

Town of Leeds

Amended Agenda Town of Leeds Town Council Wednesday, January 23, 2019

PUBLIC NOTICE is hereby given that the Town of Leeds Town Council will hold a **PUBLIC MEETING** on Wednesday, January 23, 2019 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 January 9, 2019
5. Citizen Comments: No action may be taken on a matter raised under this agenda item. (Three minutes per person).
6. Announcements:
 - a. Dog licenses renewal due January 31, 2019
 - b. Business and Home Business License renewal due February 1, 2019
7. Public Hearings: None
8. Action Items:
 - a. Discussion and possible action on SITLA Easement for Silver Pointe Estates
 - b. Discussion and possible action on DSU Films Production Proposal
9. Discussion Items:
 - a. Pavers for 150th Anniversary
 - b. Short-Term Rental Ordinance
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 January 17, 2019 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.leedstown.org.**


Peggy Rosebush, Clerk/Recorder

Town of Leeds

Town Council Meeting for Wednesday, January 23, 2019

1. Call to Order:

Mayor Peterson called to order the regular meeting of the Leeds Town Council at 7 PM on Wednesday, January 23, 2019 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 Sheltman

3. Declaration of Abstentions or Conflicts: None

4. Approval of Agenda:

Councilmember Roberts moved to approve tonight’s agenda and meeting minutes of January 9, 2019. 2nd by Councilmember Sheltman. 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

5. Citizen Comments:

a. Darryl Lewis said that Item 8a on the agenda for the Town Council meeting on January 9, 2019, was entitled SITLA Easement for Silver Pointe Estates. This document listed the State of Utah acting by and through SITLA as a Grantor for this easement and the Town of Leeds as the Grantee. This agreement requires the signature of LDWA who are not a party of this agreement and, therefore, the Council decided to rewrite the agreement without reference to LDWA. He said Item 8a on tonight’s agenda is also entitled SITLA Easement for Silver Pointe Estates. While I have not seen this agreement, I would naturally assume that it is the same agreement as presented on January 9th except without the mention of LDWA. He said he would like the council to be aware of the opening statement of the agreement and I quote, “Now, therefore, for \$11,790.00 which includes \$750 application fee and for other good and valuable consideration, the parties agree as follows:” Exactly what is the other good and valuable consideration that the City Council is being asked to give a private developer? Here are a few: The agreements states

that the Grantee will accept full liability for all improvements and costs. The Grantee shall hold the Grantor harmless of any and all liability and expense which may arise from the construction, operation of the improvement as long as the easement is enforced and in effect. The Grantee shall carry liability insurance in the amount of \$1 Million Dollars for each claim and \$2.5 Million Dollars for each occurrence as well as taking full responsibility for compliance with the Utah Code Section 9-8-404. Compliance with this code in this specific area is a real bucket of worms that has the potential of bringing huge costs to the City. He said these are just a few of the many and real potential costs and guarantees that the Grantee is giving to the State on behalf of a private developer in our town. And let us all remember, and burn into our minds, the Grantee is the Town of Leeds. He said he is not aware of any existing agreements or guarantees by the developer holding the City harmless to any and all of the above mentioned costs. These costs have the potential of being very large even in the many millions. Since it is the city you are being asked to put at risk, I believe the citizens of the Town should have the right to voice their opinion of this agreement prior to the Council approving it. Without that voice, I believe that you are doing a great disservice to the citizens of this Town if you accept this agreement without sufficient financial protection for them.

Dale Barnes said when you are getting ready for the 150th Anniversary; he would be willing to help out wherever you need help or getting things ready. He said he can do almost anything you need.

Lynn Potter said he has some questions because he has been trying to follow everything for as long as he has been around here. Regarding the SITLA Easement, they got the State to grant that to them which the developer is going to pay for the road and the development which is typical, right? Then the developer dedicates it to the City?

Mayor Peterson said correct.

Lynn Potter said this is typically the way it works, right? The City does not have any liability until after the City accepts it as a road, right?

Mayor Peterson said this is typical language that our attorney reviewed. It is the SITLA boilerplate that is in effect when they are granting an easement. SITLA has land throughout the State.

Lynn Potter said this is typically the way it is done, tight? A developer requires land or an easement, spends the money on the road and gives it to the City.

Councilmember Roberts said the answer to Lynn Potter's question is, generally, yes. It ties the Grantor which is the Town of Leeds for taking care of it and the town is responsible for the easements. The easements are utilized by the Town for roads and utilities. There are other easements that the Town has that go through other properties with similar agreements. The Town is responsible for these easements. The Town utilizes these easements either for roads or utilities.

Lynn Potter asked if this is the way it works around here.

Mayor Peterson said Councilmember Roberts would be accurate to say there are two different types. Some where the road itself is dedicated and it becomes Town property. There are others where it is an easement through a property and it remains an easement. This is the difference relative to where a developer might dedicate a road. In this case it will still be SITLA land, but they are granting an easement through that land initially for the installation of a water line.

Lynn Potter said he does not understand why Darryl Lewis says it is a threat against the Town.

Councilmember Roberts said at our last meeting what was proposed was a 25 Ft. easement. Now SITLA is saying they want to grant a larger easement. This easement would allow for a road width easement through there. We want to see the document written that way because what we have is not written for the entire width. It was a verbal or a manual change. Part of all of this is to clean-up the language and to remove LDWA signature line.

Councilmember Sheltman said some of that area is designated as somewhat historic and there are artifacts there. There are State regulations that have to be followed when dealing with the area and I think the concern is there may be some cost involved.

Lynn Potter asked if the developer pays for that study to be done.

Councilmember Sheltman said this may be done a little different from a normal area.

Darryl Lewis said he would like to clarify for people who do not know that easement contains 5 sites that have been identified. The State has done an archeological investigation of the sites already. The reason I made the comment, and I think I will repeat it. Compliance with the State Code in this easement in Section 9-8-404 in this specific area is a real bucket of worms and has the potential of bringing huge costs to the Town because the Town, by signing the agreement, is accepting the liability under the State Code. He said he understands that the easement agreement that was presented at the last meeting does state, and I am quoting again, "SITLA staff must be present during the construction due to certain sensitivities near its proposed alignment." Clearly this is simply saying the staff, not a qualified person, be in attendance, not actually doing any investigation. This should not be presented as a simple easement as we have discussed in City Council many times over. This is not that kind of an easement.

Mayor Peterson said just for the record Councilmember Stirling has arrived at 7:10 PM.

6. Announcements:

- a. Dog licenses renewal due January 31, 2019
- b. Business and Home Business License renewal due February 1, 2019

7. Public Hearings: None

8. Action Items:

- a. Discussion and possible action on SITLA Easement for Silver Pointe Estates

Mayor Peterson said Craig Hall, Town Attorney, spoke with SITLA and the SITLA attorneys are still reviewing, but he got agreement that there was no need to have direct involvement with LDWA with the actual easement. It was agreed that LDWA and any other utility would have to enter into an agreement with the Town and that they would follow the necessary stipulations in the agreement. The one thing I would highlight is there is a very big difference between an easement across private property and an easement across State or Federal land. If it is State, you are obligated to make sure that you do not disturb any items of historical significance. If it is private land, there is not the same level of protection. If

you encounter human remains, under all circumstances, you have to stop if you find out there was an old burial ground, and we think we know where these are, and they are not likely to be there. That would be something to force people to pay attention in both private and public land situations. Because SITLA is the State of Utah, the ownership has requirements to make sure that when there are antiquities in the area, they are properly handled, and not by just an employee. He said he thought it should be an archeologist who should be there during any of the work to make sure that they are indeed not doing any kind of disturbance that would be unwanted on that land. Not having that language available to us this evening, I would entertain a motion that we table Action Item 8a until our first meeting in February, that would be on Wednesday, February 13th.

Councilmember Stirling made a motion to table Item 8a until February 13th. 2nd by Councilmember Roberts.

Councilmember Sheltman said he has a question. He said he knows they have done some studies over there already and that he has seen some drawings of that area where the easement will be. Is there a way to get an overlay map so we can see where the easement will be? This would be very helpful.

Mayor Peterson said he would make a request to SITLA regarding their previous archeological studies and this should be available.

Mayor Peterson asked if there are any other questions or comments from Council. Motion passed in 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. Discussion and possible action on DSU Films Production Proposal

Mayor Peterson said there was, as mentioned, the sesquicentennial request for funds from a Sorenson & Legacy Foundation who agreed to provide \$20,000 towards the making of a documentary film on the history of Leeds. I have checked with the Town Attorney and this is the type of item due to its specialized nature that you would not be subject to get competitive bids for. It is being proposed that DSU Films will prepare a 60 minute documentary that will focus on the Town of Leeds with completion targeted for the Sesquicentennial on May 18, 2019. They also mentioned, but it is not in the proposal, that it is their hope this could be the lead-off film for the DOCUTAH Film Festival this year because they would like to highlight something of local nature. The actual proposal is spelled out on one page. We have received a grant for this money so we will be utilizing that money in order to pay for this particular film. Given that it is a \$20,000 expenditure, I wanted to make sure Council has an opportunity to discuss it and also to approve the actual execution of the proposal. He asked if Council has any questions or comments.

Councilmember Stirling asked if we have an outline of what exactly the documentary will facilitate.

Mayor Peterson said they are looking at a documentary on the history of Leeds. They have been visiting

various sites in Leeds. They have been given a list by the Sesquicentennial Committee of longtime residents of Leeds who they hope will be able to share their recollections, things they experienced firsthand and things they heard of from relatives of previous generations. The real target of this is to try to make sure we have as complete as possible a recording of Leeds history at the end of its first 150 years and to do so utilizing the Leeds residents as the primary source of really what has taken place here in town over 150 years. He asked if there are any other questions or comments.

Councilmember Sheltman said some of the agreement makes him a little uncomfortable looking at it merely as a contractor. It states clearly they are going to give us a high-definition digital master 60 minute documentary and we will pay \$20,000 for it. The proposal states that they can make up to three basic edit changes. Basic is not a film term. I do not know what that means. This is not defined and is pretty arbitrarily subjective. They state that once we give them the money, even if we do not do the film, they keep the money. It states it will be completed on or before May 18th, but I do not see anything here they would have to come up with if they miss the deadline. It looks boilerplate and like it is directly from the film company. He said creative people are not really good at contracts. He said this is money coming from somewhere else and they are trusting us with it. When you do a film you normally have some sort of guidelines or a process that shows where the money is going. Even if it is hard to identify all of it. When you see a road come in, you have costs for gravel, soft dirt, asphalt and the cost for striping it. You usually do this with production time and film time. It talks about using locals for what they call talent, but it also says they may provide some. What will the cost be for this? He said this is the kind of stuff that you normally get in a film shoot. When you do it enough you understand what the costs are going to be. It's not so much the idea, it is the agreement that I have concerns about. It is one page and I am not sure it covers everything to protect us and the people who are giving us the funding for it. What responsibilities do they have if they do not come through with their part of the bargain? It looks like all of them are on our side and it talks a lot about changes. If you are doing it correctly, you shouldn't have to make that many changes. It says there have been creative meetings and this is where you would flush out any changes. There should be some sort of synopsis on the vision and what will be presented. At that point, you will not have any confusion later on.

Mayor Peterson said the three basic edits referred to stipulate this and it did get reviewed by our attorney. Our attorney mentioned that if it goes beyond three edits, those edits are requested by us as a Town. He said he thinks they are protecting themselves and this is very common in this industry which is that if we keep wanting the piano moved to another area of the room, they eventually will tire of the piano getting moved. In this case, if we are editing back and forth, the edits, I believe, would be driven by us in terms of going beyond three.

Councilmember Sheltman said he was in the film industry for years. They have kind of a boilerplate on all of this stuff if they want to do it. If you are making something like a film, it is real easy to get out of control. The people in the film industry may seem quite flakey, but when it comes to finance, I was amazed at how precise and clear it was how every single penny was used. He said these are his only comments.

Mayor Peterson asked if we should request anything additional from them and allow for execution subject to them providing. How involved would you want the review to be?

Councilmember Sheltman said if you have a client team, and I do not know what this is, maybe on our end. If you lay things out ahead of time and say this is what we are expecting as for as the way the film is going to go, it does not have to be totally precise, but if you have this in place, and if you have to do edits,

you can at least say we had an agreement and this should be a little different. He said there is no such thing as a basic edit. I do not know if that means you are going to take a word out that someone said that you do not like or actually change something. For instance, I am sure there is going to be a drone shot across the beautiful red cliffs going into the Town, but if you do this, what does it cost? Let's say you want to add another drone shot, is this a basic or something more? Even though it is a creative thing, a lot of specifics are already in place and used all of the time for everything from students' films all the way up to major productions.

Councilmember Stirling said we need to have a better understanding of what a standard production is versus maybe a non-standard production. It also says on location in Leeds and surrounding areas, and all additional talent, travel and props that are added to the scope of this estimate will be compensated and agreed upon by the client. Does this mean their decision of additional talent, travel and props or is this something we are requesting?

Mayor Peterson said requested by the client.

Councilmember Stirling said at the top it doesn't say. It says all additional talent, location fees, travel and props that are added to the scope of this estimate will be compensated and agreed upon by the client. But down below, it says any revision to the project, but the scope of the project says all additional talent. What does the regular talent cost and what is the regular location fees and travel?

Mayor Peterson said the way he reads it that the clause applies to all additional talent and agreed upon by the client. The location fees agreed upon by the client, and travel and props agreed upon by the client. From a legal standpoint, it is saying that it all has to be agreed to by us and they are not able to say we decided to shoot in Hawaii because we thought it looked like Leeds and it was better for the time of year. He said I believe we will need to, as this is written, be the ones to make agreement to these kinds of additional things. He said I will tell you that the budget for this is zero. We are not looking to do these kind of adds to it. I think they are trying to protect themselves, and Elliott your mentioning that you have experience in having people request things that would be an additional cost; they are not envisioned as part of the scope here.

Councilmember Sheltman said \$20,000 is a lot of money for what, I think, is a part student film. If we are going to do this, having clarity at the beginning is when you do not have to go back and do it. I understand that those costs would be added by us, but this still needs to be clearly laid out by whoever the client team is so when they are done they have a good product and it represents Leeds correctly. He said just in case we have to use talent, and they will have to bring it in, what would this cost? What is the norm? They should have something they can fill in. It won't be exact, but it will at least give us a little bit better direction.

Mayor Peterson said if he is following correctly, it is define basic edit changes just to make sure it is understood what they are, better definition of the product and what it will be when completed, and cost of additional talent and other types of fees they would envision.

Councilmember Sheltman said since we have a risk on our side, what is the risk on their side if they do not make the deadline? It says time is of the essence so if you miss a deadline what is your responsibility? What are the consequences if you do not make the deadline? It would be nice to know what the extra costs will be.

Mayor Peterson said be mindful that we are looking at something we would like, if indeed we want this film, in four months. If we try to wait until February 13th to decide on this, we will be cutting into our expectations of getting a quality product by the sesquicentennial. He asked if we can get the four items that have been identified prior to the decline, and we can get something that I can circulate to the Town Council subject to the items being addressed, are we prepared to go forward.

Councilmember Sheltman asked if they gave us a timeline.

Mayor Peterson said they have indicated by May 1st they intend to have for us the first draft of the final product.

Councilmember Sheltman asked if they have scouted any sites.

Mayor Peterson said that today they were traveling around town and looking at sites. They have a list of different people in the town who are thought to be good resources for the Town's history and they are ready to start contacting these people. They have been doing research and reading up on a variety of things with regard to the history of Leeds. I do think it is being tailored very specifically to the Town of Leeds. They are very focused on the idea, for a community of our size we have a tremendous amount of history, and this is what they are looking to bring out in this production. The history of Leeds in terms of its mining history, CCC history, multi-cultural history with the mining activity and the community that existed before Silver Reef was a part of it. There is, I believe, a fairly agreed upon focus of this particular effort, but I am very concerned that if we decide to push this out to get things in writing, it will not be doable. I think it is important to have it for the sesquicentennial particularly since we got grant money. If we are not going to get it done, let's make sure it says something as to what happened and why the deadline was missed and what does it cost if this takes place. I do think if we are going to do this, we need to move forward and we can't wait until February 13th to take it to the next step.

Councilmember Stirling asked if this is an actual Dixie State University college class and is this why the completion date is the same as when their term is over.

Mayor Peterson said it is because of our sesquicentennial. The Head of the DSU Film Department is the Head of DOCUTAH who has done previous documentaries.

Councilmember Stirling said it is her recommendation to say \$20,000 and no more. We will not go over and beyond that for any reason. She said \$20,000 is enough for what is agreed upon.

Mayor Peterson said he has no intension of approving anything that would go beyond \$20,000 and I do not see a problem saying it is \$20,000 and there will not be any increases. He said it is capped at \$20,000 and if there is a need to go beyond that they would need to come back with the understanding we may not be inclined to approve it. He said we can make it clear to them that we have no interest in exceeding the \$20,000 so plan accordingly.

Mayor Peterson asked council how they would like to move forward on this. He asked them if they want to cap it at \$20,000. He asked Councilmember Roberts if he has any thoughts or comments.

Councilmember Roberts said he agrees with some of what Councilmember Sheltman put forth. I would like to see something in writing in the contract that says what their penalty is if they do not live-up to this particular date. On the editing part of it, I think clarification on what they might consider basic editing is

because everyone here will interpret basic editing different. I am not concerned about the total amount because the total amount is the total amount. I applaud and appreciate the foundation for giving this donation. It is in our best interest to make sure that \$20,000 really gets us what we are after. Some of the unknowns are going to be the responsibility of the client team. Whoever is on the team representing the Town of Leeds, will help move this production in a direction the Town of Leeds wants it to go in. Obviously, we need to be the driving factor in this, not that we know how to make productions, but we should be the driving factor of what we want this production to be. My two concerns would probably be clarification on editing because a simple change to me would not be considered an edit and maybe a little understanding on the review by the client, maybe allow a maximum of three reviews. But then what kind of repercussions will there be to Dixie State if they fail to meet the deadline.

Mayor Peterson said if he heard correctly, we are going to scratch the cost for additional talent because there will be a hard cap of \$20,000, nothing additional. We will ask for a definition to basic editing to make sure it is satisfactory and that three of these should get us the final film in acceptable quality; a better definition of the product and exactly how they will go about telling the story of Leeds with interviews and the like; and a clause indicating what will happen if there is a failure of reaching the deadline. I will get back with them. My main concern is if we wait until February 13th we will not be able to make the deadline. They did mention that they want to try to capture how different Leeds looks in all seasons. I think it would be best if we agree on this subject to sufficient clarification on the points and not wait until February 13th.

Councilmember Roberts said he does not have a problem with this.

Councilmember Stirling said it would be acceptable to her if Councilmember Sheltman could be liaison between us and them.

Councilmember Sheltman said he will be too busy and will not have time for this.

Mayor Peterson said he would be willing to do it and coordinate with Councilmember Sheltman. He said they could work as a pair in terms of showing you the final output, but we cannot go beyond a pair without it becoming a meeting.

Councilmember Roberts made a motion to approve DSU Films production proposal with the conditions the Mayor has listed and upon his acceptance of the results of those conditions – as follows:

- Define basic edit changes
- Better definition of the product
- Implications for failure to reach deadline
- Total cost of the project will not exceed \$20,000

Councilmember Stirling asked if the definition of a basic edit could be added. We have definition of what the production includes, but the definition of a basic edit is not on the list.

Mayor Peterson pointed out that the first item on the list is defining basic edit changes.

2nd by Councilmember Sheltman.

Mayor Peterson asked if there was any further discussion.

Councilmember Roberts said he would like to have Councilmember Sheltman on this, but he said he will be busy. But he will be involved according to what Mayor Peterson said.

Councilmember Stirling asked if this particular contract says that we get one digital master and are we allowed to make copies.

Mayor Peterson said it is our choice to use it how we want after it is delivered to us.

Councilmember Stirling asked if we have the ability to make copies and can we sell them?

Mayor Peterson said yes we can.

Councilmember Roberts said it is owned by the Town. 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. Pavers for 150th Anniversary

Mayor Peterson suggested a cap of 10 years on how long to keep the pavers. Not that we intend to tear them out in 10 years, but after 10 years it will depend on other things happening in Town that may require the space. We will be verifying with people before the pavers are engraved of what it is they have requested and it will be at that point we will be notifying them that the Town is obligating itself to maintaining the pavers for 10 years. The pavers are \$150 each and the proceeds will help fund the 150th anniversary.

Councilmember Roberts said this seems responsible.

b. Short-Term Rental Ordinance

Mayor Peterson said what he decided to do after a variety of discussions, I thought it made sense as a Council to agree on what it is we are looking to accomplish with these changes and then send it to legal for their “legalizing” of the language in order to make it fully enforceable. As I followed the discussion of what was desired, it was to make sure that it is an owner present rental taking place in a bed & breakfast scenario. It was not important that meals are to be provided or not provided. And I have also heard a lot of comments from the public on CC&Rs. Just to read through, to those in the audience who are not privy, I would like to read the proposed changes:

Changes to Chapter 1:

Mayor Peterson said he could not find any place in the rest of our ordinance where it refers to a boarding house, but we have a definition for it. I think we will want to eliminate this so it doesn’t cause any confusion. And we do not have a definition for bed and breakfast even though we refer to it elsewhere in the ordinance. I am proposing a bed and breakfast definition.

Delete definition “Boarding House”

Add definition “Bed and Breakfast”

Bed and Breakfast.

A Home Occupation in which a resident property owner in a Residential or Rural Residential Zone rents, with a Conditional Use Permit having been approved, up to two bedrooms in his/her/their single-family residence to a total of up to four guests on a short-term basis of less than thirty days. Meals may or may not be included. This is the only short-term rental activity permitted in a Residential or Rural Residential Zone. A Casita may not be operated as a Bed and Breakfast. Multi-family properties may not operate a Bed and Breakfast and may not engage in any short-term rental activity of less than 30 days.

Mayor Peterson said casita is actually defined as not being available. It talks about just guests of the home and not to be used beyond that. This is just reiterating something that is in the casita definition.

Changes to Chapter 24:

Mayor Peterson said there are two clauses out there in terms of what is required in the way of an application for a home business occupation related to a bed and breakfast or any home occupation and then we would add:

Between 24.2.5.h. and 24.2.5.i.

24.2.5.i. Representation that the applied for use will not violate covenants, conditions and requirements or other deed restrictions affecting the use of the property involved. Subsequent determination by a court of competent jurisdiction that such representation was inaccurate will result in the immediate revocation of the Home Occupation Business License and the subject property will be ineligible for a Home Occupation Business License for the following five years, regardless of any change in property ownership.

Mayor Peterson said he is tossing this out as a starting point, but would be very interested in other thoughts from members of Council. I would mention that regardless of any change in ownership, after visiting the County website, it is interesting the number of times that the same people are living in a house but the official ownership of the house changes back and forth between a couple of different names over the course of those

people's time there. He said he does not know exactly why they are doing this, but he would want to make sure that it isn't a simple thing where you change it by putting a person's middle initial back into the ownership and say it is a change in ownership and, therefore, they are not subject to any kind of restriction.

Councilmember Roberts said this is what he was going to say. It seems to be a little bit of an overreach. People do make ownership changes, but it truly isn't a different owner. It is just written on paper that it is different. And this does have overreach. He said I think in our initial discussion we had as Councilmembers, we are supportive of individuals being allowed to utilize their property in residential and rural residential application, but the owner needs to be there on-site and they need to live there if they are going to use it for this purpose.

Mayor Peterson said the other thing he was trying to do with the Chapter 24 change is that it is impossible to accurately enforce CC&Rs because if they are modified and not recorded with the County, is it there? We would be in a position where it would be very difficult to know for certain what the current CC&Rs are for a particular property. But by turning it over and saying if the record determines if it was a violation because with CC&Rs, the other homeowners may prosecute as a civil matter is my understanding.

Councilmember Roberts said he is good with this. He said in the definitions it says a conditional use Permit having been approved through that processing then the applicant will have to provide a signature or something if they live in an area that is governed by CC&Rs indicating that it has been approved by those people. This may be a good point on Chapter 24.

Mayor Peterson asked if there were any other comments from Council. He said his thought is the next step would be to take this to our legal counsel to see if he thinks this works and if there is a need to change some of the phrasing and then bring it back for us to then consider amending the Land Use Ordinance to reflect these types of items. In amending the Land Use Ordinance, the process would be to have the Planning Commission to hold the public hearing on the changes. But I think it is appropriate for Town Council, given the nature of this particular issue, to really take a look at first and then request that the Planning Commission evaluate it and hold the public hearing on it and bring forth the recommendation to Town Council.

Councilmember Sheltman said would we allow then to rent it out at any time and do we put a limitation on how many days you can have paying guests. He said would we have anything about parking. Some places have a great deal of parking and some do not. And do we do it where you cannot do a flag lot? And what about enforcement? We cannot expect the owner to call the Sheriff's Department. He said he truly believes we need someone on the Town's side to go there and say I am the enforcer. If people are cheating the system, we need to be proactive and it may mean that we actually rent the place. Go there as a user even if we have to make a payment. Maybe we need to actually test it. This way, we can say you are breaking the law or in violation. He said he has a hard time with people in the Town having to deal with it personally with a neighbor. In most cases, you do not want to go up against your neighbor even if they are doing something wrong. Who wants to get into a feud with their neighbor for the next 20 years? This should not be on the shoulders of the Town's people. I think we can make it work. But how much do we charge if you violate the law? This my opinion.

Councilmember Stirling said we may want to ask our attorney if that could be considered entrapment, before we rent it out.

Councilmember Sheltman said they actually do this in other places.

Councilmember Stirling said what is our specification right now on bed and breakfast.

Mayor Peterson said a bed and breakfast is referred to as a conditional use in our home business occupation, but it does not get defined. It is listed in those three words.

Councilmember Stirling said when they come to the Planning Commission what does it take and what kind of questions do they ask and is there a checklist that we provide to the applicant.

Mayor Peterson said at this point there are no conditional use permits that have been issued for a bed and breakfast. All home business occupations require the physical presence of the property owner and for other businesses it allows for a renter of a property to operate a home business. I specifically was trying to highlight that this is a resident property owner and not a renter. As a result, we have not had anyone who has come forward and successfully gotten a conditional use permit because the ones who have come forward have not been resident property owners or rental property business owners.

Councilman Roberts said the thing we need to keep in mind is the conditional use is what allows us to look at each individual application. You make a good point, Elliott, some areas have good parking and others do not. Through the conditional use, you need that flexibility to look at each application individually. The enforcement side of it needs to be the same across the board for everyone. The conditional use itself can and will vary between applicants.

Mayor Peterson said flag lots and fire inspections were mentioned previously. I think it would make sense to say a Fire District inspection is required annually just because things can change; things like smoke detectors can become nonfunctional. The Fire district could be given the opportunity to decide whether they think there is acceptable access or not instead of us trying to define what would work. With respect to collecting names of guests in advance, this may be some kind of entrapment. We would need to speak to our attorney to find out if this is something that could be done because this would allow for enforcement. The way I see it, we have an enforcement issue whether or not we allow it or not. It's not whether they are in violation having 5 people when they are allowed 4, it's having 23 people when they are allowed zero. I'm not saying it's only if it is a large number, but I think it is important that when we consider this, we do not say enforcement is too challenging and, therefore, we shouldn't have the ordinance. I think we need the enforcement whether we have any ordinance or not.

Councilmember Sheltman said it could be a pretty good cost for us if we do it the way I think we should do it. And the question is can we get it back. And how many of these do we give out every year? Do we control it? Is it like a liquor license? They may do something like this in Springdale.

Mayor Peterson said he heard that either Rockville or Springdale has a limit on the number of bed and breakfasts establishments that are permitted and that they have a waiting list.

Mayor Peterson asked if we want to add language limiting the number of them in Town. I think we are at a point where we want to move this forward. We do not want to just ask the questions tonight.

Councilmember Roberts said he is not supportive of a specific number. This is my personal opinion. He asked why would they want to limit the number.

Councilmember Sheltman said if you have 6 or 7 right next door to each other. Another way to do it is the distance. You specify so much distance between one and another. This is what they do in Palm Springs. This way, you do not get a group of them with one poor neighbor stuck in the middle.

Mayor Peterson asked do we have the one poor neighbor issue if we are requiring a resident property owner and a maximum of 4 people?

Councilmember Sheltman said if you're talking people and more traffic, I think this would be an annoyance if you were in the middle of 2 or 3 next door or across the street. I am speaking for myself, but I do not think this would be something I would want. I do not think most people would be happy with this. I think it would have an effect on your ability to enjoy the area. In Palm Springs they do it by distance. I forgot what the distance is.

Mayor Peterson asked if there were any thoughts on this.

Councilmember Roberts said here, again, he is not supportive of that because when you tie that into a residential ownership being there I think it is somewhat self-regulating on how many individuals would want to do a bed and breakfast.

Councilmember Stirling said she thinks that she understands about the distance, but if we are doing something different than what Palm Springs is doing which is if the bed and breakfast has to have a resident there, if you have 5 right next to it, it would be 5 residents who actually own them next to each other. They would all be doing the same thing.

Councilmember Sheltman said it is his opinion that you should not have a lot of them congregated in the same area, I think that creates more situations and you are looking at more of a hotel situation. It's not just someone making some extra income; it's more where you are in the middle of it. The economy does not look good. This may be something people have to do. This could give you a way to keep your head above water. What if you have a whole street, like 20 houses, doing this?

Councilmember Stirling said she understands his point of view. But in this particular definition it says up to 4 guests on a short-term basis of less than 30 days. I don't think the guests would be as detrimental as if you had a home full of 30 people which is similar to what we have experienced in the last few months. I do not think I would agree on putting a definite distance factor in it because I do not think 4 people would be as detrimental as renting it to 30 people.

Mayor Peterson said one thing he would suggest is checking with the attorney on an obligation to continue to permit it. I believe we would have the right to grant a home business occupation license for a calendar year and if we are finding there is an overabundance of them, and they are creating problems, I think we could rewrite some things and develop a mechanism for being able to allocate if we feel a need to limit it. I think it would be hard to do that in advance to be fair and equitable to every home owner.

Councilmember Roberts said this is where the conditional use is a very good tool for municipalities to use because that is a condition that you can place on any one of those. You can put language in it that says okay if the condition exists and it becomes problematic, you will have to have a reasonable problematic situation. This conditional use could be revisited. You could put time frames on them. It could be this conditional use is good for 1 year and it will be revisited again. Where you might have a change is whatever our conditional use application fee is. The dollar amount will be significant in every situation.

Mayor Peterson said a home business occupation conditional use permit is \$100. It is the lowest of our conditional use fees. We are not allowed to charge for home business licenses. This was changed at the

State level about 3 years ago. If there is an enforcement cost, we might be able to demonstrate this, but if it turns out people have no need for enforcement on their property, I suspect we will be hard pressed. They speak more about the ability to demonstrate meaningful impacts that will require things with regard to traffic control and the like.

Councilmember Sheltman said this would be a good question for the attorney. Personally, I will not go for this as we do not have enforcement directly from the Town. It just doesn't work. Sheriffs are helpful when they can be, but you can also tell at times they do not want to deal with whatever you have. Enforcement is the only thing I look at that makes this thing possible. Without it, it will not work.

Councilmember Stirling said she agrees with Councilmember Sheltman. She said she has been around quite a while in this Town and she has noticed when the Town Council agrees to something it is almost like flood gates opening and you cannot stop it because the enforcement is sometimes against us and the other aspect of it is so expensive. If we do not have some type of enforcement on everything, we are opening the flood gates to someone having a problem next door and no repercussions at all.

Mayor Peterson said one thing he will share, and I was going to put it out as a staff report, the attorney has provided some language regarding penalties within Town. My first reaction to it is wow that is harsh. It speaks of imprisonment; it speaks of four figure fines for failing to do things; it says unless it is stipulated elsewhere in a specific ordinance, the fine could be less. There is no system in having to provide a warning in advance. It is, I think, very severe, but it is being suggested. With what is being said this evening perhaps people will not feel it is so severe. I will be circulating this to Council and I think we should have it as a discussion item at our next meeting. I do know that enforcement is important. The attorney drafted this and he just got it to me after the agenda was out. I will forward this to you after tonight's meeting and then we can discuss it our February 13th meeting.

Mayor Peterson said let me go over what I think we have right now. I think people did agree on adding a Fire District inspection is required annually and this is not conditional. It is every single one of them. We want to ask about enforcement. And in particular, can the Town rent a unit to prove it is a violation when it is being advertised. We want to know if we can collect the names of guests in advance and require this as a condition.

Councilmember Sheltman said maybe it is best not to get the names of the guest, but to keep the guests anonymous. We do not need to get their name, just a number of guests.

Councilmember Roberts said we will not be able to get them to disclose the names of guests, but numbers and dates is what we want.

Mayor Peterson said if they provide this and then we suddenly see more cars than people, we will know there is a problem. The other item is the obligation to continue to permit it. Most conditional use permits are not in need of renewal.

Councilmember Roberts said they terminate upon change of ownership of property. They do not transfer with the property. And we want to make sure this is stipulated in this case also.

Councilmember Stirling asked Councilmember Sheltman if he has any documentation on the cost of enforcement.

Councilmember Sheltman said other areas can afford to have enforcement because of the added revenue that is coming in. Other areas are bringing in huge amounts of money, but we do not have this.

Councilmember Roberts said Councilmember Sheltman is correct. This will not be a moneymaker for the Town. It will be difficult to quantify what it truly costs the Town until you get a little bit of history on it. Whatever the costs are for the Town need to be put back onto the applicant. Being a resident of the Town, I do not want them using any of my tax revenue to subsidize some other entity or a cost to enforce that entity.

Mayor Peterson said I know I am circling back, but there is a cost if we do not permit it at all. I think the challenge is what is the marginal cost of actually permitting it?

Councilmember Roberts said that type of enforcement is reasonable and it is part of being a municipality. When you allow another use of properties that would increase the need for enforcement or additional enforcement then it needs to be attached to whatever the use is.

Mayor Peterson said it would also be covering the cost for enforcement as well as the enforcement mechanism.

Mayor Peterson asked if we are in agreement that it would make sense to get this to the Town Attorney, Craig Hall, with the comments that have been added this evening and ask him to put it into legalese and add these items to it.

Councilmembers all answered yes.

Councilmember Stirling asked if we should open this for public comment.

Mayor Peterson said there would be a Public Hearing at the Planning Commission level. It would follow any other land use ordinance change which begins with a Public Hearing and then a recommendation from the Planning Commission to the Town Council.

Councilmember Stirling asked if it would strictly be on bed and breakfast and not necessarily the short-term rental ordinance.

Mayor Peterson said he is suggesting with this rather than having a stand-alone ordinance that we make it part of our home business occupation where we currently list bed and breakfast as a conditional use. Currently we do not define it, but this would make it clear that it is the only approved short-term rental activity in a residential or rural residential zone.

Councilmember Roberts said he assumed this was the direction we were looking at.

Councilmember Stirling said the only reason she was asking because that is how the discussion item is written on the agenda. I was making sure this is for a bed and breakfast and not a short-term rental ordinance.

Mayor Peterson said it is a home business occupation, but short-term rental as it relates to the home business. This is what Chapter 24 is.

Councilmember Roberts said we are not looking at short-term rental ordinance.

Councilmember Stirling said perfect.

Mayor Peterson asked if there was anything further. We are ready to move on.

10. Citizen Comments:

Mayor Peterson said this is the second and final opportunity for citizen comments. Please limit your comments to 3 minutes.

Angela Rohr said the definition of a bed and breakfast is 2 bedrooms and a maximum of 4 people. If a family of 5, with 3 children, came and used the 2 bedrooms they would be violating your ordinance. If they had a baby in addition to the 3 older children, they would not be allowed to do it either. And the casita not being allowed to be used. For the past 10 years, a casita had to be under the same roof as the house so it seems like it does not make sense to exclude it from using that room if they were doing a bed and breakfast. The biggest problem for everyone is the parking, lights and sound, and maybe animals. These are the things that impact the people that live around them and these things need to be solid. There should be a charge for enforcement. If someone is incurring enforcement then they need to be paying for it. Another thing is the taxes. How do we find out if taxes will be coming to the Town? Are they paying the taxes and does the Town actually receive a portion of the taxes? And will this be a land use ordinance revision or will this be a separate ordinance?

Dale Barnes said he wanted to let you know that the guy you are talking to about the filming did the CCC film and LoAnne was very pleased with what he did. You may want to have a discussion with her because she was very pleased with the way it turned out.

Angela Rohr said on the topic of the film, if they are editing and decide to re-edit something will it be a part of our 3 edits? And do the 3 edits mean that it is all happening at 1 time and they are editing 3 different parts of the film or is it 3 separate times when they have to go in and make a change. The \$20,000 being paid, will you just hand it over to them before we have anything in writing about the concept or have a layout? Has there been any thought to go into it so we have some idea what our final product will be?

Mayor Peterson said regarding a comment made earlier by Dale Barnes, LoAnne is one of the people involved with the actual film so we do have someone with experience with regard to working with them. DSU has become fairly well regarded with their DOCUTAH program. They do not make all of the films in it, but they do make some.

11. Staff Reports:

Councilmember Stirling said she would like to comment on comments made earlier regarding casitas. The actual definition for a casita says the unit may not be rented or otherwise used as a separate dwelling unit unless all of the zoning requirements for a secondary dwelling unit are met, including setbacks and required parking. This is why we put that particular stance about the casita because it is already in the definitions. We will have to change that or like it says otherwise if you would like to meet the setbacks and parking then you can go ahead and use it for rental.

Mayor Peterson said to reiterate it was said that it seems ridiculous that you cannot use a casita for rental even though it is under the same roof. A casita requires a common roof structure. Casitas need to be attached and not down by the road. They can be attached by something as small as a basic rod or pipe and that qualifies as being attached.


Mayor Peterson said as mentioned earlier, I will be circulating the penalties that our attorney has drawn up as a starting point for consideration.

12. Closed Meeting: None

13. Adjournment:

Meeting was adjourned at 8:33 PM.

APPROVED ON THIS 13th DAY OF February, 2019



Mayor, Wayne Peterson

ATTEST:



Peggy Rosebush, Clerk/Recorder