Minutes
Town of Hideout
Town Council Special Meeting
October 16, 2020

The Town Council of Hideout, Wasatch County, Utah met for a Special Meeting on October 16, 2020 at 7:00 p.m. All presenters and Council met electronically via Zoom meeting and viewers were invited to watch live via YouTube Live Stream due to the ongoing COVID-19 pandemic. No public comment was taken.

Special Meeting

I. Call to Order and Reading of Mayor Rubin's No Anchor Site Determination Letter

1. Mayor Rubin's No Anchor Site Determination Letter

Mayor Rubin called the meeting to order at 7:01 p.m. and read the No Anchor Site Determination Letter in its entirety.

II. Roll Call

Present: Mayor Phil Rubin
Council Member Chris Baier
Council Member Jerry Dwinell
Council Member Carol Haselton
Council Member Bob Nadelberg
Council Member Ralph Severini

Staff Present: Town Attorney Polly McLean
Town Planner Thomas Eddington
Town Clerk Alicia Fairbourne

Others Present: Nate Brockbank (developer), Bruce Baird (legal counsel for the developer), and Rob Mansfield (legal counsel for annexation purposes)

III. Agenda Items

1. Continued Discussion and Possible Action on Ordinance 2020-10: An Ordinance Annexing the Silver Meadows Land which is described in Exhibit A.

Mayor Rubin reviewed the process of an AMDA (Annexation Master Development Agreement) and noted part of the process was to ensure all parties understood and were comfortable with the language of the AMDA, and to address the issues and concerns presented in previous meetings.

Mayor Rubin acknowledged Hideout had received two letters; one of which was sent by Summit County and the other which was sent by Park City *(Clerk's note: both letters were made public and attached in the meeting materials)*.

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Mayor Rubin presented the revised Concept Plan of the proposed annexation area and asked Town Planner, Thomas Eddington, to review changes made to the Concept Plan since the October 14, 2020 meeting. Mr. Eddington noted the following changes:

1. Concerns regarding the net square footage of the retail/commercial development were clarified and made consistent with the language in the AMDA.
2. The Hideout General Plan was reviewed, and the Town Center residential developments were made consistent with the General Plan to include varying heights of residential structures.
3. Residential parking concerns were addressed and made consistent with the General Plan to include 50 percent of residential parking as structured parking (podium, structured, garage, shared, underground, etc.) as to alleviate some of the need for asphalt or surface parking.
4. It was notated on the Concept Plan that twenty-one lots on the east side of Hideout could be relocated into the single-family lots located further to the south side or incorporated into the Town Center.

Mayor Rubin presented the Zoning Map and asked Mr. Eddington to explain what updates had been made from the October 14, 2020 meeting. Mr. Eddington noted the following changes:

1. Changes in zoning from R20 (Residential 20, which is the highest density) to R6 (Residential 6) as maximum zoning with cluster opportunities.
2. Some zoning of R6 became R3 (Residential 3) – a slightly lower density with a cluster component in the zoning.

Mayor Rubin presented the AMDA with updates made as a result of the October 14, 2020 meeting and described each change.

Section 2.2.6.1 was discussed; language was added to clarify intention of the Environmental Protection Agency (EPA) was to permanently cap the impoundments, which hold mine tailings, and long-term maintenance would be provided.

Mayor Rubin reviewed Section 3.3, which described Affordable/Workforce Housing. He explained the affordable housing units were to be built pursuant to the same schedule as the market rate Residential Dwelling Units and twenty percent (20%) of building permits for Residential Dwelling Units in each Phase must be for this type of housing.

Section 3.5 regarding the Phasing Plan, and Section 3.5.1 prioritizing the Town Center was noted as added per prior discussion.

Discussion regarding Section 3.8 involving limits on commercial projects ensued. Mayor Rubin reviewed language added regarding the subdivision of the commercial spaces and noted, with the exception of a grocery store, no single leasable space could exceed 10,000 square feet unless approved by the Administrator designated in Section 1.2.2.

Section 7.3 regarding Parks, Open Space and Trails, and Section 7.3.1 regarding charging a fee to access the chair lift was discussed. It was determined the Parks, Open Space and Trails would be open to the public and did not preclude charging a fee to access the chair lift.

Section 7.3.3.1 through Section 7.3.3.3 regarding the HOA (Homeowner's Association) fees on deed-restricted affordable housing units was discussed. It was noted the HOA fees may not increase on these units more than three percent (3%) per year, and only if the sixty-six percent (66%) of the full membership of the relevant HOA votes for the increase. Section 7.3.3.3 was added which described the limitations of the assessments against the affordable housing.

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Discussion regarding Section 7.3.4.1 Alternatives to Chair Lift, ensued. It was determined Developer Nate Brockbank would provide the Town six hundred fifty thousand dollars ($650,000.00) in the event a chair lift was either not feasible, or there was a better use of the anticipated costs of the chair lift. The alternative would be selected by Mr. Brockbank and Council.

Regarding Section 7.7 Land for Public Service Facilities and Town Hall, Ms. McLean asked for the language to be changed from "donate" to "dedicate" for consistency purposes, as well as change the wording from "up to three acres" to "approximately three acres" and added clarifying language for the use of the land.

Additional design standards were discussed, and language was added for clarification purposes.

At 8:33 p.m., Council Member Dwinell's connection was lost. He was reconnected at 8:37 p.m.

Discussion regarding the designation of land for the school, community center, Town Hall, and Police and Fire Stations ensued. It was noted the developer would dedicate the sites to the Town on or before August 1, 2021 and limit the use of the land for which it was designated for, unless an extension of the AMDA was granted as a result of any litigation or other statutory grounds.

Mr. Eddington noted an error on the Zoning Plan presented, which would replace "NC" (Neighborhood Commercial) to "NMU" (Neighborhood Mixed Use). Mr. Baird noted the motion should state the correction.

Section 16 was discussed. Mayor Rubin noted the duties and obligations of the AMDA would be in effect for any future owner of the property.

Mr. Baird explained the AMDA was not "contract zoning" and was entered into by the Town as part of the statutory permission and obligation to annex any property which the Town would zone. The AMDA would not grant any zoning rights, but rather restrict zoning rights due to limits on what would otherwise be allowed to be zoned. He further stated there may be argument it would incentivize the zoning, which would be inaccurate due to the zoning being established during the annexation process and not the MDA (Master Development Agreement).

After the changes to the AMDA were discussed and agreed upon, Mayor Rubin presented Ordinance 2020-10 and reviewed each section. Mr. Baird asked to make a change to Section 6 of the Ordinance, noting the Ordinance shall take effect immediately upon passage.

Mayor Rubin opened the floor for Council discussion.

Council Member Nadelberg thanked Mr. Brockbank for his time and efforts on the development and expressed his thoughts regarding how it would benefit the community. However, in reflecting on the public comments made in the Public Hearing meeting on October 12, 2021, he felt as if the constituents did not want a forced annexation. He spoke with residents who confirmed his theory. He acknowledged the letters sent by Park City and Summit County recognizing the needs of Hideout and noted their willingness to cooperate in regional development with the Town.

Council Member Dwinell extended his thanks to Mr. Brockbank and his team for not only this project, but every development within the Town. Council Member Dwinell mentioned several members of the staff had met with Summit County regarding regional development, which he felt had been productive meetings. He expressed his thoughts and concerns regarding pushing the annexation through during the shortened timeframe given by the legislature and would have liked to have the completed EPA study by the experts contracted through the Town prior to making his decision. He also expressed concern regarding the economic study and was unsure if the right balance of residential and commercial had been met in order for the development project to pay for

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itself. He discussed concerns of the traffic study and noted the two new access points from SR-241 which were mentioned in a previous meeting were not guaranteed.

Council Member Dwinell mentioned the petition circulated by resident Kurt Shadle, which had over one hundred (100) signatures opposing the process of this annexation *(included in the October 12, 2020 meeting materials)*. He stated Summit County had indicated their support in addressing the needs of the Town and felt as though the opportunity for regional planning within the community could be accomplished if the town were to postpone the annexation.

Council Member Haselton indicated her belief that Hideout needed to annex into its boundaries in order to develop needed commercial and community buildings and space, however the proposed annexation land had previously been dedicated as open space by both entities in Park City and Summit County. She felt the law which enabled Hideout to start the annexation process was misrepresented in both houses of the legislature and did not give Hideout enough time to conduct the proper studies prior to it being repealed. She felt it was irresponsible to rush the annexation process through without the proper studies being conducted and was concerned about the residential density proposed. She also stated the majority of the Town's constituents had clearly spoken out in opposition of the annexation which should be considered.

Council Member Severini addressed several topics of contention between the entities and expressed his thoughts. He agreed with Council Member Dwinell regarding the economic and environmental risks and felt the Town did not have enough time to conduct the appropriate studies. He also felt as though constituents did not support the annexation.

Council Member Baier expressed her appreciation to the Mayor and other members of the Council for the time and effort put into the annexation proposal. She also thanked Mr. Brockbank and other staff members for their efforts and feedback. She appreciated the various discussions, letters, and public input received, and took all comments into consideration. She stated she had spoken with several elected officials and legislators, and each legislator she spoke with had their own interpretation of the reason behind leaving the sixty (60)-day window open before the repeal took effect. Because of this, she allowed the law to guide her decision.

She expressed her concern Summit County would be true to their word and include Hideout in their regional planning. She was concerned Summit County had predetermined areas in which development would be allowed and if Hideout were to develop a residential or neighborhood mixed use development into the vicinity of the OU1/Richardson Flat Superfund Site, the EPA would close the site sooner than what Park City or Summit County wanted. She believed Park City and Summit County had an ongoing problem with contaminated soils and would have to remediate the contaminated soil to another area. She stated if the soil were to be hauled to another site farther away, it would cost millions of dollars. She felt if Hideout did not take the opportunity to annex while it was legal, there would not be another chance.

She continued discussing her thoughts on the possible reason Park City was opposed to the annexation, and felt it was due to the potential influx of traffic on SR-248. She argued by vitalizing the Richardson Flat area, it could alleviate some of that traffic by enabling the use of the existing Park and Ride lot by providing public transit into Park City from that lot.

She further expressed if a settlement agreement would have been reached between Hideout and Summit County, Hideout would have taken the time to complete the due diligence and finish the studies.

Council Member Dwinell agreed with Council Member Baier regarding the potential to alleviate traffic. He also agreed on the varying opinions by legislators regarding the intent of leaving the sixty (60)-day window open for annexation, and stated he also had conversations with four other

legislators giving differing opinions. Regarding regional planning, he disagreed with Council Member Baier and felt Park City and Summit County would uphold their public comments and statements and include Hideout in their planning and development process.

Mayor Rubin expressed his appreciation to everyone who worked on the process. He stated the Town had a goal of offering solutions by alleviating traffic into Park City and providing housing at different price points which was needed for the area. He expressed his support for the annexation and felt the project was valuable.

Mr. Brockbank gave comments regarding Summit County's new development, Silver Creek Village, east of SR-248, which included seventeen hundred homes and over one million square feet of commercial property. He questioned why Summit County would be against the annexation and development of Silver Meadows by Hideout if there was a much larger development approved in an area close to Silver Meadows.

Mr. Brockbank spoke personally with fifty (50) Town residents who were not opposed to the annexation but were opposed to the process in which it was presented. He suggested Council pass the Ordinance and allow a referendum to transpire in order for the citizens of Hideout to formally make the decision.

Mr. Brockbank offered to build the Town Center, Town Hall, and Community Center as part of the development. He asked Council to take advantage of the opportunity to annex while it was available because the opportunity may not come available again. He expressed concern that Park City and Summit County would not include Hideout in regional planning if the Ordinance was not passed.

Council Member Baier thanked Mr. Brockbank for his comments and agreed Hideout would not be part of regional development without the annexation. She further noted the goals which were discovered during the General Plan effort with the community had not been met, and by annexing this property and allowing commercial development, the goals could be met.

Council Member Dwinell reiterated the previous statements made regarding Summit County and Park City's lack of attempt to include Hideout in any discussions until the declaration of intent to annex was made by Hideout.

Mayor Rubin stated by passing the annexation ordinance, it would be an opportunity to start to have a voice broader than just Hideout, and to begin to work on solutions with Mr. Brockbank, who had shown himself to be highly responsive to the needs of the Town. He reiterated Mr. Brockbank's comments regarding Hideout being excluded in Park City's and Summit County's regional development and agreed the same kind of opportunity may not be available in the future.

Mr. Brockbank repeated his offer to build the Town Center, Town Hall, and the Community Center. He stated the negative publicity was brought by Park City and Summit County which was why Summit County residents were against the annexation. He once again asked Council to pass the Ordinance and allow a referendum election to transpire.

Council Member Dwinell inquired about the outcome of the referendum election and if the referendum were to fail, would the parcel still be included in the Town's boundaries. Ms. McLean stated the annexation ordinance would be subject to the outcome of the referendum and if the subject were to repeal the Ordinance, it would fully reverse the Ordinance even if the Lieutenant Governor signed the Annexation Certification. Council Member Severini discussed allowing the referendum election to ensue, however, he inquired about including the opinions of the residents in the developments within close proximity to the Silver Meadows area. Council Member Baier replied, stating although those residents would not be allowed to vote in a Hideout referendum election due to that area not being annexed into Hideout, she and Council Member Dwinell had been advocating

for them to Summit County for the past five weeks. She suggested if those unincorporated areas, which are located within Wasatch County, wanted local elected official representation, they could annex into Hideout. Council Member Baier discussed the difficult placement of Hideout, being in the top of a wedge area of Wasatch County which was separated by Jordanelle Reservoir and a lot of miles from the rest of the main hub of Wasatch County – yet surrounded by Summit County. She noted the various problems this created, such as difficulty with adequate law enforcement from Wasatch County, and bussing schoolchildren eighteen (18) miles away into Heber to attend school. She stated the interests of the Town needed to be protected and growth efforts needed to continue. She agreed with Mr. Brockbank to allow a referendum election to transpire and allow the residents of Hideout to make the decision.

Mr. Brockbank addressed Council Member Severini stating he would hold open houses prior to the referendum election in order to allow community involvement and include residents in the surrounding developments. He noted these open houses would have been held if there were more time to do them before the law was repealed.

Council Member Baier stated she was not decided until she saw the final AMDA and felt it was very favorable for Hideout. She was pleased to see the amount of compromise between Mr. Brockbank, Mr. Baird, and the Town, as well as the protection Hideout's legal team and Planner had inserted into it. Council Member Severini expressed his concern of several feasibility studies not being done due to the short timeframe in which they needed to be conducted before the law was repealed. However, he noted if a referendum election were to ensue, it would provide enough time to complete the studies. Mr. Brockbank ensured these studies would be completed and presented to the public. He further noted by allowing a referendum election, it would provide time to conduct these studies.

Council Member Baier directed the Council's attention to the new Silver Creek Village development in Summit County east of SR-248. She stated there were OU2 and OU3 Superfund Sites throughout that land, which Park City would need to remediate if they wanted to develop the land. Millions of cubic yards of mine tailings were planned to be moved to the Richardson Flats OU1 Superfund Site. If this were allowed to happen, the EPA would likely cap the Site and change their recommendation and future actions regarding the development of the land. She felt by annexing the land and allowing the proposed development, it would stop future contamination of the soil. Council Member Severini agreed there may be political motivation by Summit County to stop the annexation because of this.

Council Member Severini agreed if a referendum was allowed, Mr. Brockbank would need to talk to the residents of Hideout to ensure they understood what value the annexation would bring to the Town.

Council Member Dwinell inquired about the ingress and egress road from SR-248 and noted if those two access points were not addressed, would it become an issue. He was also concerned if additional parking was available at the parking lot in Richardson Flat. Ms. McLean responded, stating it would need to be addressed in the AMDA. Mr. Baird stated the referendum would suspend the effectiveness of the AMDA, and during that suspension, feasibility studies could be conducted and solutions could be negotiated and added to the AMDA. Ms. McLean confirmed Mr. Baird's statements and suggested adding clauses to the AMDA to say they would be addressed within a certain period of time.

Mr. Baird suggested adding language to Section 6 – Effective Date to state the Ordinance shall take effect immediately upon passage.

Mayor Rubin asked further questions regarding the referendum election. Ms. McLean discussed the procedure to initiate the referendum, which would come from citizens and not Town Council. She explained five sponsors would gather a specified number of signatures from registered voters of

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Hideout within a certain period of time. Once the petition was filed, it would suspend the annexation until June of the following year, in which an election would be held for the residents of Hideout. Mr. Baird expressed he and Mr. Brockbank anticipated it would go to a referendum election, which would give time for Hideout residents and Council a chance to hear the opinions of residents and not just opposition. Ms. McLean further clarified the Town does not take a role in initiating the referendum; it would come from citizens. She offered to personally speak with anyone who was willing to sponsor the referendum and walk them through the steps to initiate it. Mr. Baird further clarified the Town is prohibited from spending any public monies other than making a voter information statement.

Council Member Baier asked for further clarification regarding the time frame of the sponsors filing the petition. Ms. McLean explained she did not have the referendum statute readily available, but to her recollection it was seven days for the sponsors to file the petition. Upon acceptance, a signature packet would be put together by the sponsors and signatures of registered voters would be required to be gathered within a certain amount of time after that. Council Member Baier invited members of the community to initiate the referendum. Discussion continued. Motion: Council Member Nadelberg moved to adopt Ordinance 2020-10 annexing the Silver Meadows Annexation of approximately three hundred fifty (350) acres into the Town of Hideout boundary and amending the Official Zoning Map. Council Member Baier made the second. Voting Yea: Council Members Baier, Dwinell and Severini. Voting Nay: Council Members Haselton and Nadelberg. Motion passed 3 to 2.

2. Continued Discussion and Possible Action on authorizing the mayor to enter into an Annexation and Master Development Agreement pertaining to the Silver Meadows Annexation.

Discussion continued regarding three additional items which would be added to the AMDA, which included:

1. Section 7.7 Land for Public Service Facilities and Town Hall: The Town Hall and the Community Center will be constructed to a design agreed upon by the Town, at the Developer's expense.
2. Section 12.4 Secondary Access and Parking: If issues regarding the SR-248 connection and parking along Richardson Flats road are not resolved to the Town's satisfaction by April 16, 2021 then the AMDA shall be null, void and terminated. *Note: this date was later discussed and agreed to extend to August 31, 2021.*
3. Section 12.5 Condition Precedent: this AMDA shall not take effect until after the results of a referendum, if any, are certified.

After the preceding language was added to the AMDA, Mayor Rubin asked for a motion to enter into an agreement pertaining to the Silver Meadows Annexation.

Motion: Council Member Dwinell moved to authorize the Mayor to enter into an Annexation Master Development Agreement pertaining to the Silver Meadows Annexation incorporating the changes made during this meeting. Council Member Severini made the second. Voting Yea: Council Members Baier, Dwinell, Haselton, Nadelberg and Severini. None opposed. Motion passed.

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IV. Meeting Adjournment

There being no further business, Mayor Rubin called for a motion to adjourn.

Motion: Council Member Nadelberg made a motion to adjourn the meeting. Council Member Dwinell made the second. None opposed.

The meeting was adjourned at 11:42 p.m.

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Alicia Fairbourne, Town Clerk

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