

# Town of Leeds

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## Agenda Town of Leeds Town Council Wednesday, May 12, 2021

**PUBLIC NOTICE** is hereby given that the Town of Leeds Town Council will hold a **PUBLIC MEETING** on Wednesday, May 12, 2021 at 7:00 PM.

If you are interested in participating remotely via Zoom, please contact Town Hall at 879-2447 or email [Clerk@LeedsTown.org](mailto:Clerk@LeedsTown.org) for the Zoom details.

### **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 April 28, 2021
5. Citizen Comments: No action may be taken on a matter raised under this agenda item. (Three minutes per person).
6. Announcements:
  - a. Dumpster Days, May 21-23, Dumpsters Located on Cherry Lane
7. Public Hearing: None
8. Action Items:
  - a. General and Master Transportation Plan Proposals Review and Possible Action Selecting Provider
  - b. Discussion and Possible Action on Resolution 2021-03, Acknowledging Receipt of and Adoption of the Tentative Fiscal Year Budget for the Town of Leeds and Setting the Date for the Public Hearing on the Budget as May 26, 2021
  - c. Discussion and Possible Action, Ordinance 2021-01, Beekeeping Ordinance
9. Discussion Items:
  - a. CARES Allocations
  - b. Sunrise Engineering Letter Related to Application of Hillside Ordinance to Parcel L-3-1-7-1110
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 May 10, 2021 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](http://www.leadstown.org).



Aseneth Steed, Town Clerk/Recorder

# Town of Leeds

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## Town Council Meeting for Wednesday, May 12, 2021

1. Call to Order: 7:01pm

Mayor Peterson called to order the regular meeting of the Leeds Town Council at 7 PM on Wednesday, May 12, 2021.

ROLL CALL:

	<u>Present</u>	<u>Absent</u>
MAYOR: WAYNE PETERSON	x	_____
COUNCILMEMBER: ALAN ROBERTS	x	_____
COUNCILMEMBER: DANIELE STIRLING	x	_____
COUNCILMEMBER: LORRIE HUNSAKER	x	_____
COUNCILMEMBER: STEPHEN WILSON	_____	x

2. Pledge of Allegiance: Councilmember Hunsaker

3. Declaration of Abstentions or Conflicts: None

4. Approval of Agenda:

Councilmember Hunsaker moved to approve tonight's agenda and meeting minutes of April 28, 2021 . 2<sup>nd</sup> 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: DANIELE STIRLING	x	_____	_____	_____
COUNCILMEMBER: LORRIE HUNSAKER	x	_____	_____	_____
COUNCILMEMBER: STEPHEN WILSON	_____	_____	_____	x

5. Citizen Comments: None

6. Announcements: Dumpster Days

Dumpster Days will be held May 21 through 23rd. Dumpsters will be located on Cherry Lane where we've had them for more than a year at this point for our dumpster days. Are there any further announcements from Council this evening?

7. Public Hearings: None

8. Discussion and Possible Action Items:

a. General and Master Transportation Plan Proposals Review and Possible Action Selecting Provider

As was decided at the last meeting Scott Messel, Lorrie Hunsaker and I met with each other to go over the actual submittals and to evaluate them on the pre-assigned point scale. When we got through the performance sections, where we had gone over all of the different areas that they were going to provide services, there was unanimity among the three of us. The leading candidate did not change when we factored in the final 10 points. We opened up the pricing afterwards. That was the suggested way that we go about it, so that we were not influenced by prices when we were evaluating capabilities. I would say they both came in scoring quite high and that the difference was not dramatic. But as I say, all three of us felt that the actual proposal from Sunrise Engineering would be the one to best serve the town of Leeds in the update of our General and Master Transportation Plan. Lorrie, is there anything you would add to that overview of what took place?

Councilmember Hunsaker said No, I think Sunrise won on everybody's points and I think we went through it pretty thoroughly with what we came up with to recommend.

Mayor Peterson asked for a motion.

Councilmember Roberts: I move that we award the General and Master Transportation Plan to Sunrise Engineering. 2<sup>nd</sup> by Councilmember Stirling. 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: LORRIE HUNSAKER	x			
COUNCILMEMBER: STEPHEN WILSON				x

b. Discussion and Possible Action on Resolution 2021-03, Acknowledging Receipt of and Adoption of the Tentative Fiscal Year Budget for the Town of Leeds and Setting the Date for the Public Hearing on the Budget as May 26, 2021

Mayor Peterson: It is a requirement in Utah code that the chief budget officer, the mayor, submits a tentative budget for each upcoming fiscal year, on or before the first regularly scheduled municipal council meeting in May. I have distributed it to the town council members. It has in it a few tentative numbers. The town does not yet know the final property tax revenue that the county will be determining in the next year. We have the number based on last year. That will be updated. It never is the same from what the preliminary is. Changes will occur to it as we get towards the final budget. This becomes the starting point. It will be made available as of tomorrow morning to members of the community. We will be advertising a public hearing at our meeting in two weeks, the 26th of May. After that public hearing, we will look to wait until the first meeting in June in order to take action regarding the budget. This is the process we've been following for the past eight years that I've been involved with it. Is there any discussion prior to a motion with regard to the 2021- 2022 Town of Leeds Tentative Budget? Is there a

motion to approve resolution 2020-03, acknowledging receipt of and adoption of the tentative fiscal year budget for the Town of Leeds and setting the date for the public hearing on the budget as May 26, 2021?

Councilmember Stirling: I so move. 2<sup>nd</sup> by Councilmember Hunsaker. 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: LORRIE HUNSAKER	x	_____	_____	_____
COUNCILMEMBER: STEPHEN WILSON	_____	_____	_____	x

Mayor Peterson: We will make that available as of tomorrow. And we'll get the advertisement out as well.

c. Discussion and Possible Action, Ordinance 2021-01, Beekeeping Ordinance

Mayor Peterson made some additional updates to it after last meeting where we learned that inspections did not take place on a routine basis and that the County was not involved in that particular activity. I changed the wording to indicate Washington County has a designated Bee information officer who provides information to beekeepers in the County. There was additional information from the state as well. And that information was obtained by Lorrie. Lorrie, would you be willing to share what you heard from Mr. Caputo and others.

Councilmember Hunsaker: I had left messages for three different parties at the State Agricultural department. Two of them called me back today including Joey Caputo. They will come down if we have an issue. That's not a problem. And it's generally not an overnight. They are held under the purview of the State statute, which he said basically applies only if the bees become aggressive, or are stinging animals or people. They will come down and help to mitigate the situation. Otherwise, there is nothing that covers it if bees are in the pool. That's not in the State statute. They can't touch it. It's not under their purview. Mr. Caputo said the ordinance sounded like a good idea because we're local, and we know the people involved. We can act quicker. They are there for backup if there is an urgent need, if they're stinging, or aggressive bees. He also said they don't have anything in the State statute requiring distances or requiring water or requiring inspections. They have nothing, so that relying on the State would not do any good. That's basically what we talked about. I am very appreciative that he called me back and explained that to me. They were out here last year in Santa Clara for the stinging. They came down and mitigated it. Took care of it. That's where we are.

Mayor Peterson: I would highlight the update to reflect that is on page two, where it mentions that the \$50 deposit shall be returned one year following the approval of the aviary permit, provided that the applicant has had no violations and has successfully passed Town inspection. It's not that I envisioned the Town having capabilities to do any kind of health or other type of inspection, but rather just that the placement of the hive is consistent with what the ordinance reads and that a water supply is provided for the bees in an appropriate place on the property. With those things being said, Is there any discussion from council about ordinance number 2021-01?

Councilmember Stirling: Can you add at the very bottom of the second page, first paragraph, after Town inspection exactly what you detailed a second ago.



Mayor Peterson: The Town inspection would include proper location of hives and water. Okay, any further comments or questions from council?

Councilmember Roberts: How is the Town going to monitor or determine whether the individual makes application with the State of Utah, which is required by Utah code?

Mayor Peterson: Well, for those that do apply with the State of Utah, we would be able to obviously identify them and contact them about the local requirement that we have. For those that don't that would be basis observation where people comment on activity that they're concerned about. They would be violating State law, I understand, if they were keeping bees without registering with the State. And I would not try to proactively observe all the properties in Town. But to the extent that it was brought to our attention, I think it would be possible for the Town to just inquire if there was any beekeeping going on, on the property.

Councilmember Roberts: And in the State code, it specifically states exceeding 30 days. So there's a 30 day window there, and the Town's going to have to respect that because that is a State code. I guess you could make it more restrictive. But I guess if someone wanted to challenge you if they were just transporting through the State and kept them here for a week as they were transporting somewhere else. As we discussed last time, I'm not opposed to this. But it's going to require a little bit of administrative staff time in order to have oversight on it. I'm definitely, as I said from the beginning, am not in favor of a fee affixed to beekeeping in the town.

Mayor Peterson: So does the refundable fee cause you concern?

Councilmember Roberts: It does not? Doesn't cause me concern. Just another thing that you've got to manage. Okay. When I say you, I don't mean you specifically, but the Town has to manage that.

Mayor Peterson: I would just mention, when it comes to any question about a violation of an ordinance, the letters almost all begin with "it appears as though you are not in compliance. If you are, please make me aware of how it is that you are." Just so you know, we don't have false accusations out there. So the situation you described is a very good example. They could come back and say it was temporary, and that would require us to monitor it and make sure that over 30 days later, they have moved those hives on.

Councilmember Roberts: I would encourage individuals who want to do beekeeping. I know that Jared Taylor when he was here, keep in mind, he's a commercial beekeeper. I would encourage individuals who want to get into that, give it a try. Some will probably jump into it and continue on. Others will see how maybe time consuming it is and may not do so. I would encourage individuals to do it, whether it's beekeeping or any agricultural use.

Councilmember Stirling: So another question that I had is this. Does this include commercial placement of bees on agricultural protection overlay zones, if the bees decide to wander?

Mayor Peterson: This is purely, as I read it, as to the performance of people who are licensed by the State and if they are licensed by the State, just as installers, for example, of solar panels must be registered somewhere in the state of Utah. But once they are registered in the state of Utah, it is not permissible to require them to register in other locales that they're operating. So as long as they're properly registered within the state of Utah, if we check into it, I don't see where we would look to get involved with that.

Councilmember Hunsaker: And as Joey Caputo said, that agriculture zone is a completely separate entity. So this is for residential and rural residential Leeds.

Councilmember Roberts: But that's not the way that this ordinance is written. And that's not the way it's going to be interpreted. It's going to be interpreted that anywhere within Leeds municipality is going to be governed by this. And I'm definitely not in favor of putting this into land use at all.

Councilmember Hunsaker: Now if we make the distinction between commercial and recreational, recreational or hobbyist, which is...

Councilmember Roberts: who's going to determine that?

Councilmember Hunsaker: Well, I thought I would, you know,

Councilmember Roberts: I'm just throwing out questions that are good, that people will ask. People will ask those questions of what determines a commercial production of honey and what is recreational?

Council member Hunsaker: Well, if they have a business license that is commercial. But a recreational beekeeper generally doesn't have one for beekeeping.

Councilmember Roberts: The State licensing just looks at hive numbers with a fee. Okay, depending on the number of hives, it does ask for location of hives of where they're placed. If they're placed anywhere besides where the registered address is, they ask for location.

Mayor Peterson: What if we were to add, I'm just trying to get the words down so that we would have it, if we do take action tonight.

If we were to add the following. Commercial beekeepers who are licensed elsewhere in the state of Utah are not required to obtain a permit in the Town of Leeds. Does that address the concern you have for that kind of situation?

Councilmember Stirling: I think we also need to put something in this particular ordinance. It's specifically stating that agricultural protection overlay zones do not apply.

Mayor Peterson: Agricultural protection overlay zones are exempt from the requirements of this ordinance?

Councilmember Stirling: correct.

Mayor Peterson: I have that. So the adds at this point would be at the end of the first paragraph the Town inspection would include proper location of hives and water. Commercial beekeepers who are licensed elsewhere in the state of Utah are not required to obtain a permit in the Town of Leeds, agricultural production overlay zones are exempt from the requirements of this ordinance. Anything further?

Councilmember Stirling: Do we need to have an annual inspection by the Town of Leeds?

Councilmember Hunsaker: I was wondering on that, too, if we couldn't just have it have the initial inspection? Well, you'd have to have the first annual, just to get the refund if you were doing the \$50. But then after that?

Mayor Peterson: So, we could make it each aviary shall be subject to an annual inspection by the Town of Leeds at the Town's discretion.

Okay, is there anything further? Is Council comfortable with the handwritten additions being worked into the final ordinance and to take action tonight or do you want to see it in type form for next meeting?

Either would be acceptable.

Councilmember Hunsaker: I'm good. No more need.

Councilmember Roberts: I would like to throw something else in there, or ask a question that might be there, I still want to revert back to the state. We can make things more restrictive than what State code reads, but you have got to remember that every municipality is a subdivision of the State of Utah. Somewhere in there, individuals must meet all State codes for neatness. I'm not sure how you want to make it work, But I would tie that directly back to that State code, which is chapter 11.

Mayor Peterson: Well, Section three says each apiary shall meet all requirements and inspection schedules deemed necessary by the Utah Department of Agriculture and Consumer Services.

Councilmember Roberts: Okay. All right.

Mayor Peterson: Is there a motion related to ordinance number 2021-01 to either approve of, table, or do something else?

Councilmember Roberts: Lorrie, would you [sic] Bee willing to make that motion?

Councilmember Hunsaker: Why yes, Alan. I will.

I move that we approve Ordinance 2021-01 Beekeeping Ordinance for the Town of Leeds.

Mayor Peterson: As of tonight?

Councilmember Hunsaker: Tonight with the handwritten corrections and rewrites.

Mayor Peterson: Okay, is there a second to that motion?

Councilmember Stirling: I'd like to amend instead of a \$50 deposit, I think we should do \$25. Especially for those that already have bees in the Town at this point, I think \$50 during this particular hard time is quite hefty.

Mayor Peterson: All right, that's in the introduction there. So, that is in two places that the \$25 deposit is required and then the \$25 deposit shall be returned one year following.

Councilmember Hunsaker: I would like to amend my motion to include the change to \$25 from \$50. 2<sup>nd</sup> by Councilmember Stirling. 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: LORRIE HUNSAKER	x	_____	_____	_____
COUNCILMEMBER: STEPHEN WILSON	_____	_____	_____	x

9. Discussion Items:  
a. CARES Allocations

There are two different CARES Allocations. One of them is CARES. And the other one is a more recent program that has been brought forward by the most recent passage of support, financially in the marketplace, from the federal government. It's the American Rescue Plan (ARP), but the CARES money is something that is expiring on June 30. We'd initially used a little over half of the allocation that we had. There is an opportunity to spend the remainder between now and June 30. What I was wondering, if we might want to do, is repeat the application process that we did for local businesses. We contacted everybody with a business license in the Town of Leeds that was active in the early stages of the pandemic. And we would provide the same application, we would also notify everyone that priority would be given to applicants who had not previously received the grant from the town. If we were to not do that, I don't see us being able to completely spend the remainder of the money, we have done some things with hand sanitizing, and cleaning stations, and masks and things like that. But I don't see us as a town being able to just spend it without opening it up to our local businesses. What is town Council's thought on that particular action with the CARES money?

Councilmember Hunsaker: I think it's good to open it back up for local and to have it that those who have already gotten grant money second in line to anybody that may not have gotten the first round. And how much money do we have left in the cares?

Mayor Peterson: It is about \$30,000.

Councilmember Stirling: I believe that at this point, it's showing that you have to have at least a certain percentage down from 2020 for these particular grants, and so they would have to be turning in some type of profit and loss showing that they're actually down to me. I think it's 25% or something like that. And that's what they...

Mayor Peterson: We would really highlight to them before they filled out the application, though, that a successful applicant would need to demonstrate that. Okay, it's not an action item. But obviously, to do it by the end of June, it will be back on future town council agendas and I will get to work on notifying our business license owners both from a commercial and a home business occupation standpoint.

With regard to the other money we've been designated to receive, it's great fun, you can actually look up on a website every single municipality in the United States of America. And in the millions, we rated a point one, that's \$97,371 is what the formula would generate for the Town of Leeds, that is spread out over the next year in terms of distribution with the ability to spend it over about a three-year time period. With that it's not related to this kind of shorter-term CARES money. What I would propose that we look into is possibly looking to upgrade the availability of higher speed internet. It is something that other communities within Washington County are looking into. And it's something that there could be, I think, significant economies of scale. And I think it could provide a long-term benefit to the residents of Leeds if we were able to move a step closer to the higher speed internet that is available in other parts of the world. In particular, the area in New Jersey from which I moved, which I'm reminded anytime that one of my relatives is sitting and waiting for something to come through on our home unit here. But that is only one idea. It's much more broad how the money may be spent from this second particular allocation that's coming through to the Town of Leeds. We do have some time to investigate alternatives. But I would suggest that we look into those and bring them forward as we have some details, any ideas that we have, so that we can try to plan that out and make sure that we make the most of that allocation that we're getting of \$97,371. Anything further regarding that topic with council this evening.

Councilmember Hunsaker: I think we've had several different residents come in during meetings



and ask about getting the town's internet upgraded so I think that would be a good one to look at.  
Mayor Peterson: Okay, anything further?

b. Sunrise Engineering Letter Related to Application of Hillside Ordinance to Parcel L-317-1110

Mayor Peterson: What Council has in front of them this evening is a two-page letter and a one-page map. The map has been updated for the slope analysis to more fine tune it in line with the actual borders of that particular parcel. The areas that are highlighted in red, and I'll just hold it up so that members of the public can see as well, are areas that are determined to have 30% or higher slope. The areas that are in yellow are areas that have 20% or higher slope, but not 30%. So, over 30% the Hillside Ordinance says that development may not take place on slopes greater than 30%, and that if slopes are between 20% and 30% are to be disturbed, one must first present a proposal to the Town and receive approval before doing any work on that type of sloped property. The letter investigates three different locations on the particular property. I would just highlight those so that everybody here understands the topic. The engineer Joseph Philips from Sunrise Engineering says reviewing the slope analysis map (see attached) my observations are as follows. There are essentially three buildable sites on the parcel labeled as A, B, and C on the map. To my understanding, Mr. Potter has proposed building on sites B and C as his preferred sites. Vehicular access to site A is relatively simple and can be accomplished through ingress/egress easement with adjoining parcel owners, without being subject to hillside protection overlay zone considerations. In particular, one of those adjoining property owners is the Town of Leeds, and we have previously said that there was a road easement that was determined many years ago and that would be available for the property. The analysis then says vehicular access to site B could be accomplished through ingress/egress easements with adjoining parcel owners to the north or along the potential access road, shown as the dashed green alignment on the attached map. Access through adjoining parcels could apparently be accomplished without being subject to the hillside protection overlay zone. As evidenced by the map, access via the dashed green line alignment will disturb slope subject to the hillside protection overlay zone. Mr. Potter has submitted prior plans for review which propose an access alignment approximating the dashed green alignment. If the Town Council were willing to entertain an exception to the hillside protection overlays zone for Mr. Potter, it could invite Mr. Potter to submit a revised plan showing how the improvement would be made to minimize disturbances to the protected slopes and disruption of existing drainage flow paths due to the proposed access improvements. And then finally, it says providing vehicular access to Site C will require significant earthwork on slope subject to hillside protection considerations, especially on slopes greater than or equal to 30% in grade. So, as has been suggested in the letter, there are no issues with A. B would require obtaining some access through the non-colored areas and the yellow areas from adjoining property owners to get to the area B. And then Area C is thoroughly surrounded by what is indicated to be 30% and greater slopes. I would ask counsel at this point; would you like to discuss it first or hear additional input from the parcel owner who is present this evening?

Councilmember Stirling: I'd like to hear what they'd like to say.

Lynn Potter: Handed out maps.

Let me ask if anybody is colorblind?

Anybody have a problem with color?

Mayor Peterson: I'm seeing yellow, red, green and blue on this in addition to a lot of brown and white. Okay, so unless somebody is not seeing one of those colors, or I'm missing one, let me know.

Lynn Potter: First off, my name is Lynn Potter. And my wife and I, Diana Powell are the owners of property number L-3-1-7-1110. Property that has been in question for more than three years. The current discussion regarding what areas of slope apply. The story starts in the spring and fall of 2018. So I am going to go and give a brief overview of everything that has occurred. I started looking into the slopes at that point. And I knew that I needed to have an equation in order to calculate this. So I went to the Town, the Town that sent me to Joe Phillips and to Scott. And after much discussion with Scott and haranguing with him, I finally made him give me a number of 100-foot run, okay, we have that documented in a text or an email or something like that. And at the same time, I was just discussing it with Joe Phillips, and he said, hey, just use St. George design standards and construction standards. However, upon reading Leeds design and construction standards and in some ordinance it specifically says in there, these shall apply to design construction standards in Leeds, but not in regards to the Hillside Ordinance. So I went back to the 100 foot run length, which is significant. When you're calculating slope, you use rise and run, and it's one number on top of another number and you divide into it. And the run is the bottom number. So here to the back wall, 20 feet. And to the top of the wall there, let's say eight feet. And you put the 8 over the 20. And then you divide that out, and then you've got...

Mayor Peterson: 40%,

Lynn Potter: Something like that. So I took that 100% number that Scott gave me, and I first did my own math, to find out where the 30% were, because there's no point spending a whole lot of money on this, if I didn't think I had approval abilities. So here's my chicken scratch, okay, a lot of chicken scratch. And you just do that by putting a ruler on the paper, and you try and go to areas where that 100 foot will fit. Okay? And if it won't fit in between the lines as a 30 foot rise, then that's over your 30%. Okay, and so, I did that with a ruler, and it came up with a line all the way across there. And I found wow, this might work. So at that point, I then decided, well, let's confirm my chicken scratch, and let's go to my good friend, Brad Merrell. He and his son worked up a bunch of numbers for me, said, yeah, using 100 foot run, this will work. His is this the black and white stuff, I didn't pay for color on that. The third page on that is the closeup of the actual site. So you can see he also calculated and includes the 20 foot setback. So anyway, he shows everything on here and how it could fit. So, it works. So okay, I decided to go spend big bucks. Because you have to have a stamp on it from a Utah engineer to get approvals. So, I go to Karl Rasmussen with P-V Engineering. And that's the big expensive one. And Karl works for you guys on a lot of stuff. You guys trust him. He's with you guys. And unfortunately, I'm not good with Karl and Karl is not good with me and... but he wouldn't lie for me. Okay. So, he did this. And it works. Okay, you can make it work. Okay, you stay down in that little valley, which originally was a road that went out through the Pace's property, okay, circled on that green dot and went out through the Pace's property. Which, by the way, at this point, Alberta Pace is denied because they don't want an easement on their property. I'm not going to push, you know, condemnation or force the issue with them. Okay, not nice. So, what I know it'll work on the green dotted line. Okay, so we then submit, we won't talk about last year. We then submit to you guys and it goes to Sunrise. And I try to explain it to him, okay. And I couldn't get, you know, internet files from Karl but I gave him a hardcopy from Karl. Okay and this is what we got back. Joe apparently didn't like anything the other engineers did or that I did. We had three checks on it so far. Joe did his own and to explain that further I am going to bring up the professional, Brad Merrell of Merrell Johnson Engineering. He has been an engineer for 40 years now.

Brad Merrell introduced himself as being out of St. George with offices in California and Utah. He reviewed some of his experience. He applauded the Town for having a hillside ordinance and referenced an area of St. George that would have benefitted from one. Brad said Mr. Potter had said that Mr. Rasmussen wouldn't lie for him and Brad wouldn't lie for him either. Brad read through Joe Phillips

letter and couldn't disagree with anything he did, other than his method. He explained Joe Phillip's method. Every square was a square meter and the slope was calculated in one square meter increments. A 3-foot boulder 3 feet away generates a 100% slope. He highlighted there were isolated areas of red on the map, indicative in his view of isolated boulders. The conundrum is when does a slope turn into a hillside. A 10-wheel dump truck load on a flat lakebed would yield a greater than 30% slope. Brad referred to the Sunrise analysis as infinite analysis. On a piece of sandpaper, microscopically there would be slopes over 30%.

Merrell Johnson took a drone out to the site, did aerials and identified break lines and used break lines to generate the topography. When done that way the road to the top never crossed 30%. On the Sunrise map the maximum length of crossing 30% based on one square meters is fifty to sixty feet. If Leeds hasn't been challenged on its hillside ordinance, Brad said it would be, because it doesn't describe when a slope turns into a hill and then how do you treat it, for example with retaining walls, with maximum heights and distances between them. Open cuts are outlawed. Lynn has been Brad's client over the years and they've both fired each other a couple of times. Brad has convinced Lynn not to build on Site C. Site B is very buildable in Brad's view if you take out the canyons. If your road is in the canyon, in the wash, and then your pad is on the nice flat area at the top, you have the views and protect the side of the mountain without destroying it. Site C on the other hand you would have a massive cut and a massive fill. What Brad proposed was allowing them to build on Site B. Access from the north would destroy the look of the hill where you would see that road from the freeway. He feels putting the road up through the canyon is the better deal for all of the surrounding lots and neighborhoods. In summary Brad said that he didn't think Sunrise did anything wrong, it was just their methodology and Brad feels you need to define when a slope turns into a hill. Brad then complimented the Council on its ability to deal with each other civilly.

Councilmember Stirling asked about areas east and south of Site B that showed up red on the map. Brad said most of it was below 30% slope, with one little spot at the top above 30%, but it's really minute and in the canyon. The lower area being asked about Brad said was below 30% slope, unless you went from the top of a boulder to the flat ground. Councilmember Roberts mentioned you needed to go through a lot of boulders to get to the ground. Brad said he would have to double check the actual slope at the top of the area being inquired about. Councilmember Roberts stated for clarity that the applicant was not challenged when the application came before Town Council, the applicant stated that he did not have to follow the hillside ordinance, that's where we are at this point, because this hadn't been reviewed regarding a precise location. It had preliminary appearance that it would encroach upon elements of the hillside ordinance with the application that was presented and very specifically Site C on the Sunrise map. Brad said trying to build a house on Site C is insane. Anything can be engineered, but there's insanity to it. Brad indicated that Lynn would either give up on Site C or Brad would quit working for Lynn. Councilmember Roberts said it's up to the applicant to say what they want to do. As a Councilmember, Councilmember Roberts will say whether it will follow what's allowed or not. Getting back to answering Councilmember Stirling's question, Brad indicated that it did cross 30%, but in his view it is in a ravine and not hillside, it's still in the gully. Councilmember Roberts said that while municipalities could fine tune ordinances, he would give paid professionals the benefit of the doubt, however if through business it turns out they are fabricating any type of number they should be hit hard. Councilmember Roberts and Brad agreed that on slopes, scale mattered. Brad pointed out neighboring parcels on the Sunrise map surrounded in red (greater than 30% slope). Councilmember Roberts agreed that it is useful to see Sunrise's map from a high view, but it is appropriate for an applicant to come forward with a closer professional view with boots on the ground. Brad indicated there would be segments within the ravine with ten-foot segments over 30% slope.



Mayor Peterson called attention to three dots in the dotted green line between Sites B and C that are in red completely. The Mayor noted that Lynn Potter had made the property available for Town Council to walk the property on foot earlier in the process. On the map presented by the applicant they show the slope in an area where the slopes perpendicular to the calculated slope were recalled to be steeper still, and the contour lines seem to support that recollection. The Mayor indicated that as a math major he was aware of numbers all around you and in this area the slopes to the left and right were steeper than in front and in back of you, which is how the calculation was done. Brad stated that the canyon, better described as a boulder laden wash, was not the hillside aimed to be protected by the hillside ordinance. Rather, preventing cuts and fills by Site C would be. Councilmember Hunsaker said that by sets of boulders, recalling walking the property, she cannot fathom that it is not a 30% plus slope. Councilmember Roberts replied that that is where the 10- foot calculation distance comes in. Councilmember Hunsaker asked additionally about storm runoff. Brad indicated they had looked at the hydraulics and that the road could carry a lot of it and there was sufficient area on the property to deal with the additional runoff, which Councilmember Roberts agreed with, given the location on the property. Brad and Councilmember Roberts agreed that it would involve both cuts and fills, properly engineered in certain areas. Brad said, once agreed upon, the graders must carefully follow the details of a grading plan in this type of situation.

Councilmember Roberts asked the applicant, what are you looking for from Town Council from this discussion we are having. Lynn Potter said that although he still believes the hillside ordinance does not apply to this property, he still believes it complies with the 30% slope limitation. Lynn Potter said that whether the hillside ordinance applies or not, and even if it does apply, it complies. Councilmember Roberts said based on the ruling from the State Ombudsman, we are going to say it applies. The applicant said he wanted to do some dirt work and it was his understanding that you did not need to get a permit to dirt work, just to build a house. Nonetheless, he was here asking for the Town's blessing, wanting to make sure he stayed within the law putting the driveway in. On a different note, Lynn said he did a lot of research on other municipalities requirements, where they define terms very precisely. St. George has precise calculations with an exception for knolls, which need defining. With a 100-foot run you are capturing an average, with some humps leveled out with flatter areas. If you use square meters, nobody will be building in Town because a wheelbarrow fill of dirt will create a 30% plus slope. Lynn said he did his best, getting a 100 foot run out of Scott, he paid the money, he did the math and he complies. Lynn said he hoped for an action item at the next meeting, but we could keep talking about it.

Mayor Peterson clarified that if you are disturbing 20% or greater sloped land you need a plan approved by the Town, even if you are not building a home as part of that land disturbance. Councilmember Stirling read from the hillside ordinance "there shall be no development of land having a slope of thirty (30) percent or more," and basis that did not see how any exception could be granted. Lynn Potter agreed that you can't, but stated he was not looking for an exception, that everything calculated on a hundred foot run was under 30%. Lynn said that most other municipalities used 150 to 200 feet run lengths in making the slope calculation. Councilmember Stirling wanted put on the record how appreciative she was of the applicant's professionalism over the years of dealing with this property and appreciating our limitations. Councilmember Stirling was interested in the engineers reaching agreement on the calculations. Brad indicated square meter versus 100-foot run calculations will be different. Brad and Lynn indicated they could speak with Sunrise Engineering to try to come to agreement. Councilmember Roberts said he would not dispute the 100-foot basis, that's a reasonable distance, but he would like to know if the applicant wanted the Town to choose the 100-foot points, or does the applicant wish to choose them. The Town's engineer will analyze the documents prepared by



the applicant. The engineer will ask the Town what calculation they would like to have utilized. The dumping of earth is not the issue, it is understood to be the natural landscape.

Mayor Peterson said the first thing he would like Sunrise to weigh in on is whether they think 100-foot intervals are reasonable and then agree on a starting point for the 100-foot intervals, also agreeing it is not a 100-foot rolling calculation (from 1 to 101, 2 to 102,...) but rather a sequence of 100-foot intervals head-to-tail. Mayor Peterson wanted agreement on a reasonable starting point before the calculations were done, since starting point would matter, and then both parties agree in advance to accept those calculations once completed. Councilmember Roberts said that it is the responsibility of the applicant to precisely state where the centerline of the road is going to be in their application. Lynn Potter indicated they spent a lot of money based on the 100-foot run provided by Scott, not the square meter approach being utilized by Sunrise, which annoys him. Mayor Peterson pointed out the existing Leeds slope map, prepared by Sunrise Engineering several years ago, which he believes utilizes very similar methodology to their current analysis, as they describe the current map provided as an updated slope analysis focusing on the particular parcel.

Councilmember Stirling read into the record Section 20.6. of the land use ordinance in its entirety, Approval Required Before Excavation. Councilmember Roberts stated that the applicant, in their own best interest, if the 100-foot run is agreed to by Sunrise, provide the points the road (driveway) would follow.

Councilmember Stirling asked the current zoning. Lynn Potter said there were four different zones on the 11 plus acre parcel: Commercial, R-1-20, R-R-2 and Open Space.

Mayor Peterson asked Council about having Sunrise attend the next Town Council meeting. Councilmember Roberts suggested in the applicant's best interest that we ask Sunrise the questions in the next two weeks. The questions are: what methodology did Sunrise use (was it square meter), what is a reasonable length to measure slope (is 100-feet reasonable) and does he have enough information to make a decision? Councilmember Roberts felt it was appropriate to allow the applicant to specify the points and have the calculations confirmed by the Town's engineer. Lynn Potter said that when calculating slope you need to run your lines as perpendicular as possible to the grade lines. Lynn stated an obvious start is at the peak.

Councilmember Stirling highlighted that Karl Rasmussen had some calculations over 30% slope and she did not see how an exception could be granted. Councilmember Roberts mentioned that road width of, for example 10 feet, might satisfy the slope ordinance, but a wider road might be needed for fire department access. Lynn Potter pointed to some calculations from Karl Rasmussen that seemed to be inconsistent. He agreed we needed to talk to the engineer about reviewing that and it would be added to the request of Sunrise. It was agreed there was a 20-foot setback required from 30% slope.

10. Citizen Comments: No action may be taken on a matter raised under this agenda item. (Three minutes per person): None

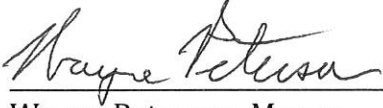
11. Staff Reports

Mayor Peterson spoke about the Mayors' Association meeting that focused on dust in the air. The most measurable source of dust in Southwest Utah is nitrogen emanating from Arizona. Whereas 15 parts per million is viewed as the start of problematic, usual readings in our area are about 1 part per million. Data regarding dust may be found at [purpleair.com](http://purpleair.com).

12. Closed Meeting: None

Meeting adjourned at 8:38pm.

APPROVED ON THIS 26<sup>th</sup> DAY OF MAY, 2021



Wayne Peterson, Mayor

ATTEST:



Aseneth Steed, Clerk/Recorder