Town of Leeds

Town Council Meeting for
January 8, 2014

1. Call to order:
   Wayne Peterson, Mayor called to order the regular meeting of the Leeds Town Council at 7:00pm on January 8, 2014, at Leeds Town Hall, 218 N Main.
2. Roll Call:

ROLL CALL:

	Present	Absent
MAYOR: WAYNE PETERSON	x	
COUNCILMAN: RON CUNDICK	x	
COUNCILMAN: ANGELA ROHR	x	
COUNCILMAN: JOE ALLEN	x	
COUNCILMAN: NATE BLAKE		x

3. Pledge of Allegiance by Angela Rohr.
   Nate Blake arrived at 7:01pm.
4. Declaration of Abstentions or Conflicts: None.
5. Approval of Agenda:
   Wayne Peterson indicated that the Agenda now has two places for Citizen Comments. Initial comment will be 30 minutes max and 3 minutes per person. He asked Council Members to give it a try. Joe Allen indicated on item 9-C the Zone Change on the agenda has been withdrawn by the applicant due to the Planning Commission's recommendations.
   Joe Allen with that minor change moved to approve tonight's agenda and meeting minutes of December 11, 2014. 2nd by Angela Rohr. All voted "Aye". Motion passed in a Roll Call Vote.

ROLL CALL VOTE:

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

6. Citizen Comments:
   Elliott Sheltman represents the Planning Commission and would like the Town Council to consider a tier system for commercial property, C1, C2 and C3. Wayne asked this item to be put on Town Councils agenda for the next meeting.
7. Announcements:
   a. Swearing in of new Officers, January 6, 2014 at noon
      Wayne indicated new officers were sworn in on January 6 at noon.
   b. First Quarter's trash bills will be mailed out soon. New rate is $37.65.
      Trash bills were mailed out over the course of the past few days. Please take note of the rate increase which brings the bill to a total of $37.65 a quarter. This is part of an Ordinance that

was passed that covers a ten year time period. We are now in the 5th year of the fee schedule. Nate Blake asked how much it increased. Wayne indicated $1.65/quarter.

c. Wild West Days, September 5 & 6th, 2014. More Volunteers are needed in order to proceed. Roxanne Lewis is in charge of the Wild West Days. We still need more volunteers if we are going to proceed. We need to make a decision by the end of this month. Please contact Roxanne if you have any interest in volunteering.

d. Dumpster Days February 28 - March 2, 2014.

8. Public Hearings: None.
9. Action Items:

a. Appointment of Treasurer, Ron Cundick.
Wayne Peterson recommended appointing Ron Cundick as the Town Treasurer.
Angela Rohr made a motion to approve the appointment of Ron Cundick as the Town Treasurer. 2nd by Nate Blake. All voted "Aye". Motion passed in a Roll Call Vote.

ROLL CALL VOTE:

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

b. Selection of Mayor Pro-Tem.
Wayne indicated a new Mayor Pro-Tem needs to be elected for the period of a one year term. Ron Cundick nominated Angela Rohr to be the new Mayor Pro-Tem. Nate Blake. 2nd by Joe Allen. All voted "Aye". Motion passed in a Roll Call Vote.

ROLL CALL VOTE:

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

c. Confirmation of Elliott Sheltman to Planning Commission.
Nate Blake asked Elliott Sheltman if he has any conflict of interest with serving on the Planning Commission where he is involved with LDWA. Elliott responded that was for Town Council to decide. He personally did not feel it was because they are only a recommending body and he would not be voting on any issues that pertain to LDWA.
Joe Allen made a motion to approve Elliot Sheltman to the Planning Commission. 2nd by Angela Rohr. All voted "Aye". Motion passed in a Roll Call Vote.

ROLL CALL VOTE:

	Yea	Nay	Abstain	Absent
MAYOR: WAYNE PETERSON	x			
COUNCILMAN: RON CUNDICK	x			
COUNCILMAN: ANGELA ROHR	x			

COUNCILMAN: JOE ALLEN	x			
COUNCILMAN: NATE BLAKE	x			

d. Confirmation of Danielle Stirling to Planning Commission Alternate.
Danielle Stirling stepped down from the Planning Commission Chair; however, agreed to still be an Alternate.
Ron Cundick made a motion to approve Danielle Stirling to the Planning Commission as an Alternate. 2nd by Joe Allen. All voted "Aye". Motion passed in a Roll Call Vote.

ROLL CALL VOTE:

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

Robert W. Goldsberry Clerk/Recorder conducted the swearing-in of Ron Cundick as Leeds Town Treasurer.

10. Discussion Items:
    a. Letter to Washington County Department of Planning & Zoning.
    Wayne discussed the letter and asked Council members to look it over and sign it before it gets mailed to the County. Joe Allen asked where the property in the letter was located. Angela indicated north of town on the west side of the freeway. Nate Blake asked if this was over the billboards and if the county allows them under commercial C3. Wayne indicated yes, but Leeds Ordinances do not.
    c. Zone Change for Parcel L-94-A-2, Mike Toe Open Space to Commercial.
    Cancelled.
    d. Draft Final Development Agreement for Grapevine Wash.
    Wayne Peterson discussed the agreement and how the mediation went. He then opened the meeting up for public comments. Wayne indicated to the public you will have 3 minutes and if you wish to speak again you can go to the back of the line. Nate Blake indicated a second access will be required at 99 units. Ron Cundick stated he has been bothered about the agreement for several years now. He went over the agreement and discussed his concerns. Nate Blake was concerned about not having a second access from the beginning of the development.
    Dave Harbour thinks this agreement is an improvement over the ones he has seen in the past. He had the following concerns;
        1. The Town should know how much land the Developer owns now and do the calculations for density from that and that is all they can build.
        2. The Town will need more staff to handle all the development, police force, traffic lights, schools, Town water and a sewer system will all need to be planned.

    Wayne Peterson wanted to highlight that in the agreement as it currently reads, they can only build 3.8 units per acre of land that is currently owned. It would not be on some futuristic piece of land that they purchased, it is on actual land they own. The original number of 1,403 reflects the current acreage owned by the Developer.
    Alan Roberts waved comments.
    Susan Savage there needs to be a second access; previous developments have been turned down because of no second access. They own land on both sides of the development so one

might ask why they will not grant the 6 more feet of road access they need. Her parents have donated property for projects in Leeds that support the community. She has had several different offers to sell property but did not take any of the offers because of the spectacular view. She disagrees with the project not having a second access from the start that would protect Leeds.
Matt Ence represents the property owners and would like to answer any questions from the Council. He would like to defer his comments until the citizen's get a chance to speak.
Karen Markovick and **John Markovich** waved their comments.
Karla Stirling thanked the Town council members for taking the time to understand the Grapevine Agreement. She stated it looks like they are trying to come up with every trick in the book to get a blank check from the Town redeemable for the next 45 years. If the Developer has not complied with the fundamentals of the prior agreement, there is no sense in discussing the details of a new proposal. They would not have vested rights and the development agreement would be breached. She went over the steps of a development process and does not think this agreement has complied. In Ordinance 2008-04 you have one year from the approval date or it is voided.
Geraldine Stirling and **Curtis Stirling** waved their comments.
Danielle Stirling waved her comments.
Elliott Sheltman Grapevine Wash has to be the world's largest flag lot. If a lawsuit is what we need to do to get out of this agreement, then that is what is best for the Town. He asked Town council members if Grapevine has ever paid the town the $12,000 dollars for the annexation process and the $18,000 they owe for professional services to the Town. Wayne indicated he cannot comment on the annexation bill he will have to look into it; however, the second bill has been presented by the Town and the agreement will not go into effect until it is paid.
Alberta Pace used to own part of the land that is part of the Grapevine agreement. She is proud of the Council for sticking to what they agreed.
John Poast his concerns have been addressed.
Betty McKnight I am not against the development but have some concerns. The property owners around the development never got a letter about the annexation and that is State Law. Where they were not sent out, she considers this an illegal annexation. Betty was concerned that in the past Ordinances have been passed to accommodate this development. Drake Howell went to work for the Developer after he left the Town and she thinks the agreement is all for the Developer. The Town's prior attorney has had relations with the Developer as well. In the past, citizens have raised several issues that have never been addressed.
Wayne Peterson read Statute 10.2.422 Conclusive presumption of annexation and there is no other angle to look at in regards to the annexation.
Annette Densely indicated when Main Street changes from a level B to C who is going to tell Grapevine Wash and the residents they have exceeded the allowable use for the day. There is no way to enforce that. Wayne indicated future development would be slowed until it is addressed.
Dave Harbour in paragraph 2 on page 7, the agreement talks about adding and removing property as presented in section 1.5 but he has not seen anything in paragraph 1.5 about removing property. The Town adopted Development & Construction standards used by St George so the same Development Standards should be used on this development with a few modifications. Rocky Mountain Power should be looking at the infrastructure coming into Leeds. Storm drains and private roads are a potential problem. They are going to try to turn them over to the Town so all roads should be kept up to the Towns Standards.
Karla Stirling had the following comments and concerns;

1. With the new agreement they are asking the Town for a blank check and she talked about the annexation process.
2. The Developers are not addressing the surrounding property and density is going to be transferred all around.
3. All of the requirements from Exhibit J need to be addressed, until then it makes no sense to entertain this.
4. The proposal she saw a year and a half ago, she assumed they were a sophisticated group of Developers trying to take advantage of a small town; however, more and more it seems like a loose group of Developers trying to pull a fast one not wanting to comply with town Ordinances and throw around words like vested rights & litigation.
5. Until they can prove prior conditions are reached and not in breach, it makes no sense to continue any other proposals.
6. She referred to the 3.8 units per acre but on page 5 they sneak in the work average density which changes the agreement entirely.

Betty McKnight thinks Karla is right; they are trying to take advantage of a small town. The community has tried to get involved but nothing has gotten done except for the one item, that they were not a basic local unit and that they were a local district which is a big financial difference. She wants to know if the Town Council approved that change in 2012. Ron Cundick stated he thinks it was an administrative change from the State of Utah. Betty stated the roads are County so they should be the ones that determine what happens to the roads.

Ron Whitmer asked where the second access will be. Wayne indicated they do not have a specific location yet.

Elliott Sheltman they don't know where the second access is going to be. They didn't know the first time they came in. They had a council that would approve anything if promised riches. This Town is where Developers come to die. It is like a dinosaur graveyard for Developers and as a citizen he is tired of it and it needs to stop. If there is a way to get out of the agreement, then we need to get out of it. It is a joke of a development that is doomed for failure. 2500 homes in this area is stupid and that's a fact. They are the most dishonest people he has seen. Tell them to get lost and is in favor of going to court. He asked for a show of hands of all the people who would like to go to court and asked council to keep that in mind.

Allen Howard he owns the property adjacent to the road at 900 North. They made a deal with Kevin Lee in 1998 which was 60 feet of road but that is all he will give up. Grapevine wants 150 feet to 180 feet but nobody has ever asked him to sell the property and he will fight it to the end. They are here to stay.

Dave Harbour the roads that are county eventually they will become Leeds roads. Let's develop them to Leeds standards. He indicated the following will need to be addressed.

1. The south bound ramp will be an issue and the off ramp on exit 22.
2. On Main Street and Silver Reef road, visibility is not good.
3. The Fire Station will need to be expanded and we will need an Ordinance for an emergency access.
4. Never agree to a cash reimbursement for impact fees. It should be only for what their impact fees cover, at the most.
5. He discussed several paragraphs that he felt had discrepancies and missing information.
6. Check with Washington County Conservancy to see if there are any wells and if any lines are under the project.

Karla Stirling under contract law, you have to have offer & acceptance and when it concerns real-estate it has to be in writing. It does not matter what discussion you have in the past, if it

has never reached an agreement then it is not binding. The Town is not under any obligation to change any Ordinances for this project.
Danielle Stirling thanked Town Council for all their time put into the agreement. The past year and a half has been very difficult for all of us. She has lost friends and time with her family. She indicated that there was a gentleman that lived behind her and a development went in above his property and the gentleman just couldn't handle it. He died a year later and she believes that the development had to do with his passing away. When you look at the development, it has scarred the entire area of Hurricane. Her point is this development has scarred a lot of people in this Town already. If there is any way to stop the development she is in favor of it. She wants her kids to have a legacy. She does not like how the last year has gone. If there is a way to not approve the development agreement and start over she is in favor for it.
Alberta Pace she thinks Karla is right on the ball. She is impressed with one point she made. If you have in your agreement an average of 3.8 that is not in your requirements you require a minimum of 3.8. Wayne replied it's a maximum not a minimum and that there is some misunderstanding there. The average is 3.8 on an acre but there could be more than 3.8; however, if you look at the total acreage owned by the Developer, it averages to 3.8 per acre.
Tracy Beliston is one of the Developers out there. Everyone has a right to speak; however, it is very unfair to make character accusations of the property owners. The Town should be civil about it; they are not trying to hide anything.
Nate Blake asked Tracy Beliston what their plans are for the property. Are they looking to just sell it off? Tracy indicated that is not their intent. Nate indicated it will be much easier to deal with one Developer that 14 different one. Tracy stated the agreement continues with the Land.
Ron Cundick asked Tracy Beliston where was all the land located in the agreement. Tracy replied when the development plan was put into place, it was figured on all the open space around the property. It is BLM property.
Wayne Peterson indicated the property was identified in the annexation agreements.
Matt Ence is the attorney representing the Developer. He appreciates Tracy standing up and representing himself. He does not see anything out of the normal with the development agreement with which he has been working. He is currently with Snow Jensen & Reece and has been practicing law for over 10 years. He can say nothing that has happened in this agreement is out of the ordinary and is within Utah Law. The Developer did not get everything they were asking for and neither did the Town. This can be a foundation for something positive for the Town. The Developers respect people's opinions but they are property owners that want to exercise their rights. One of the fundamentals in the agreement is the units. The 2500 was always a maximum number that could be built. Every Subdivision plat still has to go through the Town Council. Every Zone change will still have to comply with the Town Ordinances and this is not something that will happen overnight. There has been possible 2nd accesses identified by the Developer but nothing has been secured as of yet. What that means is once 99 units have been platted, there can be no further units platted because of the international Fire Code. There was some discussion if the Developer does not have enough land they can just pull in land and expand this indefinitely. He thinks that the Council can agree that this agreement was built on tiers. What that means is the Developer can only develop this property to certain density if certain criteria are met. There is certainly no blank check. That is not the way this has been done. A 60 foot access for the road is all the Developer currently owns. That might be all they can get and if they can't get more land they cannot meet the threshold. The Developer felt like level C was plenty but the Town wanted it to be level B. The $18,000 bill was just received in October. It was a one line bill so he

recommended to his clients not to pay the bill until it was itemized. Infrastructure is one thing the Developer was aware of early on. The property owners created a local district so if the Town does not want to collect impact fees and the responsibility then the local district will do it. They are satisfied with how the agreement is right now; however, if the Town would like them to look at anything else they can do that as well.

Angela Rohr asked Matt how to record the agreement. Matt indicated most purchasers of property would look at any prior agreements on the property.

Dave Harbor thanked Matt for his comments. He asked if a table could be made to show the steps for the development.

Elliott Sheltman apologized for losing his temper. He asked council if the 66 foot road is required in an Ordinance. Wayne indicated that it is one of the items which legally could be negotiated. Elliott stated it's a concession and just another Ordinance that will not be complied with. Is Town Council within their rights to make those concessions?

Betty McKnight asked Matt if he thought the basic local units were for the intent of that destination by the legislature. Was it for citizens that may need their water brought up to standards or roads paved or did they intend it for the Developer to pay for the cost of doing business?

Matt Ence indicated that Local Districts are very recent legislation. There is only a handful around the State. In every case they have seen they have been created by the Developer. The Law is what they have followed for setting it up.

Betty Mcknight legislators are now getting involved. For every Developer that gets the money the local citizens do not so the law may be changed by the time this gets started so will the Town get extra costs associated with this. Matt Ence indicated the local district gets money from the Developer. If they don't receive the money, Town will get it. There is no outside money from anywhere else.

Ron Whitmer his understanding is 2397 is the number only if they can get more land. How many units per acre can they have? Matt Ence replied the Town already has a mixed use Ordinance and are consistent with it. The density is an overall average.

Nate Blake we will not know until the preliminary map is presented to Town Council.

11. Citizen Comments:
12. Staff Reports:

    Angela Rohr went to look at the complaints on the eastern extension of Mulberry Road. The grading alignment is an issue and there is a culvert with a 4 foot drop off.

13. Adjournment:

Nate Blake moved to adjourn the meeting.
Time: 9:14pm.

APPROVED ON THIS 22 DAY OF January, 2014

Wayne Peterson

Wayne Peterson, Mayor

ATTEST:

Kristi Barker

Kristi Barker, Deputy Clerk/Recorder