

MINUTES
COALVILLE CITY COUNCIL MEETING
Monday, February 13, 2023, 6:00 P.M.
COALVILLE CITY HALL, COUNCIL CHAMBERS
10 N MAIN STREET
COALVILLE, UT 84017

In Attendance:

Mayor and Council: Mayor Mark Marsh; Councilors: Don Winters, Steven Richins, Phil Geary, Louise Willoughby, Tyler Rowser (arrived at 6:07 P.M.)

City Staff: Attorney, Sheldon Smith; Community Development Director, Don Sargent; City Recorder, Jessika O'Brien
Public Works Director, Zane DeWeese (Virtual)

Mayor Mark Marsh opened the Coalville City Council meeting at 6:03 P.M.

Item 1 – Welcome

- A. Roll Call – A quorum was present
- B. Pledge of Allegiance – **Councilor Don Winters** led the Pledge of Allegiance

Item 2 – Public Comment: Public may address the Mayor and Council with any matter of city business not listed on the agenda

No public comment was made.

Item 3 – Public Hearing, Discussion/Possible Approval: Indian Hills Phase 3 Plat Amendment and Public Street Vacation *Applicant: North Summit Recreation District, Ron Boyer*
Audio Time 00:01:58

Don Sargent briefed the staff report (Exhibit A) on the proposed amendment to the Indian Hills Phase 3 Subdivision Plat and petition for a street vacation of a portion of Settlers Drive. He stated that Councilors directed City Staff to create a plat note. He presented plat Note drafted by Attorney Sheldon Smith. The following note was presented:

This Note is to recognize that Indian Hills Subdivision Plat 3 was recorded on the 24th day of November 1979, with the Plat showing only one access which was consistent with the ordinances at the time of approval. The current petition and amended plat of the North Summit Recreation District would provide a second access to Plat 3. Coalville City hereby recognizes the approved Plat 3 as it is presently platted in connection with this amended plat. Any subsequent changes to Plat 3 would require the Indian Hills Subdivision Plat 3 to become compliant with the Coalville City ordinances at the time of such changes and subject to approval from the City Council at the time.

Councilors asked questions to which City Staff answered.

North Summit Recreation District Board Chair, Charity Richins stated that the North Summit Recreation District does have their board present in the meeting tonight if there are any questions for any of them. She stated this is something they have been working on for a long time and something they would love to provide for our community. Board members present, John Hansen, Wes Chappell, Dana Jones, and Brian Zwahlen.

Ron Boyer gave a summary of the application and goals that North Summit Recreation District has.

Mayor Mark Marsh opened the public hearing at 6:25 P.M.

Audio Time 00:22:08

Robert Crittenden, representing Crittenden Family

Robert Crittenden stated he was representing the Crittenden Family. He stated the Crittenden Family would like to thank Coalville City for allowing them the chance to speak at the January 23, 2023, he thought that was a good meeting for all. He stated he appreciated the opportunity tonight to work an option that is a win win for all parties, Coalville City, North Summit Recreation, and the Crittenden Family Trust.

He stated if we look at attachment F, being in business for close to 40 years you have to be compliant in everything you do and one of the things the Crittenden Family acknowledges is that if we were to do this with some language there only 5 of those lots would be compliant. He doesn't want to be selling a lot that is not compliant with code, the Crittenden family doesn't want to be doing that. We want to maintain our 13 lots and if we do this option here it reduces us to 5 and that is a significant hit for the family trust. He asked to go to attachment G, this option here, he thinks keeps them whole as a family, but it may not be the best solution for the North Summit Recreation District.

He asked to go back to attachment F, he stated that the one option proposed would maintain some sort of easement for a road in the future for that property but that is going to impact the development and the Crittenden Family would like you to look at an option to have an easement along the top of the property, on the south end of the properties.

Sheldon Smith asked if he was suggesting that if they have the easement at the south end of the property that he would be okay with the present alignment being vacated?

Robert Crittenden stated yes, that is correct. If it goes from Beacon Hills Drive to this point right here, there as a public access we would agree with that. That's where we think there could be a win win for everybody if we went that route.

Don Sargent talked about the terrain in that area and that it would need to be looked at to make sure it would meet public road standard.

Discussion continued regarding the terrain, property ownership, and roads between Robert Crittenden, City Staff and Councilors.

Ryan Stack, Summit County Attorney representing North Summit Recreation District

Ryan Stack stated he didn't have a lot to say so much as a handful of questions. He stated wanted to address attachment G, that when the district saw this in the staff report they were a little bit surprised. There is the current loop route that is on the plat that is the status quo but the red line that says it is to Beacon Drive is not platted anywhere. That is not an access that the district would agree to. They are not quite sure where that is coming from and what the empathize is for that being shown here, but that is not a platted road and it is not an access the district would agree to because it would bisect the very middle of their project. Exhibit G as far as the district is concerned is a non-starter and they want to be very clear on the record that this access shown to Beacon Hill Drive is not currently a platted access, that is doesn't exist anywhere. Moving to attachment F, his understanding from what he has heard city staff represent is that with the plat note that this access would ensure the Crittenden's would have 13 lots. Then the family just stood up and said they would only have 5, he just wanted to make sure that they are all clear on the official position from staff. Their understanding from the last meeting and then from the report tonight is that with the plat note that it would ensure that there would be a secured 13 development lots which would ensure that status quo remains for the Crittenden Family and they are not harmed in any way by this vacation and relocation of the road. So, would it be 5 or 13? **Don Sargent** answered that it would be 13. It would be the remaindered of that portion of the Phase 3 Plat outside the rec district.

Ryan Stack stated that is the districts confusing, where the 5 is coming from. **Don Sargent** stated he thinks there has been some confusion on the accesses because it technically wouldn't qualify as a second access that we talked about last time, but stated if you look anywhere in Indian Hills that situation occurs on every cul de sac. Connecting the 3 roads, in the opinion of staff that increases the second access circulation for the entire subdivision. Therefore, there is a tradeoff that the council directed staff to draft a note accordingly saying this tradeoff of providing a second access of the entire Indian Hills Subdivision, all phases, the city would recognize that access as configured as meeting the standard to serve 13 lots. **Councilor Don Winters** stated that was his understanding.

Councilor Louise Willoughby asked about non-conforming lots.

Discussion between Councilors and Don Sargent.

Ryan Stack asked City Staff if that is correct that the plat note would preserve the 13 lots, would staff and council be comfortable including that language in the plat note. That it preserves the family's ability to build out their full 13 lots. **Councilors Louise Willoughby** and **Don Winters** agree that is what they are after.

Ryan Stack stated he is asking because the language of the plat note itself doesn't reflect 13 lots. **Councilor Louise Willoughby** asked if the Crittenden's would be comfortable with that language. **Robert Crittenden** responded, no because they are non-compliant because there is not a secondary access for a future council. He doesn't want the property in jeopardy for a different council. **Sheldon Smith** stated that even though the note doesn't specify an exact number, that is what the note says. That down the road if you come in and want to develop those lots you would be able to get the 13 lots. **Robert Crittenden** stated that is based on the future council interpretation.

Discussion took place regarding language in the note and its clarity between City Staff, audience and councilors.

Ryan Stack stated the district is comfortable massaging the language of the plat note to a place that everyone is comfortable that it reflects that they are vested and entitled to build their 13 lots, that is not an issue for the district. **Ryan Stack** stated one more issue they wanted to touch on, Attachment A shows the full view of the land. The district at this point is unwilling to have a conversation about trading any easement for approval or as a condition of approval, because they are not the only property owner that would be involved in securing that sought after access. They would rather be last in time because if other property owners aren't willing to come to the table and negotiate then there is no reason for the district to give up the easement across the southern portion of the property. He pointed out this section of the property the Crittenden's own is not in play but a concern from the district is this request is the Crittenden's trying to improve their position with access across the southern portion of the district's property. That parcel is currently zoned all ag, has not been rezoned for residential development and has no access rights across CT-340-X. If they want to approach the district to negotiate the sale of an easement that is a conversation they can have. But they would rather not have hypothetical conversations based on entitlements that are not currently in place.

Marilyn Crittenden, representing Crittenden Family

Marilyn Crittenden stated she had a comment about the second access. She stated the county rec has no responsibility to keeping our second access. It has been made clear by City Staff that presented road does not suffice two accesses. The plat note will supposedly guarantee it, she has checked with others and knows that the note is not secure it is only hopeful at best to say that it would secure that from another council that could change. She stated she has been on councils, and you cannot hold another council to your decisions. That is something that is firm. The note is there, and it is a hope that it would happen in the future for us. She stated, what you are doing if you do this and don't leave us with a second access is taking the value of the property down to 5. Even though he says it is not, but if the council in the future does not recognize the note and interrupt the note as such then we would be left with only the 5 according to the code and it is non-compliant and that is our concern.

Charity Richins, North Summit Recreation District Chair

Charity Richins stated she would like clarity, because we are not going to be build that road. We can't have a road in the middle of fields and pickleball, we won't be building or developing that road. With us not building that road, are they stuck to the 5 lots? In our mind, by building the other road it gives them 13 lots. That is what we would like clarity on. She stated understanding the history, the Crittenden's are not the developers of that subdivision. This all happened in a land swap, that is why there are two different owners. Because it was swapped out through the school board, so they were original developers of that subdivision. There was no indent to build a subdivision in there. **Don Sargent**

answered Charity's question. He stated it is all currently platted at Plat 3 Indian Hills Subdivision. If one lot came in today and wanted a building permit, the city would not allow that because there is no second access anywhere in Indian Hills. **Charity Richins** responded saying they couldn't even build one lot under the code because they need to have that second road. She stated it would go vice versa, if we can't use this land for rec and decided to sell it to a developer could come in and develop that road. But right now, unless someone builds the road they couldn't even build one lot.

Wes Chappell, North Summit Recreation District Board Member

Wes Chappell stated the question Councilor Tyler Rowser asked earlier in the meeting is at the heart of this. Whether or not the district would be compelled to allow someone to build a road on the existing plat or a developer to develop on the Crittenden's side, the 13 lots. If a developer came in and said we are going to develop this now, would the district have to allow them if they wanted to fund it to build a road onto the district property.

Councilor Don Winters stated he was confused with that himself. **Wes Chappell** stated if we can answer that question, the districts position now is that they are not going to build a road and we are not going to let anyone else build a road unless we are compelled or coerced to. He thinks the Crittenden's position hinges on the fact, that they think they can get a road across the district property if they develop it. If we could get that question answered all of this would get settled. If we can't be compelled to do it, he doesn't think the Crittenden's can build anything, not even 1, 5, or 13. If we can be compelled to yield that right away and allow a developer to build on it technically, they could be all 13. Is this making sense and does it sound right? He doesn't know if there has been clarity on that.

Sheldon Smith answered stating he will try to answer. He stated it isn't completely black and white. He stated he believes that when the property was sold to the school district it was purchased with that plat in place. Those 6 lots and those roads were part of the purchase. He believes that if the Crittenden's said they are going to build out the roads he thinks they could build the road on the rec district's property. The roads are platted, the school district bought it with the roads platted and that would give them the right to use them for their subdivision. He stated this is unusual and he hasn't faced something quite like this before. Normally at the time of the sell these issues would have been addressed and resolved.

Wes Chappell stated the district's position is that without clarity, we have no intention of building those 6 lots and/or having a roadway in that region. As such, we would have to get that settled. **Don Sargent** stated that is what you are trying to do now, vacate the road.

Wes Chappell stated what really is at the crux of this is whether or not somebody else can build that road. The district was relying that we would have to be the one to build that road because it is on our property, and we would have to develop it. If someone else can build on it, it changes our position.

Charity Richins stood to clarify; she thought it was said because it wasn't handled at the sell they relinquished their right to that. **Don Sargent** replied stating if they wanted to retain access, like Sheldon said it is a platted street on a recorded subdivision that gives

them the right to improve the street but they can't control any more than that. Charity Richins clarified, we could build a street through their property tomorrow. If we decided to sell it because we can't build on it, a developer could come in and build that road there, is that the same thing?

Wes Chappell stood, stating part of the districts position is that if we lose the ability to build a softball field our next best option is to look for land and sell this back as a platted development, which as part of that plat a developer would want to build those 6 homes and build that street and then we would have the same right to build across the Crittenden's land and out to Antelope Drive. Which I believe you are farming today, but then we would have the double access out. He stated he wanted to clarify that it does go both ways.

Marilyn Crittenden stood, asking are we not here tonight decide whether you are going to vacate those 6 lots and that road. **Mayor Mark Marsh** replied stating yes, that is the intent of the meeting. **Marilyn Crittenden** stated that's what has to take place and that's the decision that is before the council. Is whether you're willing to put the Crittenden property in a land lock and that situation because right now as its existing are 6 lots and a road. She stated she wanted that to be clear that is the decision, the road is there right now and the 6 lots are there right now, that is what is in place. The decision tonight is whether the council feels that should be done.

Councilor Louise Willoughby asked if there was another win win. She asked if there were any other options for roads. She stood to demonstrate some road ideas. **Wes Chappell** stood going over the map with Councilor Louise Willoughby.

Councilors, City Staff, and audience were part of the continued discussion.

Ron Boyer stood and asked to look at attachment C, he stated they tried to make a loop from Antelope to Settlers. There would be a 50' easement for the road, where the lots were shifted, and the road would be moved here.

Charity Richins stood to the map pointing to one of Councilor Louise Willoughby's suggestions, stating doing it that way was not a win for the city. She stated doing the north road they are giving up a lot of land, but that was to satisfy the city wanting all those to go out and the Crittenden's. **Councilor Louise Willoughby** responded with some clarification on what she was meaning.

Discussion continued between Councilors, City Staff, and audience.

Ryan Stack stood stating the concern on the part of the district for Councilor Willoughby's point it's not the expense of who is paying for the road, it is the positioning of the road as currently platted. **Councilor Louise Willoughby** responded clarifying road location. **Ryan Stack** stated that would have to be a discussion for the district to have, because it would be shifting north south and then the district would not be inclined to connect on the northern part. **Ryan Stack** stated he wanted to return to couple other points on the issue of the plat note. He understands that the recommendation for the note comes on the heels of the Planning Commission specific findings and their recommendations. Carrying on with the advice of the city attorney, that the plat note would confirm a development a property right to further massage the language to state that the note recognizes an existing entitlement to

build 13 lots. He believes that the specific language would confirm that property right in such a way that if a future council wanted to go back and mess with the note on the plat that they would open themselves up to a collateral attack by the person that owns the property at that time for taking away property rights. The plat note as he understands the city attorney is as good as it gets as far as confirming the development right for those 13 lots. Based on the advice from your city attorney.

Robert Crittenden stood, asking if we do go down that road is there a potential for litigation in the future because only 5 of the lots conform. If there is an event that happens, like a fire and we aren't able to get the fire trucks in and out like we should who is going to assume that risk and is there additional risk by not having conforming lots by code. He stated his concern is if they allow to vacate and don't have that access if though it's noted on the plat is their future liabilities because we are putting those homes at risk for not having a secondary access. **City Staff** responded, councilors continued discussion.

Councilor Louise Willoughby stated, we have two attorneys' here tonight, a city and county attorney saying there will not be any harm to the Crittenden's. You are saying that by having the plat note there will be no way for the Crittenden's to be materially injured and they will get their 13 lots. Sheldon Smith responded; discussion continued.

Sheldon Smith stated he wants to be on record saying he thinks the note covers what we were asked to put on the note, that was the reason for it. Does it make it so there is absolutely no harm to the Crittenden's or the district, his opinion doesn't go that far. Further discussion took place between Councilors and City Staff.

Ryan Stack stood stating depending on the council's sentiment going forward, if it looks like there is a vote coming that is unfavorable to the district, the district would ask rather to table this without date and continue it then proceed with an adverse vote.

Mayor Mark Marsh closed the public hearing at 7:14 P.M.

Councilor Tyler Rowser asked City Staff that the Crittenden's do need to agree to the petition to vacate the street and to amend their portion of the subdivision. Could they state it on the record or does paperwork need to be filled out. Don Sargent responded. Further discussion took place between Councilors, City Staff, and audience.

MOTION

Councilor Tyler Rowser made motion to table Indian Hills Phase 3 Plat Amendment and Public Street Vacation until North Summit Recreation notifies that they want to continue.

Councilor Louise Willoughby seconded the motion

Roll Call Vote

Councilor Tyler Rowser- Aye

Councilor Steven Richins – Aye

Councilor Don Winters – Aye
Councilor Phil Geary – Aye
Councilor Louise Willoughby – Aye
Motion carried (5-0)

Item 4 – Public Hearing, Discussion/Possible Approval: Lazy J Boat Rental, Storage, and Repair Final Site Plan and Construction Drawings *Applicant: Jim Boyden*
Audio Time 01:14:43

Don Sargent briefed the Staff Report (Exhibit B) stating this is the final review of the development portion of the project. He reviewed the recommendation from staff including the following conditions:

1. The applicant shall work with and cooperate with the City for the installation of a sewer line within the public utility easement across the property as shown on the project Sewer and Water Overall Plan (Sheet C202 in the Construction Drawings).
2. A development agreement shall be submitted for the project and be reviewed by Staff and approved by the City Council prior to any building permit issuance for the development.
3. Staff shall verify any remaining items of the project construction drawings to ensure compliance with the development code and engineering standards and specifications.
4. The surface treatment for the entry access, parking, and vehicle staging or vehicle and pedestrian circulation areas of the site plan shall be hard surface asphalt paving or concrete.
5. Compliance with all conditions of approval of the MPD and Rezone of the property identified in Ordinance 2022-2 Shall be verified with the review and approval of the development agreement.

Councilors asked questions regarding egress, second access, and culinary and secondary water connections and shares. Questions were answered by Jim Boyden and City Staff.

Jim Boyden on behalf of Steve Boyden

Jim Boyden stated that he was there to seek approval from the City Council from the final site plan and construction drawings. He stated the conditions from the preliminary approval according to staff have been met.

Discussion continued and Councilors asked questions including equipment rental, environmental impact, development agreement, and existing buildings. Questions were answered by Jim Boyden and Don Sargent.

Mayor Mark Marsh opened the public hearing 7:31 P.M. No public comment was made. The public hearing was closed.

MOTION

Councilor Tyler Rowser made motion to approve Lazy J Boat Rental, Storage, and Repair Final Site Plan and Construction Drawings with the five conditions listed in staff report

Councilor Phil Geary seconded the motion

Roll Call Vote

Councilor Tyler Rowser- Aye

Councilor Steven Richins – Aye

Councilor Don Winters – Aye

Councilor Phil Geary – Aye

Councilor Louise Willoughby – Aye

Motion carried (5-0)

Item 5 – Public Hearing, Discussion/Possible Approval: Accessory Dwelling

Unit/Code Clarification Amendments. Ordinance 2023-1 *City Staff: Don Sargent*

Audio Time 01:33:19

Don Sargent reviewed the staff report (Exhibit C) including the additions that had been made per Councilors request at the last meeting. Changes included additional language, definitions, expiration dates, and newspaper publications.

Councilors asked questions to which Don Sargent answered. Discussion continued.

Councilor Louise Willoughby expressed a concern about allowing short term rentals in Accessory Dwelling Units. She stated the intent stated in the Utah Code for Accessory Dwelling Units was for them to be used for housing for families.

Further discussion took place between Councilors and City Staff. Discussion included short term and vacation rental clarifying language, affordable housing shortage, and ADU rental usage.

Councilor Tyler Rowser asked for clarification about the Public Notifications. Don Sargent answered. Further discussion took place.

Mayor Mark Marsh opened the public hearing at 8:07 P.M. No public comment was made. The public hearing was closed.

MOTION

Councilor Tyler Rowser made motion to approve Ordinance 2023-1, An ordinance to adopt revised amendments for development code for Coalville City with the amended changes that were discussed in meeting

Councilor Steven Richins seconded the motion

Roll Call Vote

Councilor Tyler Rowser- Aye

Councilor Don Winters – Aye

Councilor Steven Richins – Aye

Councilor Phil Geary – Aye

Councilor Louise Willoughby – Aye

Motion carried (5-0)

Item 6 – Updates

A. Community Development

Don Sargent stated there was one business license application.

Luna Properties, LLC, a short-term rental application. It is a short-term rental planned to go in the basement of the home. Discussion took place regarding state code, city code, and where Coalville City stands with previous motion.

MOTION

***Councilor Louise Willoughby** made motion to table the business license application until City Staff can do more research*

Councilor Don Winters** seconded the motion. **All Ayes

Motion Carried (5-0)

Don Sargent stated that another annexation petition has been applied for. He also reviewed items that would be coming for both the City Council and City Planning Commission.

Councilor Louise Willoughby asked about taxing storage units. She asked if Sheldon Smith would look into that.

B. Public Works

Zane DeWeese gave an update on the secondary pond. He has meet with an engineering firm that is helping with that. He also meets with the person that did the liners for the Wohali ponds.

They are still working on the water treatment plant. They have ran into a snag here close to the end but they should be getting close to be up and running.

C. Engineer

Councilors asked about update with payment for work that had been done on Force Main project. **Mayor Mark Marsh** said he would look into that.

D. Legal

No legal updates tonight

E. Mayor

Mayor Mark Marsh spoke additionally about the pond liner. He spoke about giving time to someone to talk about trails in the next work session. He stated that he and

Zane have been working with the Summit County Public Works on some road and sidewalk issues in the city. He updated about the Summer Celebration. He stated that he is working on budgeting and end of year and preparing for that. He gave an updated on the TAG MAG grant that himself and Brandon Brady are working on. He stated that Zane is working with Summit County Kathryn McMullin on the emergency management, so Coalville City is prepared incase needed.

F. Council

Councilor Louise Willoughby gave some fire updates from recent fire board meetings including fire trucks, and bunk rooms at Wanship and Coalville.

Councilor Tyler Rowser stated he had an accolade; Kacey Bates was promoted to a Captain at the Summit County Sheriff's office and its great attribute to what our community produces.

Item 7 – Review/Possible Approval of Accounts Payable, dated February 13, 2023

The Mayor and Councilors reviewed February 13, 2023; accounts payable.

MOTION

Councilor Tyler Rowser made motion to approve February 13, 2023, accounts payable.

Councilor Steven Richins seconded the motion. All Ayes

Motion Carried (5-0)

Item 6 – Review/Possible Approval of Minutes, dated January 23, 2023

The Mayor and Councilors reviewed the minutes dated January 23, 2023.

MOTION

Councilor Don Winters made motion to approve minutes, dated January 23, 2023.

Councilor Steven Richins seconded the motion. All Ayes

Motion Carried (5-0)

Item 7 – Adjournment

MOTION

Councilor Tyler Rowser made the motion to adjourn.

Councilor Steven Richins seconded the motion. All Ayes

Motion Carried (5-0)

The meeting adjourned at 8:47 P.M.

The content of the minutes is not intended, nor are they submitted, as a verbatim transcription of the meeting. These minutes are a brief overview of what occurred at the meeting.

Mark Marsh, Mayor

Jessika O'Brien, City Recorder