

# Town of Leeds

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## Agenda Town of Leeds Town Council Wednesday, February 13, 2019

**PUBLIC NOTICE** is hereby given that the Town of Leeds Town Council will hold a **PUBLIC MEETING** on Wednesday, February 13, 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 23, 2019
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 February 15-17 on Cherry Lane
7. Public Hearings
8. Action Items:
  - ✓ a. Discussion and possible action on SITLA Easement for Silver Pointe Estates
  - ✓ b. Zone change request on Parcel L-4-1-12-122 and L-94-D for DHP Properties and ZZZ Properties from Open Space (OS) to Commercial (C)
9. Discussion Items:
  - a. Short-Term Rentals
  - ✓ b. Fines and Forfeitures
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 February 7, 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](http://www.leedstown.org).**



Peggy Rosebush, Clerk/Recorder

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# Town of Leeds

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## Town Council Meeting for Wednesday, February 13, 2019

### 1. Call to Order:

Mayor Peterson called to order the regular meeting of the Leeds Town Council at 7 PM on Wednesday, February 13, 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 Stirling.

### 3. Declaration of Abstentions or Conflicts:

Councilmember Sheltman said the applicant for Item 8a has brought up that I may be acting in conflict of interest. He said he would be happy to listen to what the reason is when they get to that point.

Mayor Peterson, Councilmember Roberts and Councilmember Stirling said they have none.

### 4. Approval of Agenda:

Councilmember Stirling said she has one change. Just for continuity, the spelling of her last name on Page 8 should be Stirling instead of Sterling.

Councilmember Stirling moved to approve tonight's agenda and meeting minutes of January 23, 2019 with the one correction on Page 8. 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: DANIELLE STIRLING	x	_____	_____	_____
COUNCILMEMBER: ELLIOTT SHELTMAN	x	_____	_____	_____
COUNCILMEMBER: NATE BLAKE	_____	_____	_____	x

### 5. Citizen Comments: None

6. Announcements:

Mayor Peterson said Dumpster Days will be February 15-17, 2019 on Cherry Lane. Dumpsters will be located along the edge of Cherry Lane. This has worked out very well in the past and it keeps it from being in the Pavilion area which is a little bit of a safety issue.

7. Public Hearings: None

8. Action Items:

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

Mayor Peterson said we reviewed this easement request previously. An issue was raised that LDWA was being named specifically in it even though the easement would apply to other utilities. It has been updated in language by SITLA and reviewed by our attorney, and it was changed so that it is between the Town and SITLA. It does have us where if there is work to be done that we will be making sure insurance is in place. It requests a \$2.5 Million limit. We have a \$5 Million limit. If we are asked by SITLA, we will have them named as a covered insured. This is the extent of the changes that I saw in it. He asked if there are any questions from Council or are there any added comments from the applicant.

Mayor Peterson asked Rick Sant if he had anything to add.

Rick Sant said no.

Councilmember Sheltman said just for liability, artifacts are in that area. Does this this cover anything from glass and cans all the way to foundations and possible skeletons? He said the reason he is asking is to make sure we are not responsible for any added expense that could be quite high should we uncover something that is not supposed to be uncovered or movement of something that we find.

Craig Hall, Town Attorney, said his reading of the easement, and in my discussions with SITLA, we are named the Grantee and Beneficiary of the easement, and anyone who works within the confines of the easement will have to live by the terms and conditions of the easement, and will indemnify us for the work that is performed there. There is a specific section in the easement regarding artifacts and it is SITLA's intent to have someone onsite when the work is being done.

Councilmember Sheltman asked if we will be responsible if something important is disturbed.

Craig Hall said we will be indemnified. We will have the appropriate monetary funds either by insurance or letter of credit or whatever to make sure we are indemnified for any damage to artifacts or other utilities that might be in the easement.

Councilmember Sheltman said okay.

Mayor Peterson asked if there were any further questions.

Councilmember Roberts made a motion to approve SITLA Easement No. 2071. 2<sup>nd</sup> by Councilmember Sheltman.

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

Mayor Peterson said he will execute the easement as requested and it will be filed with the County.

b. Zone change request on Parcel L-4-1-12-122 and L-94-D for DHP Properties and ZZZ Properties from Open Space (OS) to Commercial (C)

Mayor Peterson said this was the subject of a Public Hearing and action at the previous Planning Commission meeting. We have our Town Planner with us this evening. He asked Scott Messel to bring everyone up to date on what was done at the Planning Commission meeting.

Scott Messel pointed out the 2 parcels on the map. They are just south of the cemetery. There was a Public Hearing held during the last Planning Commission meeting and people were allowed to make comments. The parcels are currently zoned Open Space and the applicant is requesting to rezone it to Commercial. The parcels are right on the City boundary. The City and County boundary is a little unusually shaped in that area. He pointed out the boundary lines on the zoning map. It was discussed that it may be most appropriate for it to be zoned Commercial. After reviewing it, the Planning Commission is recommending approval of the zone change. The Public Hearing was properly noticed, and everyone was allowed to comment on it. He said he can answer any questions the Council may have.

Mayor Peterson asked Council if they have any questions and did the applicant have anything to comment on.

Councilmember Sheltnan asked if there had been any questions about the width of the road and traffic.

Scott Messel said no, it was not discussed.

Councilmember Sheltnan said the reason he was bringing it up is because in the General Plan there are only 2 roads that are mentioned. There has been particular interest on these roads because of traffic. One is Silver Reef Road and the other is Cemetery. Cemetery Road is the only way you can get over to the other part of Town. It is also the way most people get on the highway to go south so it already has heavy traffic on it. The main problem with it is the bottleneck on it at the bridge. The bridge is not owned by the Town. It is owned by the State and it is way too narrow. When you make the right hand turn to go through on Cemetery instead of the highway, the road gets down to about 16 feet. He said this is not a good width for a road that already has that amount of traffic. This is his concern. The other is when you get into winter, you get an ice pack on the inside of that road because the sun does not hit it. For weeks, you will have an area there that is about 5 or 6 inches high that is solid ice. It cuts out about 6 or 8 feet. People do not drive on it; they drive on the other side. My concern on the commercial is how much traffic you will create with commercial. It will depend on what you put there. He said it may not be a good area for anything commercial simply because of the traffic issue that will never be fixed. He asked Scott Messel if anyone brought this up at the Public Hearing.

Scott Messel said no, the road was not discussed.

Councilmember Sheltman said it will have no effect if you put something like a storage unit or cemetery there. I do not know what guarantees we would have on what would be put there. He said with the way the road is, you might not want to go with anything commercial. I understand it is open space. There is an option it can be done, but there is also an option that it should not be done if there are other concerns. I do not see where this can be fixed in any reasonable way as far as cost.

Mayor Peterson asked if there were any other thoughts or questions.

Councilmember Stirling said she has a question for the attorney. In a particular instance where we were purchasing a building in Washington City, the road had to go to engineering, and we had to pay the extra amount on the road if we were going to add commercial to the building. She asked would this be something we could entail on this particular thing or not.

Craig Hall asked if we have a Road Master Plan that has been adopted by the City.

Council said yes.

Craig Hall said we have standards for the roads we build within the City. He asked if there is a standard for Cemetery Road to be a certain width.

Council said yes.

Mayor Peterson said when it becomes a certain type of road.

Craig Hall asked Scott Messel if the property line goes to the center of the road or does it go down to the road alignment.

Scott Messel said it goes to the edge of the road. When cities develop, what once was a farmers road ends up becoming a busy road and it is often required that whenever any improvements are done to the property that road would need to be improved, at least the length of the frontage, to the Master Plan width.

Craig Hall said then it is dedicated to the City.

Scott Messel said correct.

Councilmember Sheltman said this would not include the bridge in this case, correct?

Council said right.

Craig Hall said he did not know if this directly answers your question, but I think it gave you a glimpse of what we ought to be looking at. He said he does not know what the width is of that particular parcel, but often times we would have them sign a referral agreement where, upon the City's request, they would have to either fund it or build the improvements to the additional width. This would solve part of the issue you talked about, but not the whole issue.

Councilmember Stirling asked if there was any documentation from the Planning Commission to read as to what their concerns were and what the answers were.

Scott Messel said there are the minutes. He said what he can do in the future is give you more detailed information so you have that. There was some discussion about what the applicant is wanting to put on the property and whether or not it is appropriate. The applicant did submit a conceptual site plan and building elevations on what type of structure he would like to build. These items were shown on the projector screen. It is a block building, some of it looks like split-face block and then just standard block. He asked the applicant if this is correct.

John Zoetmulder, the applicant, said correct.

Scott Messel said one of the things that is impressive, even on the back wall which is often neglected and left plain, is he put windows in it. He showed a site plan which indicated what the applicant would like to put on the property.

Mayor Peterson asked if there was a stated purpose for this building.

Scott Messel said the purpose that was talked about is that it would be their office space in one of the units and they would store some of their equipment inside of the building.

Councilmember Roberts said the thing that needs to be very clear is we are talking about a zone change. An applicant can put out there what their intent may be, but the zone change would allow for anything that is allowed within that zone. You need to keep in mind that we are looking at a zone change and not an application for any kind of a building or specific use on that particular property.

Mayor Peterson said understood.

Mayor Peterson said I was asking in terms of the concept that we could make requirements if traffic was going to be generated by it just to get a sense about it if it was going to be an issue. We seem to have the ability, if a proposal in terms of usage was one that was going to generate traffic that would raise the concern to an actual issue there. We would be able to, at that point, make adjustments, but the bridge remains a bit of a challenge and we would need to work with UDOT on that. My question was more towards would it generate, if used as intended, the kind of traffic that would be a worry. He said in the next stage process, we have the ability with all commercial uses to look at the traffic flow that would be affected by that use.

Mayor Peterson asked if there were any further questions or comments.

Councilmember Stirling asked if we go ahead and approve it as commercial, anything they want to do related to commercial, they would be able to do it. Is this correct?

Scott Messel said yes. He said anything in the ordinance would be permitted. You would still have to have site plan approval process to go through, but the uses would be allowed.

Councilmember Stirling asked, if at that point, would it be basically up to the Town to rectify any problems with the bridge and transportation once that is done?

Scott Messel said if he was proposing to put in a Maverick, it is easy to perceive the traffic would greatly increase on that road. You could, at that time, require a traffic study. The improvements would then be needed, whether it is the applicant funding it or working out something with UDOT to do those improvements, to bring it up to standards that would be needed because of the traffic generated.

Councilmember Stirling asked if that would be the Planning Commission that would have to do that, or would it be Town Council.

Scott Messel said the land use authorities. It would be Town Council with recommendations from the Planning Commission.

Mayor Peterson asked if there were any further questions.

Councilmember Roberts made a motion to approve the zone change request on Parcel L-4-1-12-122 and L-94-D for DHP Properties and ZZZ Properties from Open Space (OS) to Commercial (C). 2<sup>nd</sup> by Mayor Peterson. Motion did not pass 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

Mayor Peterson said it does not pass and remains zoned as Open Space at this time.

9. Discussion Items:

a. Short-Term Rentals

Craig Hall said it is a policy decision for consideration during the budget deliberations. He said if it's a priority of the Town to enforce those types of ordinances. It is a policy issue for the Council to decide, and if it is a high priority, you budget for it.

Councilmember Stirling asked if renting a property for a night is a violation of entrapment.

Craig Hall said he would not recommend the Town setting itself up to be a defendant. This is not great policy. He said in the last 3 months, we have had several experiences where it has happened. We are very sure it has happened at least at one location multiple times.

Councilmember Sheltman asked where what has happened.

Craig Hall said short-term rentals. We have enough evidence based on physical evidence plus the advertisement. Advertisement is not illegal, but coupled with other observations that occurred, I would have no hesitation under those circumstances to refer it to our City Prosecutor. Once we fix the ordinance violations, we would be comfortable in doing so. It is a policy issue for the City. If you want rentals for less than 30 days, you need to establish some guidelines. If it is tolerable and within the expectation of the policy with the City and for the residents, then you leave it alone. Again, it comes back to the policy and the decisions you are elected to make.

Mayor Peterson said there are 2 other questions just to get through what was raised at the last meeting. Could the Town require a license to operate and report the number of guests and their arrival and departure dates in advance of the rental to aide in the enforcement?

Craig Hall said he struggles with this because he is not sure if enabling statutes of the State allow us to go this far. We do not require the 2 RV Parks here in Town to do this so we may be getting into some argument of disparate treatment. Certainly, the RV Parks have rentals for less than 30 days.

Councilmember Sheltman said this particular one is being done at other places. Even if you are not going to have someone for the month, it says basically zero. Cities use this for hotel taxes. This is the excuse they use for doing it.

Craig Hall said we can take a look at it. He said if you can tell me where you have seen this, I would be happy to look at it.

Mayor Peterson said the other issue is can the Town make a conditional use permit for a bed and breakfast subject to annual renewal and review changes in the requirements or even the decision to eliminate bed and breakfast as an acceptable home occupation. The idea behind this is if we started allowing this, on most conditional uses, once applied for, they remain in effect. He asked could we make this in terms of an annual renewal so that if we thought the whole idea was not working out with bed and breakfast, where it would be owner occupied for a maximum of 4 guests at a time, that we could correct course the following January.

Craig Hall said the answer is yes. If you license it only as a business, I think you can change your business license regulations. If it is a conditional use, it runs with the land. When you approve a conditional use, you establish a number of conditions, and theoretically, you eliminate the detrimental aspects of that particular use.

Councilmember Roberts asked if we can attach time limits on a conditional use based on a finding.

Craig Hall said generally not because the definition in the State Code of a conditional use is that it is a permitted use that has some unique characteristics and the application conditions to eliminate those unique characteristics or detrimental effects then make it allowable. Once you establish a conditional use, as long as they comply with those A, B, C, D conditions, you are stuck with it.

Councilmember Roberts said where you need to be specific are the conditions themselves. If they commit an infraction of any one of those conditions, then you have the ability....

Craig Hall said to go through a due process hearing to terminate that conditional use.

Mayor Peterson said you could make it a part of a permitted use. A permitted use would be you want to set-up a bed and breakfast subject to the maximums we have provided, but it would not allow for consideration of items like parking that would normally be the conditions that you were looking at.

Scott Messel said one of the things that could possibly be handled similar to what some of the larger cities up north is requiring all rental properties, whether short-term or long-term, to receive a rental dwelling license. I am just throwing this out as an idea. You could handle the bed and breakfast rather than a conditional use which unless they are in violation, you could change your mind and say you cannot do that anymore. You could come up with very specific guidelines attached to your rental dwelling license. The number of applicants could depend on the number of bedrooms or if you come up with parking guidelines like all parking has to be off street and they have to have so many parking spaces or something like this. If it is an absentee land owner or property owner or if it is someone who lives there and they are renting out just a room, you could have different requirements so if there was an absentee land owner, you could require them to have a manager within so many minutes so if there was a disturbance the Sherriff would have means to get a phone number to contact someone



close by to come and shut it down. It acts like a conditional use, but it is not a conditional use.

Craig Hall said if you look at the first paragraph of the document, it seems to indicate that this would be only allowed where there is an owner on-site.

Mayor Peterson said correct. This is our current thinking.

Craig Hall said with a maximum of 4 guests.

Mayor Peterson said there is one other clause that was in Chapter 24.2.5.i and it was if someone was to violate, and ends up with us immediately revoking the license, would we also be able to impose a 5-year prohibition on any home business being operated from that residence?

Craig Hall said we may have somewhat of a moratorium, but I think 5 years is much too long. For example, if you are convicted of a crime, Class B or misdemeanor, probation would be only a year. We would need to have some further discussions.

Councilmember Sheltman asked if this is a legal opinion or just your opinion.

Craig Hall said it is my opinion based on experience.

Councilmember Sheltman said just so you know, Palm Springs does this, and it is permanent. They have had such problems with them, they are hard core on their rules. If you get caught doing it without a license, you are never allowed to do it again.

Craig Hall said that is a business license. In the State of Utah, the position of our Supreme Court, a permanent ban or prohibition would not be well looked at.

Councilmember Sheltman asked if this is his legal opinion.

Craig Hall said yes. A reasonable period of time is okay, but you will have to decide what reasonable is.

Mayor Peterson said there is another angle, and not just the reasonable period, but also the idea it is on that property, with the concern being that there are many instances of the property having the exact same occupants, and in effect, beneficial owners, but changes that are provided to the name in which the property is held. The concern that I would have is if all they had to do was put their middle initial back on the deed that you would then be subject to a change in ownership.

Craig Hall said I do not think so. It is substantially the same individual. I do not think this would be a problem.

Mayor Peterson asked what if they were to sell the property. He asked if a 1-year ban, which you said you would be comfortable with, would a 1 year ban be allowed and enforced on the sale of a property which would be a further incentive to not to break the rules.

Craig Hall asked to a third party not related to the owner.

Mayor Peterson said correct.

Craig Hall said I think we would have a hard time black balling that particular property.

Mayor Peterson asked for 1 year.

Craig Hall said for 1 year provided that there is no relationship between the buyer and seller.

Mayor Peterson said so we would need to work the language more on the ownership and how a change in ownership must be defined somehow.

Craig Hall said yes. We could come up with some language.

Mayor Peterson said his concern right now is that there is a strong relationship between the type of people who would be happily violating an ordinance and the people who would happily change the name of ownership on their deed to avoid any kind of penalties.

Mayor Peterson asked if there were any further questions from Council.

Councilmember Sheltman said let's say we look at costs and benefits, and we decide we do not want to do it. We outlaw it. He asked can we do this.

Craig Halls said yes, St George has. St George does not allow short-term rentals. Santa Clara does. They have whole subdivisions for short-term rentals. Some of the structures being built have 6 or 7 bedrooms. In some places in St George, the CCRs prohibit them.

Councilmember Sheltman asked if in St George have there have been any legal feedback for outlawing them.

Craig Hall said not in areas where an HOA is active.

Mayor Peterson said one of the questions is there a risk going forward given the wisdom of the Legislature to prohibit prosecution of someone solely on the basis of advertising a short-term rental. My understanding is that legislation was introduced with more stringent prohibitions on limiting the activity.

Craig Hall said he thinks this is correct. I believe it was 2 sessions ago that they did this. He said he has not seen any bills this year regarding short-term rentals. However, there are 400 bills out there.

Scott Messel said often League of Cities and Towns will follow land use bills.

Craig Hall said there was nothing as of this morning.

Scott Messel said last year they were trying to say municipalities have no right to stop them or regulate them, but they ended up backing off.

Craig Hall said we still have until the end of this week for new bills to be introduced.

Councilmember Stirling asked if St George prohibits short-term rentals, not bed and breakfasts.

Craig Hall said that is correct.

Councilmember Stirling asked if bed and breakfasts are a conditional use in St George.

Craig Hall said he does not know. He will have to check on it.

Councilmember Stirling asked if they specifically have, to your knowledge, in St George, bed and breakfasts in residential or is it more commercial like around the downtown area.

Craig Hall said he does not know.

Councilmember Sheltman said that would be helpful to know.

Craig Hall said he will call the St George City Attorney and find out.

Councilmember Sheltman said we are back to the same place. What we are being told is that we will have to cover the cost of this. It brings tourists in, but what do we get out of that? We do not have anything they spend any money on here. Maybe buy a coke or some chips. He asked what will we get out of this. It looks like it will be a net loss as far as the expense. It goes back to enforcement. It will take a lot of time and cost some money. Key West and Palm Springs make a ton of money off of this. It brings in several hundred thousand dollars a year. But they are set-up for it. We will not have any money coming in, but instead, money will be going out.

Councilmember Sheltman said bed and breakfast is not flushed out at all. We have never really addressed it and that can be changed. It was put in there and it can be removed. This is a problem because of the economy and economics of the country now. Large groups buy a bunch of them and they rent them out short-term. It will not get better. He said housing is not looking really good this year and it could get a lot worse. He said he does not see a benefit in this. I see a benefit for the people who do it. It might be a way to keep your house, as opposed to losing it like a lot of people did 10 years ago. I do not see a benefit for residents in this town other than having hotels next to your house. Even if it is a bed and breakfast, you still have strangers living there. Again, every place doing it loves it and they are doing it because they make a lot of money off of it. We will not. I do not see how this will be a benefit financially for the Town.

Councilmember Stirling said the interesting thing is we have more short-term rentals in the RV parks versus the number of people using the bed and breakfast option. I do not see that much of an influx of any type of profit for anyone in Town. I have to agree with you on that aspect. Although, from the point of view on the Silver Reef Museum, does anyone from the museum feel the need, especially during the times they have symposiums, do people come and need a space? This is the only thing we have in Town where we bring in a ton of people, up to Silver Reef. I think a lot of people in that area saw as many people who were coming into Silver Reef. They have brought in so much commercialism at Silver Reef and the exit has come to Silver Reef. They probably feel if it is commercialized up there, why can't I have a short-term rental. The only aspect is that area has been commercialized and there are a lot of people who go up there versus the fact that would be the only aspect of overnight bed and breakfast or short-term rental for that area that I can see.

Mayor Peterson said what he sees from a status quo standpoint, as a conditional use we currently permit bed and breakfast. There are none that have been granted at this point in time. We do not permit short-term rentals and yet we still have an enforcement issue. And it is still costing us money.

Mayor Peterson said no new legislation is for this year, but my concern is that there was not a lot of lead-up 2 years ago when it was introduced in a much stronger form that thou shall not advertise and be penalized.

Craig Hall said that was because of some real significant complaints and episodes in various cities. He said he does not think this is a concern.

Mayor Peterson asked Council if they have an issue with short-term rentals with the way things currently are. He said he has received complaints about them.

Councilmember Roberts said he thinks they do. The first thing we need to establish is this something we want to allow, and do we want it to be written that it is permissible, which exists right now under bed and breakfast, not a short-term rental. The other thing I would caution is if we decide we do want the ability to allow individuals that opportunity with their properties, a conditional use may not be where we want those stipulations. We should probably rethink that those stipulations reside in the business permitting process. We should fine tune it there and pull it out of conditional use.

Mayor Peterson asked if the business dwelling license that was raised before should be an alternative to conditional use.

Councilmember Roberts said if we decide this is something we want to allow, we should move in that direction and pull it out from conditional use. I would not be in favor of that running with the property because it surely needs to be a permit that the individual, at that moment, is wanting to conduct that kind of business. If the ownership of that property changed then there is nothing attached to that property. Here again, the very first thing is this truly something we really want to do? He said he is in favor of, as a general rule, people utilizing the use of their property that benefits them, but you have to keep in mind while talking about short-term rentals, they are in residential areas. A residential area is a residential area. It is not a commercial area. It may sound harsh, but someone who really wants to do a short-term rental probably should open up a motel somewhere. Be a motel.

Councilmember Sheltman said one of the questions early on was what will enforcement cost and can we cover it. What you are saying tonight is not really. It is a cost we will have to incur and put it in the budget somewhere.

Craig Hall said there is no expectation of reimbursement.

Councilmember Sheltman said we also do not have a police presence. People are okay with this, but it is another example of if you have a problem, you will not have local police to show-up to deal with it. The Sherriff is really great here, but they do not have a vested interest in the community like a police officer getting paid by us to patrol the area. If not having them works for St George, maybe we should look into that.

Craig Hall said he will verify this.

Councilmember Sheltman said please check to see if they are doing bed and breakfasts.

Craig Hall said he will check on short-term rental versus bed and breakfast and look at the definition.

Councilmember Stirling said she has to disagree about the Sherriff not having a vested interest. She said every Sherriff who has been to their property for whatever reason, they have a vested interest in this area. Some of them live here, maybe not here, but in the vicinity. With the situation that was going on with Silver Reef, what was done to rectify the problems that people were seeing or the noise ordinance?

Mayor Peterson said they were notified in advance of any of the rentals that they would be in violation of Town Ordinances. They were made aware every step along the way. There is a 2-year Statute of Limitation on prosecuting someone for a land use violation.

Councilmember Stirling said she heard from quite a few people that there were disturbances. She asked if this cost the Town anything when that was happening on Silver Reef Road.

Mayor Peterson said there were many people who were contacted as the number of cars grew at one particular rental. There was another where people had moved the basketball hoop, which was movable, close to the road so that the game was in the road. Yes, there were complaints related to what was going on as a result of the activity there.

Councilmember Stirling asked if it cost the Town anything to do something about it or was nothing done.

Councilmember Roberts said the answer to your question is law enforcement was not called. There was not a substantial issue to bring in law enforcement for what was transpiring.

Craig Hall said it was more of a civil issue, not a direct crime. The Sherriff Department cares about the Town, but these types of situations are not high on their priority. It is a conflict between residential usage and that is really a zoning issue. This is where you are vested with the authority to decide what the policy is regarding land uses. These are tough decisions.

Councilmember Stirling said she has to agree with some of the statements made tonight about land use. If we do decide to do any kind of short-term rentals, I think we would be able to put something in there where it says that there is a maximum of 4 people. She said she understands the aspect of being able to have the proper relationship with the Town and the police, but if you have only 4 people, or even 2 people depending on what the Fire Department says, we will not have as big an issue as we would if we allowed 30 people. If we are able to allow people to have their rights of what they like to do, if it is only a 2 or 4 person maximum, I think that would work. She said she really hates to tell people that they cannot do something with their property. She said she does not think this right. You can set limitations to what our Town can absorb.

Mayor Peterson said along the lines of a bed and breakfast, I think it is telling that even though we currently have it as a conditional use on residential property that nobody has chosen to do it. He said he thinks the reason why we have had the issues here has been that it has been the people who are renting it without being present. He said he thinks it is a hurdle to people to say they want to have strangers in their house paying them a little money, or a lot of money, in order to stay there. We have not seen a huge influx of people to say they want a conditional use permit and we are willing to follow these rules and now I have one. He said he does not see where permitting them and specifying what can be done is a problem. We do not currently say a maximum of 4. He said he likes what was mentioned by Scott Messel about the idea of a rental dwelling license to get it out of conditional use, and I do not think we need to be as punitive as I would with regard to if you violate, you may not do it for a period of time. We should go as far as we can with that just to say to people if you are going to do this, you need to do it according to the rules. He said while he appreciates the enforcement concerns, the point I come back to is where we are right now, we have concerns about enforcement and the cost. This clarifies what we already allow, making it very specific with regard to limits, fire inspections and the like that we are not making the situation worse, I think it is better. Although I have heard that it is a low probability event that you would have some future decision made that would make it challenging to be able to regulate short-term rentals. My concern with it from what I have seen is that there is a fairly large market out there with very large individual players who have a vested interest in trying to see if they can make short-term rentals permissible. He said he knows certain realtors who have tried to focus some of their efforts saying these are great investment opportunities. You already own one home, buy another and use it as a short-term rental. There are groups out there that have a history of being very interested in Legislation, and I am not ready to assign a zero probability to it. He said he does not like the idea of totally prohibiting it. We currently permit it under a conditional use, and we have not had an issue with that. I would like to see if we can tighten that up,

but I am not sure we have consensus. From the right side, there is if it is a bed and breakfast set-up the right way it would be okay. I am not trying to speak for you; I am trying to summarize it to see what the next step is. He said Councilmember Sheltman is interested in seeing what St George is doing.

Councilmember Sheltman said when a person buys a house, at least until about 5 years ago, the expectation was you would be able to live in a house with neighbors around you, not living next door to a house that is a short-term rental. That is a hotel. By any definition, that is a hotel. He said you need to look at those people, too, as far as the people in the community who are against it and they have a good reason for it. Again, we do not have any enforcement, and this will be the most difficult part of it. We do not have a police officer that comes here and oversees the Town. We have not had one for about 12 years. This is my concern and I am not sure it is beneficial to the community. We have had 2 examples since I have lived here of short-term rentals that were not being done legally and they were a nightmare as far as the people and the abuse they caused to the neighbors. If you live in a place that has tourists, you figure out pretty quick that it is not a good place to be most of the time. People turn off their brains, they go deaf and things get louder, and they make a lot of noise and cause a lot of trouble. He said he does not know if this is a good enough reason to say we should not have them here. This is something that stays in the back of my mind because I have lived through it. It is not like you are moving next door to a trailer park, you are moving next door to a hotel. If you live next door to a baseball stadium, you have the lights and the noise, but my attitude is maybe you should have thought about that. If you do not like golf balls hitting your house then do not live next to a golf course. In this case, people in Town did not move next door to a hotel. They moved to a residential neighborhood. He said he is not sure it is fair to them to do this. This is a great way to make some extra money, and if the market falls apart, instead of losing it to foreclosure, you might want to try doing a short-term rental to keep your head above water until things get better. These are the issues I am looking at on it. It is all about enforcement and cost of enforcement. It does not look like we can cover that.

Mayor Peterson said with respect to a bed and breakfast, the fact is, if someone moved into Town anytime in the past 10 plus years, the neighbor's ability to have a bed and breakfast might have been regulated by CC&Rs, but was not regulated by the Town.

Councilmember Sheltman said he is not sure people know this. He said he did not think about drinking water when he moved here. It is the same kind of thing. He said he did not think about bed and breakfast when he moved here. Again, we put that in, but all it says is bed and breakfast. We can just as easily remove it if we decide that is the best thing to do. He said you are making good points; I am just on the other end of thinking out loud about it. We have been discussing this for a while. He said the more research he does, and the more I look into it, I am not sure this is a good idea. Again, revenue is one thing you cannot argue with, but I do not see us bringing in any on this. And it looks like after tonight, after the advice we got from legal, it looks like we will not make any money off of it. We will just be spending money and I understand you have to do that whether you allow it or not. You made that point and it is correct. If you outlaw it, word will get out that you cannot do it.

Mayor Peterson said it does not make sense to do a lot of hypothetical what if the answer is with regard to the inquiry about St George. He asked if Council wants to take this up again in a month after we get a response on this at our next meeting. At that point, we can decide what we want to ask Counsel to be doing, if anything. If we do not wrap this up at the first meeting in March, we can proceed with whatever path we think makes sense.

Craig Hall said he would like to suggest doing one other thing. I can contact the City of Santa Clara and ask them for a report on enforcement incidents or problems in their community. We can probably find out what their experiences have been.

Mayor Peterson asked if it would be better for him to ask the Mayor if he has such a thing before we submit a GRAMA request.

Councilmember Stirling said Washington City probably has more than Santa Clara. There are some out in Washington Fields and off of Exit 13. There is a huge, tremendous amount off of Exit 13.

b. Fines and Forfeitures

Mayor Peterson said he mentioned this at the last meeting. It is 2 pages relative to issues to consider. It was circulated by email to Council in advance. This is something that was provided by Craig Hall and his associate as a proposal for considered changes.

Craig Hall said this proposal is being submitting because Town Prosecutor is uncomfortable with what penalties are provided presently in the Town Code. She said they are not specific enough and she is afraid if we take them to the Justice Court, whether Washington County or a City Justice Court, that the judge would have problems imposing the fines as presently stated in our ordinances. The second page of the memo is about 5 paragraphs long, 4A thru D, satisfies at least the Town Prosecutor at this point, and as I understand it, she has run it by, informally, some Justice Court Judges and they would be comfortable if, in fact, we enacted the code enforcement provisions that we talked about in the past or other non-motor vehicle crimes or crimes against people who would be able to get the appropriate fine, and, necessary, at the Justice's discretion, jail time. Rachel, Town Prosecutor, said she is comfortable with the proposal on the 2<sup>nd</sup> page which solves the technical issue that we have right now.

Councilmember Stirling asked him if he can give another example of other ordinances that this would be for as well.

Craig Hall said he is working on a car lot right now with abandoned vehicles. We could charge them criminally and impose a fine and an order from court for removal over a particular period of time. He said he did not think any Justice Court Judge would put an owner in jail for 6 months because he has abandoned cars. Some of the code enforcement issues that we talked about is trash, debris, nuisances and dogs running loose, land use violations and business license violations. He asked if there are any establishments in Town who sell alcohol.

Councilmembers said yes. There are 2 in Town.

Craig Hall said you can add selling alcohol to minors, etc.

Councilmember Stirling asked if he finds these a little steep.

Craig Hall said no. This is the State Statute.

Councilmember Stirling said if someone has some type problem in their front yard that they would have a Class B misdemeanor.

Craig Hall said no, not necessarily. We have not categorized the violations yet. This is yet to be done.

Councilmember Stirling asked if anyone who has trash in their yard would, inevitably, have to go to court over it.

Craig Hall said they could. Or we can take a civil route. We had this discussion a month or so ago. There are 2 roads, the criminal route or the civil route.

Councilmember Stirling asked what does the civil route constitute.

Craig Hall said civil fines can be \$25 on a daily basis for a violation and, instead of going to civil court, we can have a Hearing Officer who would have the authority to impose a civil fine of \$25 per day or \$50 per day, whatever policy you want to establish. You have the criminal route and the civil route. The civil route has been used very effectively in a couple of cities up north.

Councilmember Stirling said just for the record, she is completely against the criminal part. She does not believe in any way, shape or form that we should give someone a Class B misdemeanor with a \$1,000 fine and then 6 months in jail. I am not for that at all.

Craig Hall asked what if it was an infraction or Class C misdemeanor.

Councilmember Stirling said not criminal. She would do civil.

Craig Hall said this would be a good discussion to have. This is why there are 2 roads.

Councilmember Stirling said she would 100% go civil, but never criminal.

Craig Hall said criminal would cost less money.

Councilmember Stirling asked at what cost for our citizens.

Craig Hall said it depends on the violation. He said for example, you told me tonight you are in farming. Farming has a lot of potential issues. You also might have animal abuse. We need to have violations in place to take care of those type of situations. Presently, the potential violations are not adequate to take to the Justice Court.

Councilmember Stirling said we also do not have an animal enforcement officer here. She asked if this would be County to do this type of thing.

Craig Hall said they would still be filing on behalf of the City because you are incorporated. He said these are just examples.

Councilmember Stirling said for the citizens, it is a little too far for our community.

Mayor Peterson asked if there were any other thoughts.

Councilmember Sheltman asked if every other town does the maximum.

Craig Hall said they set the limit according to the State Statute. It just needs some direction.

Mayor Peterson asked Councilmember Roberts if he has any thoughts.



Councilmember Roberts said it sounds kind of callused, but to get people's attention, you have to hit them in the pocketbook. This is just the nature of people. I would steer more towards a criminal direction. It sounds pretty harsh.

Councilmember Stirling asked if you can still do the same pocketbook scenario with civil instead of criminal.

Craig Hall said the answer is yes, but the civil fines have to be established on a daily basis so it would take a lot of effort to keep track of it on a daily basis. Getting back to Councilmember Sheltman on cost of enforcement, we have a Town Prosecutor and there is a forum by which the Prosecutor can bring these cases to fruition. This would be the least expensive and people are oft times more responsible to the payment of a fine imposed by a judge versus a hearing officer so we do not have a collection issue.

Craig Hall said let me suggest just one thing. I think it is important for City Council to establish framework for criminal violations in case they occur. I urge you to adopt the language, not in ordinance form for adoption tonight, but to adopt the criminal penalties possible so that we have that tool in our tool box. Not that it will occur, we need to go through our code enforcement program that we talked about a couple of months ago and adopt something. At that point we can worry about which track will be taken. But there are certain violations that need the possibility of filing a criminal action. Presently, Rachel, the Town Prosecutor, is uncomfortable with the ordinance that we have on fines and forfeitures. We need to put this in our tool box whether we use it or not. This is my recommendation.

Mayor Peterson said with respect to warnings, I spoke to you about this when I first saw it in terms of just responding, it seems harsh, but is it possible to just warn. If it becomes part of the initial process, does it become an issue or becomes acceptable?

Craig Hall said acceptable. Let's use the car lot. The only notices that have been sent are the nasty grams from our office and they appear to be working. I would much rather do it this way than come out and we are going to send you a misdemeanor citation and we will see you in court in 30 days. This does not endure anyone to fix the problem. They plead not guilty and we have a jury trial. If it takes 60 to 90 days, the violation is still out there accumulating. It does not solve the problem. He said he likes warning notices and nasty grams. I like developing relationships with individuals to come into compliance. This is the way to do it.

Mayor Peterson said the actual ordinance would not refer to warnings, but they could be issued.

Craig Hall said absolutely. That is a policy of City Council.

Scott Messel said you could end up writing one letter and then be nice and send another letter via certified mail. Each time you are giving them more chances. In the second letter, you can say this is being turned over to our attorney's office.

Mayor Peterson asked if the daily punishment would be back to when they started the violation if the nasty grams or warning letters did not resolve the issue.

Craig Hall said you set a date when fines will start accumulating.

Mayor Peterson asked when does the fine begin, only after the court determines it. He said, so it goes forward after that date.

Craig Hall said that is correct. We need the violations and ordinances and the scope, but then we need the code enforcement ordinance. We need the structure before we can do anything.

Mayor Peterson asked if Council has any direction or would Council like to voice an opinion. Or will we discuss this further after giving it additional thought. He asked what is Council's preference.

Councilmember Stirling said she would like to think more on it.

Mayor Peterson asked 2 weeks, the next meeting. Do we want to discuss it again? He asked Councilmember Sheltman if he has a different idea.

Councilmember Sheltman said we have talked about this a long time. It looks like a good framework to me.

Councilmember Roberts said he is comfortable with the framework.

Craig Hall said he will draft an ordinance for your consideration.

Mayor Peterson said this is not related to land use so it will not require a Public Hearing.

Craig Hall said correct.

Mayor Peterson said this does not mean we will not welcome comments from the public as we do on all topics. Just from the standpoint from the legal noticing and the like, we will not go through that process.

#### 10. Citizen Comments:

Lynn Potter said this is in regard to some of things just mentioned about the junk yard down the road that you are trying to motivate. I am not sure your efforts have helped, but he is moving his product to his new place in Cedar City. He promised me he would move the vehicles off of my property by Christmas. He moved the nice product that he could deal with up in Cedar City, but he left all the junk and nothing has happened since Christmas. He said you guys need to hammer this like getting liens on the property. He asked how do I get him to move the junk off of his property.

Craig Hall said you need to talk to the property owner in Texas and get him to do it. If not, pay to have it moved. He said they are down to 7 vehicles versus 30 or 40 that were there 3 months ago.

Lynn Potter said there are 4 abandoned boats in the back of his property and 2 of them are on his property. You guys are doing a good job watching it. I commend you on it. He said he would like another minute to talk about vacation rentals. Your concerns are completely valid. It is horrible having people next door partying. My suggestion is to go ahead and outlaw it with an exception zoning overlay over all of the City. It could require minimum acreage to do it. If you have 100 acres, no one will care if you have a party going on. You would have to set the limit. I have heard of other towns doing overlays. He asked if this is possible.

Susan Savage said her financial advisor who lives in Toquerville thinks they have the strictest regulations on short-term rentals. You may want to talk to them when talking to other communities. They have a limit on the number of people, they have to have off-street parking and their enforcement is a fine for the first complaint, a higher fine for the second complaint and you lose your business if there is a third complaint.

Mayor Peterson said he will add it to the list of people to contact.

Darryl Lewis said at times tonight he thought you were talking about New York or San Francisco or maybe LA, not a Town of 840 citizens. I would like to make some comments about short-term rentals and some comments about fines and forfeitures. Like Councilmember Roberts said at one time about zoning change, when you change to commercial you are opening the door to anything that comes under the heading of commercial. And when you authorize short-term rentals, you are authorizing rentals to anyone. It could be a 55 year old couple celebrating their anniversary or it could be some drug addict getting away to have a party. You need to be aware of this and think about it. I am concerned that so much conversation was about what the City would receive from short-term rentals and not enough concern about what a citizen of our Town might have to forfeit in their lifestyle and in their right to expect peace and quiet in their residential district for having this entity next door to them. I agree with Councilmember Roberts that it should not go with the land. It should go with the owner of the property. The land cannot rent and it doesn't make the decision on who to rent to. I think we are bringing the potential of low life into our Town.

Darryl Lewis said at one point, I received a promise from the Mayor, and correct me if I am wrong, but that you would make available these drafts available to the public so that we, as citizens, can follow the process and make comments in an intelligent way rather than having to guess as we go along. He said he would appreciate it if you could make more of this information available because we potentially are the people who will suffer from it.

Darryl Lewis said regarding fines and forfeitures, it all sounds like Russia to me. When I hear criminal and these kinds of things passed around for garbage cans that are left out too long on the street, I get a little infuriated. I know that there are people sitting here on City Council who are aware of City officials who are currently breaking the law – zoning laws as well as other laws. And nothing is being done about it. I do not know why we are concerned about more laws for the average citizens when people in positions of power in this Town break the law and nothing is done.

Kohl Furley, Hurricane Valley Fire District, said he wanted to give the citizens of Leeds an update on how the Fire District is doing. Currently, we stand at 355 calls for service since January 1<sup>st</sup>. I also want to let you know that March 1 – 15 will be open burn season. This is mainly kept to a few specific things such as ditch banks, field stubble, tree prunings and some various other items. No man made materials or garbage. A burn permit can be obtained through our website which is [hurricanevalleyfire.org](http://hurricanevalleyfire.org) or if you see someone burning something or if a nuisance occurs, you can call the Fire Dispatch Center non-emergency number which is 435-627-4949. Lastly, we are above our annual snowpack percentage. This brings up the question of if we receive a large amount of rain in a short period of time, what will happen. The Hurricane Fire District has sandbags available if needed. The sand is behind the fire station and shovels are also available for use.

11. Staff Reports:

Councilmember Sheltman said the trees at the park will not make another year without more water.

Mayor Peterson said we do have the grant and Antonio, our Public Works worker, is working out an irrigation system there that will address the water needs of the trees. We are working on it.

Mayor Peterson said meetings have been heavily focused on transportation. There was a transportation expo yesterday at the Dixie Center. It seemed to be very well attended. They showed all of the things being done at Exit 16. This will be a very extended project. In the end, there will be 2 lanes for the entrance ramp as you head south bound and 2 lanes for the exit as you head north bound.

Mayor Peterson said on a local basis, for the first time in perhaps 3 decades, there was actually water on Highway 91 north of Silver Reef Road. It was pointed out to me. I was able to get UDOT out here and UDOT was able to figure out the 100 foot section that had been slightly misgraded when they did the expansion on I-15 this past summer. Yesterday, they were able to get out with their equipment and regrade that stretch. The flooding on Highway 91 should not repeat.

Mayor Peterson said there were over 70 letters sent to people along Main Street. In order to reduce the kinds of conflicts they had the last time Main Street had a new surface put on it, which was about 6 or 7 years ago, where people would say I felt vibrations while the work was being done and I now have cracks in my foundation, cracks in my ceiling and cracks in my walls. This is the basis for the survey inspection that they will be doing this time. They are asking property owners to schedule a video survey. The insurance company involved is insisting that this be done by Landmark, an independent testing engineering company. The purpose of the video is to document any existing damage. In addition to the upgrading of the new road surface, they will upgrade the handicap accesses to the sidewalk areas to make sure they are current with the specifications provided for 2019. The thought that there is a storm pipe or a water line being put under Main Street is inaccurate. If you have any questions or know of any problems, please let me know.

12. Closed Meeting: None

13. Adjournment:

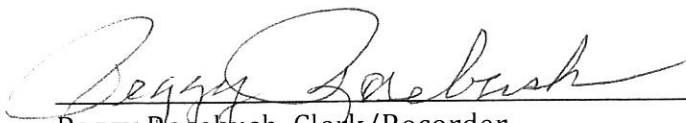
Mayor Peterson adjourned the meeting at 8:47 PM.

APPROVED ON THIS 27<sup>th</sup> DAY OF February, 2019



\_\_\_\_\_  
Mayor, Wayne Peterson

ATTEST:



\_\_\_\_\_  
Peggy Rosebush, Clerk/Recorder