive. Most of the responses have been that is why we moved to this area. We wanted to have animals. Even the ones without animals said that is why you live in a place like this. If you do not like animals, this is the wrong Town to move to. They are all hoping this will get changed and we can move to having more animals. I also pulled a study done by USU that talks about the difference between the large animals, such as a horse, compared to a goat. If you have to put a number on the animals maybe we could say 1 horse equals 5 goats or 1 horse equals 4 sheep. This is a study that shows how they compare. One horse will produce way more flies or way more waste than 1 goat. You should be able to compare that kind of stuff. So, everyone knows what the petition

says, I could read just so you aware of what it says.
Pro Tem Darton said why don't you do that. Go ahead and read it.

Sharon John read the petition.

Chairman Swenson said generally on a petition, and I reviewed all of the names, the only thing I could find wrong was maybe some of the spouses or children have gotten married and moved out of town and they signed it. When you do a petition, put the information on each page. When I pulled it up online, there are numerous pages of signatures without the explanation on it.

Sharon Johnson said they are the back page.

Chairman Swenson said when you pull them up online that are just sheets.

Sharon Johnson said they are front and back.

Chairman Swenson said there were no back signature pages without the explanation.

Pro Tem Darton said they are all front and back?

Sharon Johnson said they are front and back. We let them read the front before they signed the back.

Chairman Swenson said some states would throw out pages if they did not have the explanation on it. People can say that is not what I was told.

Sharon Johnson said when we presented the petition, we always presented it like this and if they wanted to sign it then we would turn it over. We always let them read it first.

Chairman Swenson said I just wanted to make sure. If you go out and get some more, make sure the explanation is on every page.

Sharon Johnson said that is good to know. I was not aware of that.

Chairman Swenson said you do not want them thrown out, right?

Sharon Johnson said absolutely. We were told by Councilmember Roberts that anyone who is registered to vote in Leeds would be able to sign. If the kids are registered to vote, they are able to sign. She read the explanation on the petition.

Sharon Johnson said it was actually Councilmember Roberts who helped us write this up in good professional language. He helped us get it to where it needed to be.

Pro Tem Darton said I think we can open it up to other members of the public who want to comment on it.

Angela Rohr said I circulated a legal petition for chickens to be allowed. I had 145 signatures of Leeds residents, property owners. Giving examples of what other cities allow ... Washington City allows no roosters, but on a minimum of 10,000 SF lot, they allow a maximum of 12 chickens with no business purpose. St George allows no roosters, but you can have 6 chickens on the first 10,000 SF and 1 chicken, up to a maximum of 16, for every additional 1,000 SF of property. LaVerkin allows 1 rooster and 25 hens on a minimum lot size of one-half acre lot. They use a point system and it goes up to 33 chickens on 1 acre. Ivins allows no roosters and 5 hens on a lot size of 7,500 SF. If you have 12,000 SF, you can have 12 chickens. Leeds does not

allow chickens except on 2 acre lots and then you can have 4. On a 5-acre lot, you can have 6. Any other rural residential 1 acre or half acre would have to go through the conditional use process, which is not cheap. A 40 lb. dog excretes in a day more than 10 chickens do. And if you compare that to a horse or a cow, even a goat, it is a lot more. In going through this process, I would certainly hope that it would be open to residential lots also if they are large enough to have at least some small animals, not necessarily a large animal.

Ronald Skorupa said my wife, daughter and I moved to Leeds from California in 2017, where my wife grew up, it was common to have a garden and animals and chickens. They never went hungry and were content. A friend told me that the depression was not really bad for them because they grew their own food. My wife has always wanted a garden and some chickens and that was one of the main reasons we moved here. I was actually quite surprised when I first found out that there is an ordinance that limits the number of chickens you can have. I am all for relooking at that and being more realistic.

Angela Rohr said on the petition that the people signed it said "I am petitioning the Planning Commission and Leeds Town Council to make a policy that allows the citizens of Leeds, a rural and semi-agricultural community, to raise their own chickens for eggs, meat, health and pleasure on their own property." I have a neighbor who has an autistic child and she really wanted to have 2 chickens and she could not have them. It was a real shame. Some of the items have been brought up about self-sufficiency, but also, having animals, you learn about life and where you get your food from and how other animals exist and how they work.

Sharon Johnson said I would also like to mention the conditional use permit. Is there a necessity that you need a conditional use permit if you have an agricultural animal? Could we address that and see if we could maybe do away with it?

Pro Tem Darton said obviously, the Town Council is the body who makes ordinances for the Town. If they revisit this, they could make whatever changes they deem appropriate. The short answer is yes.

Chairman Swenson said our book of ordinances addresses a lot of things. We could do away with a conditional use permit if we could list absolutely every conceivable use, but because that is not practical, we do issue a permit under the conditional use and they still follow all of the rules and regulations.

Scott Messel said if we could come up with a certain number of animals, you could have a permitted use. It does not have to be a conditional. The State dictates how a conditional can be approved.

Pro Tem Darton said I know over time; issues have come up where we kind of addressed this topic. Part of it was probably when Angela presented her chicken ordinance, and just for the record, I believe the Planning Commission approved and recommended the Town Council approve it. The Town Council did not approve the chicken ordinance. Nevertheless, we have noted in the past it seems to be fairly inconsistent throughout the Town of Leeds who is allowed to do what. And we noted that it does not seem to be based on a fair ... For example, over on the Silver Reef side there seems to be larger lots, multi acre lots in most cases. Some of the 5-acre size lots are not zoned as rural residential where they could have up to 6 chickens. They may be zoned as only residential. That is kind of crazy. I do see a need to maybe look at the zoning ordinances in the Town of Leeds and try to make some adjustments that will make it fairer for all residents and have it be based on some criteria that makes sense. Maybe zoning is not the best criteria. Maybe lot sizes, regardless of the zoning, might be the best criteria. Recognizing that Leeds is a rural community, historically an agricultural community. Leeds downtown is not like the downtown of most other cities. It is still very rural. It would be nice if we could

address this and try to come up a statutory scheme that more evenly and fairly applies to all the residents rather than the haphazard zoning that has taken place in the past. We have residential right next to rural residential without any real distinction between them other than their rights.

Chairman Swenson said zoning is important to be consistent, which we are not. There are setbacks and they are different between residential and rural residential. I do have the Town of Leeds zoning map. You probably cannot see it. Just as an example of inconsistency, all of Main Street, or at least most of it, is zoned rural residential, quarter acres. The whole Town is rural residential. Silver Reef, El Dorado Hills specifically, it is not rural residential until you get past the last half. Rural residential is at the very end, but the middle section is residential even though they are the largest lots in the whole area for the most of it. To say the zoning does not make sense right now, which prohibits not just the animals, but there are also the setbacks that are restrictive because they are not rural. Yet all of Main Street is rural residential. It is not consistent.

Commissioner Rosenthal said I will try to address this to our Town Planner. Scott, what is the reasoning for having restrictions on animal uses in a rural residential area?

Scott Messel said it is the bounds of property rights. Sometimes people like the image of living in a rural area, but sometimes that do not like what it really is. A lot of comments have been made about not tying it to the zoning, but maybe tying it to size. A lot of communities do not tie it to the zone unless it is the true ag zone. There is a lot of rural agricultural land in unincorporated Washington County. The County has 1 large animal for every 12,500 SF and then they break it down from there. You could set a maximum of large animals. The County's is 5. Any more than that it would have to be either a conditional use or it could be, in a true ag zone, the County allows for an unlimited number of animals. It is all about finding a balance.

Commissioner Rosenthal said when you look at the zoning in Town, Main Street is certainly RR20. Looking at the wording on the petition, he read an excerpt from the petition. Not an area of Leeds that is disjointed from the Town, surrounded by unincorporated Washington County, we have had in the last 2 years an incredible number of instances whereby the activities of the adjacent property owners have become an extreme nuisance. I am all for individuals taking personal responsibility for their actions and not becoming a nuisance to their neighbors. I am all for neighbors being able to work out differences by talking to each other. I would like to think if I lived in a RR20 area, and I have 15 chickens, my neighbors would not mind. I do not know how, reading this petition, it addresses some concerns that people may have. This petition does not get into hard specifics. If you are going to move forward with this, you need some hard numbers. Mrs. Johnson, you are absolutely right. Having a horse alone in a paddock is about the cruelest thing you can do. We need to think hard about the impact to neighbors and how to address this. I would suggest that there is no easy middle ground here. There needs to be some serious review on what would be appropriate. With respect of looking at the zoning in Town, we may need to conduct a study to see what would be appropriate zoning. Main Street being rural residential is something of a head scratcher to me.

Pro Tem Darton said I did mention this in my initial comments, I am not a fan of vague and ambiguous verbiage in ordinances. The proposed language in the petition is, in my opinion, way too vague and ambiguous. It is not an enforceable standard. It is not a standard that gives everyone notice of this is what is okay, and this is what is not. I think I would like the Town to start working on this and I think there are a number of ways to do it. I think ultimately, when we get around to making the changes, we will have to have something that has concrete objectives and standards so that everyone knows what is approved and what is not. What is a nuisance and what is not a nuisance is in the eyes or nose of the beholder.

Commissioner Rosenthal said Scott correct if I am wrong, buy the other towns in the community, who have the numbers, have struggled with the same thing. They decided on setting the numbers. It is not vague, and it is not ambiguous.

Scott Messel said you are exactly right. If your code is not concrete in how you interpret it or setting clear boundaries, you can have some real problems with being arbitrary and capricious. Most towns and cities have a number attached to it. My personal opinion is using square footage rather than zone is more appropriate.

Pro Tem Darton said Scott, is it correct to say it is a lot easier to modify our ordinances to allow animal units based on square footage rather than to change zoning?

Scott Messel said correct, yes.

Chairman Swenson said I think zone also needs to be addressed.

Scott Messel said one thing you could do is if you tie it to square footage, people could request more than the maximum number allowed then you could have a conditional use for anything above the maximum number.

Pro Tem Darton said that would give us the opportunity to setting conditions for the conditional use. I kind of like the idea that Scott suggested. If Town Council agrees to revisit this maybe they will throw it back to the Planning Commission to do the work on coming up with some specifics and then have a Public Hearing and then pass onto Town Council a proposed ordinance change. I like the idea of maybe suggesting animal units based on square footage and have a certain number that is a permitted use for all residential zones and then if anyone desires to have animal units above and beyond that apply for a conditional use. And it might be nice to have some guidelines for a conditional use permit.

Chairman Swenson said I agree. The petition is a nice read, but unmeasurable. One of the issues is health and safety. The coop, or whatever want to call it, needs to be 50 Ft. away from a structure. It cannot be on the side and it cannot be in the front. This is a health and safety code. Some of these things need to be specifically stated to be measurable. I like the square footage thing. Zoning is so inconsistent here; it is totally unfair to strictly go by zoning. I agree we need to send it with some of these items to Town Council. I am sure it will come back to Planning Commission to review and then we would send it back to Town Council for vote.

Pro Tem said Ken, do you have any comments to make?

Commissioner Hadley said are we going to keep the kennel lot – 5 dogs and 5 cats?

Scott Messel said there were some comments made some people have big dogs and some people have little dogs. You may be able to pull things out and decide what are domestic animals and then have that separate from the square footage. You could have domesticated animals separate.

Chairman Swenson said Ken, it is 4 or more dogs for a commercial kennel license.

Commissioner Hadley said what about aquaponics or a fish farm? There is nothing in the ordinance about this.

Chairman Swenson said Susan, this is a perfect example of what a conditional use permit is for.

Commissioner Rosenthal said I find it interesting that the discussion has been solely focused on livestock. There was been no mention of garden size. Your neighbors might not like having herbicides right next to them.

Pro Tem Darton said I am glad you mentioned that. When I heard that there are lots in Leeds where you are not allowed to have a garden, I was absolutely dumbfounded and shocked. Who would have ever thought that a rural community like Leeds would not allow a garden? This along with the animals can more fairly and equitably and equally be applied to all residents of the Town. I think I would like to propose that we would recommend to the Town Council that these ordinances, Chapter 1 & 13, there may be some other ones we need to look at, that will start amending these to more equally apply to the residents of Leeds so that there is a fairer and ... more equal rights. Have it based on criteria that makes more sense than just the happenstance that the zoning is. And maybe these should be pegged to square footage rather than the specific residential zoning that your property happens to have.

Chairman Swenson said I agree.

Pro Tem Darton said I suggest that we recommend to Town Council to begin the process of amending our land use ordinances to make animal units and farming based on lot size rather than zoning. And that we address the appropriate numbers and sizes of both of those by looking at neighboring communities and what is generally accepted. And recognizing that this is a rural community and we are trying to continue this as a rural community.

Chairman Swenson said we need to include health and safety codes.

Pro Tem Darton said we will need the proposed language and then have a Public Hearing. And then we can vote on the proposed changes. And then send our recommendation to Town Council to accept or reject the proposed ordinance change.

Angela Rohr said some of the things that Scott was talking about, as well as Mark, are addressed in the Town's nuisance ordinance, but I do not know if it was actually passed. I know we worked one over 3 years ago and it was a pretty extensive one. It covered noise, smell, sanitation and fly and rodent issues. It would be dealt with by fines and perhaps even removal. That was one reason the Town needed to get a prosecutor because we could not do anything without one. A different item, in Chapter 13.4.3.4, "any building intended to house animals or fowl shall be located 50 Ft. from the main residential structure on the lot as well as the main residential structure on adjacent lots and would need to comply with all setbacks associated with that said lot." We do have some of that information already in our books that we can work from.

Chairman Swenson said that is really good. I would suggest that you get with Sharon and educate her a little bit. And if you want to push your chicken ordinance that was not approved by Town Council. If you want to represent that I think you would go to Planning Commission first and we will pursue that.

Pro Tem Darton said Scott, does it make more sense not to have a chicken ordinance, etc, but have a single ordinance that lists how many different animals you can have based on your lot size and also include all of the language on it not being a nuisance?

Scott Messel said if this go to Town Council, and if Town Council wants to move forward with the proposal, we can start putting language together, Planning Commission and Town Council can review it numerous times and then finally adopt it.

Chairman Swenson said for just Ange's purpose, we do have a new creation of an appeal authority or Hearing Officer. I say that just to you because there is an avenue of staying in the ordinance.

Angie Rohr said someone appointed by Wayne, of course.

Chairman Swenson said actually they are registered with the State.

Pro Tem Darton said I think they have to be approved by Town Council.

Commissioner Rosenthal said they will be looking for bids, if you will.

Chairman Swenson said not just anyone can do it.

Pro Tem Darton said you do not have to have only one Hearing Officer. You can have two or three authorized persons. It makes sense to have a couple of Hearing Officers, but only one Hearing Officer will be assigned one particular appeal.

10. Staff Reports: None

11. Meeting was adjourned at 8:45 PM.

12. Roll Call Vote to close electronic meeting

ROLL CALL VOTE:

CHAIRMAN: DANNY SWENSON
COMMISSIONER: TOM DARTON
COMMISSIONER: BRAD ROBBINS
COMMISSIONER: KEN HADLEY
COMMISSIONER: MARK ROSENTHAL

Yea	Nay	Abstain	Absent
<u>x</u>	<u> </u>	<u> </u>	<u> </u>
<u>x</u>	<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>	<u>x</u>
<u>x</u>	<u> </u>	<u> </u>	<u> </u>
<u>x</u>	<u> </u>	<u> </u>	<u> </u>

APPROVED ON THIS 9th DAY OF Sept, 2020

Danny L Swenson
Danny Swenson, Chair

ATTEST:

Peggy Rosebush
Peggy Rosebush, Clerk/Recorder