

Town of Leeds

Amended Agenda Town of Leeds Town Council Wednesday, October 10, 2018

PUBLIC NOTICE is hereby given that the Town of Leeds Town Council will hold a **PUBLIC MEETING** on Wednesday, October 10, 2018 at 7:00pm. The Town Council will meet in the Leeds Town Hall located at 218 N Main, Leeds, Utah.

NOTE: IF YOU WISH TO SPEAK DURING CITIZEN COMMENT, PLEASE SIGN IN WITH THE RECORDER.

Regular Meeting 7:00pm.

1. Call to Order/Roll Call
2. Pledge of Allegiance
3. Declaration of Abstentions or Conflicts
4. Consent Agenda:
 - a. Tonight's Agenda
 - b. Meeting minutes of September 26, 2018.
5. Citizen Comments: No action may be taken on a matter raised under this agenda item. (Three minutes per person).
6. Announcements:
 - a. Acknowledge of Hell and High Water in the Pine Valley Foothills, a Leed's Chronicle by Susan Savage
7. Public Hearings:
8. Action Items:
 - a. Conditional Use for a Home Occupation, Tamara Hartman, Dog Grooming
 - b. Conditional Use for a Home Occupation, Debra Katz, Bed & Breakfast
 - c. Treasurer appointment, Kristi Barker, ratification
9. Discussion Items:
 - a. Change to 1 meeting each month, first Wednesday, instead of 2 meetings
 - b. Conditional Use for a Home Occupation, Hidden Valley Forge, Mark Rosenthal
 - c. Short-term Rental Ordinance starting point
10. Citizen Comments: No action may be taken on a matter raised under this agenda item. (Three minutes per person).
11. Staff Reports:
12. Closed Meeting- A Closed Meeting may be held for any item identified under Utah Code section 52-4-205.
13. Adjournment

The Town of Leeds will make reasonable accommodations for persons needing assistance to participate in this public meeting. Persons requesting assistance are asked to call the Leeds Town Hall at 879-2447 at least 24 hours prior to the meeting.

The Town of Leeds is an equal opportunity provider and employer.

Certificate of Posting:

The undersigned Clerk/Recorder does hereby certify that the above notice was posted October 9, , 2018 at these public places being at **Leeds Town Hall, Leeds Post Office**, the **Utah Public Meeting Notice website** <http://pmn.utah.gov>, and the **Town of Leeds website** www.leadstown.org.

Peggy Rosebush, Clerk/Recorder

Town of Leeds

Town Council Meeting for October 10, 2018

1. Call to Order:

Mayor Peterson called to order the regular meeting of the Leeds Town Council at 7:00 PM on October 10, 2018 at Leeds Town Hall, 218 N Main.

ROLL CALL:

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

2. Pledge of Allegiance by Councilmember Roberts

3. Declaration of Abstentions or Conflicts: None

4. Approval of Agenda:

Councilmember Sheltman moved to approve tonight's agenda. 2nd by Councilmember Roberts. Motion passed in a Roll Call Vote.

ROLL CALL VOTE:

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
MAYOR: WAYNE PETERSON	x	_____	_____	_____
COUNCILMEMBER: ALAN ROBERTS	x	_____	_____	_____
COUNCILMEMBER: DANIELLE STIRLING	_____	_____	_____	x
COUNCILMEMBER: ELLIOTT SHELTMAN	x	_____	_____	_____
COUNCILMEMBER: NATE BLAKE	_____	_____	_____	x

Approval of September 26, 2018, Meeting Minutes will be postponed until the October 24, 2018 meeting.

5. Citizen Comments:

Dale Barnes thanked the Mayor for his help in getting semi-trailer moved off of his neighbor's yard.

Darryl Lewis commented on Conditional Use items 8a and 8b. Town ordinances devote a fair amount of time pointing out how Conditional Use Permits are to be issued and under what circumstances they are to be issued. Chapter 7 and Chapter 24 go into detail. It has been his experience that the Planning Commission and Town Council have not given enough attention to Conditional Use regarding the impact they have on the community and whether the community at large wants the item approved. One of the Conditional Uses tonight on the agenda went before the Planning Commission and they were ready to approve it with no reference whatsoever to Chapter 7 or Chapter 24. They were ready to approve it blindly. He made the comment to the Planning Commission that they might want to

consider some conditions on the Conditional Uses. One Commissioner suggested hours of operations, 7 AM to 5 PM, Monday thru Friday. Another commissioner said why Monday thru Friday and why not 7 days a week. With a history of honoring the Sabbath, why would they arbitrarily approve a business operating in the Town of Leeds from 7 AM on Sunday morning, when the applicant did not even ask for it, is an illustration of just how casual the Planning Commission and City Council are taking these issues. Darryl Lewis said he would really appreciate it, as a citizen, if the Planning Commission and Town Council would really apply themselves. He said he is not against either one of the Conditional Uses tonight. His point is that we are not evaluating them correctly and we are not using our ordinances to evaluate them. He is asking Town Council to do so tonight.

Craig Hall, Town Attorney, joined the meeting via telephone.

Tamara Hartman, owner of the dog grooming business, said she originally asked for, she was not sure how it ran, and she has a full-time job, Saturday thru Monday so she could build up her clientele in order to quit her full-time job to end-up from going from Monday to Friday, and Saturdays if she needs it. Planning Commission said to go ahead with 7 days a week to avoid having to change it.

Angela Rohr said when the agendas are put out it would be really helpful, on issues like home occupations, it would be nice to include the address and person's name so they could be more informed.

Ray Crandall said he would like to follow-up on the Conditional Use mentioned earlier. His concern is about his neighbor, Debi Katz, owner of the Bed & Breakfast, He still disputes it with the proposed concerns and objections and the Mayor also received this, but Ray said he was not sure if the Town Council received it. Councilmembers Roberts & Sheltman confirmed receipt. Ray Crandall stated that there was a follow-up letter from his attorney and he wanted to know if this letter was received. Mayor and Councilmembers Roberts and Sheltman confirmed receipt. Ray Crandall stated that he still has not received an answer as to why the CC&Rs of the Bonanza Estates subdivision have been disregarded and not recognized. He said he would like an answer on this. He said he is very concerned because there are ordinances in town that are not being complied with. Chapter 24.2.4 specifically states and has strong language that certain conditions have to be met. Ray Crandall said he, too, has that concern. He does not think that the Planning Commission and whoever else it comes down to gives consideration to all concerns. Ray Crandall stated that there were some conditions put on to this particular Conditional Use, and he is okay with that. He is still concerned that they still have CC&Rs, and it is not the Planning Commission's job to rewrite them. Ray Crandall stated that the conditions are favorable, this is not his concern. He is concerned that the ordinances are not being applied correctly and about how it is being handled.

Mayor Peterson asked Town Attorney how the CCR situation would work. Town Attorney stated that CC&Rs are created when a subdivision or development is created and recorded. There are agreements and covenants which run with the land and are to be enforced by the owner of the particular parcels or particular lots. The CC&Rs, covenants, conditions and restrictions, are not approved by the city nor are they required by the city. He stated that he has not looked at Chapter 24.4.2, but in general application, the CC&Rs and covenants are between the property owners or owners of the lots or subdivision and are not enforced by the city. They are enforced by the Architectural Control Committee or whatever committee is created in the body of the CC&Rs. It is not the responsibility of the Town of Leeds to enforce private covenants and agreements between property owners.

Ray Crandall stated that Chapter 24.2.4 specifically states the license shall not be issued until the applicant represents that the applied for use will not violate covenants, conditions and restrictions or other deed restrictions affecting the use of the property involved. He stated that it has plain language that requires the Conditional Use Permit applicant to meet the conditions of the CC&Rs which requires the applicant to have at least 2/3s of the property owners to be contacted and agreed upon before it can be changed.

Town Attorney stated that it is not the city's responsibility to enforce the CC&Rs. If Chapter 24.2.4 says there has to be affirmative representation to meet the CC&Rs, it is the property owner's responsibility to go to the Architectural Control Committee or whoever is in charge of enforcing the CC&Rs with the property owners to get their affirmative recommendation. It is not the city's responsibility to enforce this.

Ray Crandall stated that Chapter 24.2.4 also states that the license shall not be issued until after the applicant represents that the applied for use will not violate covenants and restrictions or other deed restrictions affecting the use of the property involved. He stated that the city has a responsibility under Chapter 24.2.4.

Mayor Peterson stated that after listening to an audio recording of the last Planning Commission meeting, the applicant stated that she did not believe the CCRs were being enforced at this point in time. He stated that the Town made the applicant aware this might be subject to CC&Rs and asked if there is an issue. The applicant indicated it was not. Mayor Peterson stated that he thought this was the actual situation and issue. Mayor Peterson asked the Town Attorney, what does the Town's responsibility with regard to a representation by an applicant involve?

Town Attorney stated if the representation by the applicant is suspect, then it would be the responsibility of the community, if the CC&Rs are in place, to make an affirmative representation by the folks on the Architectural Control Committee, or whatever the body, be satisfied that the CC&Rs to make representation that the property owner who is applying for the Conditional Use Permit, in fact, is not compliant with the CC&Rs. He stated that at that point it causes the issue to be in hand and would require the property owner to come to some sort of consensus as to whether or not the application for the particular Conditional Use is allowed in the subdivision. He stated again that the Town of Leeds will not enforce the CC&Rs.

Town Attorney told Ray Crandall that Mayor Peterson has his contact information and he would be more than happy to visit with him or the representative of the Architectural Control Committee or his attorney to discuss the ordinance and application and decide on a course of action.

Ray Crandall stated that he would like to meet with Town Attorney, but in the meantime, he would like the Town Council to table this action until some items are resolved.

6. Announcements:

a. Acknowledgment of Hell and High Water in the Pine Valley Foothills, a Leeds Chronicle by Susan Savage

. Public Hearings: None

8. Action Items:

a. Conditional Use for a Home Occupation, Tamara Hartman, Dog Grooming

Councilmember Roberts asked Town Attorney if on a Conditional Use Permit that is located on Main Street where on-street parking is allowed can you really tie that into a condition on a Conditional Use Permit. He stated that the problem he sees is if you state that on-street parking is not allowed, are you really going to police that action? He asked can you really tie this into it when it is legal to park on the street.

Town Attorney stated all business type uses have parking requirements. The Planning Code states that you have to have blank number of parking spaces per square footage or whatever the measurement is. Councilmember Roberts' concern is well founded, but may be a stretch.

Mayor Peterson stated that parking on Main Street is not discouraged, but in other parts of town where there are no curbs and gutters it is generally discouraged, but if it is done, it has specific requirements about how limited the car is on the actual paved road. With respect to Main Street, there is no discouraging of it, it is just assumed to be there as long as it is not blocking a driveway or fire hydrant.

Councilman Sheltman stated that the applicant said there would be no overnight stays and that dogs would be in and out every couple of hours. He said he thought it would be helpful if this was added to the requirement since the animals at the end of the day will be picked up and sent home.

Councilmember Roberts made a motion to approve the Conditional Use for Home Occupation located at 730 N. Main Street for dog grooming with the following listed conditions (1) the proposed home occupation meets applicable land use ordinances, (2) no outside kenneling s permitted, (3) no overnight boarding is permitted, and (4) hours of operation is 7 AM to 5 PM 7 days a week.. 2nd by Councilmember Sheltman. Motion passed in a Roll Call Vote.

ROLL CALL VOTE:

	Yea	Nay	Abstain	Absent
MAYOR: WAYNE PETERSON	x			
COUNCILMEMBER: ALAN ROBERTS	x			
COUNCILMEMBER: DANIELLE STIRLING				x
COUNCILMEMBER: ELLIOTT SHELTMAN	x			
COUNCILMEMBER: NATE BLAKE				x

b. Conditional Use for a Home Occupation, Debra Katz, Bed & Breakfast

Councilmember Sheltman referenced meting minutes from September 26, 2018. He stated that Bed & Breakfasts were brought in and basically it was indicated that the Town Attorney was looking at this and was instructed to bring something to Town Council such as ordinances and guidelines for this particular use. Councilmember Sheltman asked if this was done.

Mayor Peterson stated yes it was done and distributed in the agenda packet via email. It was a draft put together by an associate within Town Attorney's firm.

Town Attorney stated that this was done with his overall council and direction. This was intended to be a beginning document for purposes of discussions and not for adoption.

Councilmember Sheltman came up with a list of questions and/or concerns regarding a Bed & Breakfast. He went through his list of items.

Councilmember Sheltman said that we are not in a position to approve this application. He suggested that this application be moved to the top of list so it doesn't become a problem because it took so long to address. Councilmember Sheltman said council is not in the position where they can approve or not approve something like this.

Mayor Peterson asked Town Attorney what are the limitations on tabling this application if any.

Town Attorney said that Town Council has the right to table this application based on the issues raised in Public Comments. He said that they can continue the matter without a date or date certain to allow the Town Council to answer and research some of the questions proposed during the Public Comment period. He said to also take a look at the short-term rental proposal that he drafted that was intended to be a document to encourage discussion. He stated that the list of items of concern that were brought up by Councilmember Sheltman are valid concerns. You have the ability to table it or continue it without a date or to continue it to a date certain.

Mayor Peterson asked Town Attorney to explain the differences between the 3 suggestions - (1) table it, (2) continue it without a date and (3) continue it with a date certain.

Town Attorney said that if a Legislature body tables, something, someone will need to make a motion to bring it back for consideration. If you continue it, you agree you will address the item without additional Legislature vote to take it off the table. If you continue it to a date certain, it gives the applicant and the citizens concerned about the application, some certainty such as a Public Notice and they will know what to expect.

Councilmember Roberts stated that as we move forward on this to keep in mind that the ordinances do allow bed & breakfasts and this is what this application is for. The extent of some interpretation of regulations probably isn't very well described in the ordinances. He stated that the use the application is asking for is permitted, but does the application have everything that is required at this time to move upon. Councilmember Roberts stated that he does not think the application has enough information to move on it. He stated that even though we are not going to police the CC&Rs, we definitely wrote that in our documents we wanted to make sure that in applications that come before us, we follow the covenants within the developments. He said that he thinks it is the applicant's due diligence to represent what he is asking for does fall within that realm.

Councilmember Roberts made a motion to deny a Conditional Use Home Occupation located at 1273 Mountain Shadows Dr. because it does not conform to any ordinance that we have at this time. 2nd by Councilmember Sheltman. Motion passed in a Roll Call Vote.

ROLL CALL VOTE:

	Yea	Nay	Abstain	Absent
MAYOR: WAYNE PETERSON	x	_____	_____	_____
COUNCILMEMBER: ALAN ROBERTS	x	_____	_____	_____
COUNCILMEMBER: DANIELLE STIRLING	_____	_____	_____	x
COUNCILMEMBER: ELLIOTT SHELTMAN	x	_____	_____	_____
COUNCILMEMBER: NATE BLAKE	_____	_____	_____	x

c. Treasurer appointment, Kristi Barker, ratification

Mayor Peterson stated that back in January the Treasurer of about 1-1/2 years decided that he needed to go back to full-time employment, and as a result, he left the Town of Leeds. The position was advertised and generated about a dozen and a half applicants 1 ½ years ago. There was much less response this time. The individual that was hired said, after about 2 weeks, that they were overwhelmed by governmental accounting and chose to resign at that time. Mayor Peterson said that Kristi Barker, who resigned as Town Clerk/Recorder a couple of months back, and who performed several of the Treasurer’s functions during the time without a Treasurer, is interested in working 5-10 hours per week. Mayor Peterson stated that Kristi has demonstrated an ability to learn new things over the course of her 4-1/2 years with the Town and she would serve in a very accomplished way as our Treasurer and, therefore, would like to put forward her name as the part-time Treasurer.

Councilmember Sheltman made a motion to approve ratification of Kristi Marker as the Treasurer of The Town of Leeds. 2nd by Councilmember Roberts. Motion passed in a Roll Call Vote.

ROLL CALL VOTE:

	Yea	Nay	Abstain	Absent
MAYOR: WAYNE PETERSON	x	_____	_____	_____
COUNCILMEMBER: ALAN ROBERTS	x	_____	_____	_____
COUNCILMEMBER: DANIELLE STIRLING	_____	_____	_____	x
COUNCILMEMBER: ELLIOTT SHELTMAN	x	_____	_____	_____
COUNCILMEMBER: NATE BLAKE	_____	_____	_____	x

9. Discussion Items:

a. Change to 1 meeting each month, first Wednesday, instead of 2 meetings

Ron Cundick said if they change to 1 meeting each month it should be the second Wednesday, not the first. Mayor Peterson agreed. Councilmember Sheltman said 1 meeting each month would be great, but 2 meetings would be better for him. He said it would be better to split the issues into 2 meetings and if a meeting is missed then you haven’t miss the whole month. Councilmember Roberts agreed and said continuity would be much more consistent.

Mayor Peterson stated that this will need to be put up as an action item, but would like to have it as a discussion item 1 more time to allow for more discussion. He stated that maybe it should be a discussion and possible action item.

b. Conditional Use for a Home Occupation, Hidden Valley Forge, Mark Rosenthal

Mayor Peterson stated that an application has come forward for a forging of artistic knives. He asked Council if they would be comfortable enough to give the Planning Commission a couple of charges, 1 of which would be to update the ordinance again, if they thought it was appropriate, to include this usage and also to consider language that was included about 2 years back in our commercial ordinance that provided a clause at the end of the list of specific items permitted that said items that are in harmony with the above could be recommended by the Planning Commission and could be approved by the Town Council if they deemed them to be in harmony with the other uses already spelled out. Mayor Peterson said this is 1 of the 2 things that he would like to ask the Planning Commission if there is language we could all get comfortable with, that would allow for that type of latitude. He said as an example, welding is permitted, however, welding and forging are not identical. He said the other thing would be, as the current application moves through the process, to have a public hearing in order to modify the land use ordinance to add an additional use and after that is done, and only then, could an additional land use permit be considered. In this instance, in order to expedite the process, would the Council be comfortable with requesting that the Planning Commission also provide a conditional use recommendation subject to the approval of an amendment to our ordinance if, indeed, we are going to see an amendment.

Mark Rosenthal, the applicant, described exactly what he does. He stated that he makes a number of different types of knives. He also stated that the Fire Department inspected his facility and they reported back to Mayor Peterson that they have no concerns with the activity

Mayor Peterson asked Council if they should ask the Planning Commission to provide more latitude in the listings and then separately look at this application in conjunction with something, if, indeed, they were going to propose something specific or more general, that would allow for this activity in an amended ordinance.

Councilmember Roberts said this should be lumped in with welding and fabrication.

It was agreed that these 2 things described by the Mayor will be on the Planning Commission Meeting Agenda for November 7, 2018.

C, Short-Term Rental Ordinance starting point

Town Attorney discussed various vacation rentals that have popped up in Washington County. Some have 6, 7, or 8 bedrooms. He stated that Legislature basically allows cities to make up their own mind on how they want to handle vacation rentals. He said that some cities no longer issue business licenses for this type of business. He said that the Town of Leeds has some practical difficulty in code enforcement. He asked if you cite someone, how do you enforce the citation. This needs further discussion. He stated that Council needs further discussion with public input.

Mayor Peterson stated that if such a thing developed here, he would be willing to look at it, but you need to look long and hard at any kind of after the fact of an additional activity to what is existing as a

100% residential area. He said if they were to move where there was some allotment for this, he would definitely want it on a Conditional Use basis where there was a need to go over what would be needed to follow. Mayor Peterson stated that it is a lot easier if you have objective measures spelled out that need to be followed to be able to say we have an issue here.

10. Citizen Comments:

Alan Cohn asked if the bed & breakfast ordinance would go out to the community for their input. Mayor Peterson said it would be listed as an Agenda item so people will know it is going to be talked about. He said it will need to be an amendment to our Land Use Ordinance and there will have to be a Public Hearing on it. Input prior to the Public Hearing will take place at the Planning Commission meeting, but it is acceptable for Town Council to provide some initial guidelines.

11. Staff Reports:

Councilmember Sheltman stated that at the Zion West RV Park there is a house on wheels and a trailer that has been there for over a year. He said if you look under Chapter 11 – Mobile Home Trailer Parks, more specifically, Chapter 11.6.2,19, says no mobile home shall be rented for more than 90 days. He said based on this, they are in violation. He stated in order to deal with this, you might have to bring in the owner of the trailer park to let him know what is going on at his property. Councilmember Sheltman gave this info to Mayor Peterson.

Councilmember Roberts stated there needs to be a small explanation – individuals can advertise their house as a vacation rental. He said you have to find them actually conducting the business in order to move forward.

Mayor Peterson reported that the orange cones have moved to Main Street and that the curb and gutter project is underway. This project should wrap-up by the end of November.

12. Closed Meeting: None

13. Adjournment:

Mayor Peterson adjourned the meeting at 8:33 PM.

APPROVED ON THIS 24th DAY OF October, 2018



Mayor, Wayne Peterson

ATTEST:



Peggy Rosebush, Clerk/Recorder