

Town of Leeds

Agenda Town of Leeds Town Council Wednesday, May 24, 2023

PUBLIC NOTICE is hereby given that the Town of Leeds Town Council will hold a **PUBLIC MEETING** on Wednesday, May 24, 2023, at 7:00 pm. The Town Council will meet in the Leeds Town Hall located at 218 N Main, Leeds, Utah.

Regular Meeting 7:00pm


1. Call to Order/Roll Call
2. Invocation
3. Pledge of Allegiance
4. Declaration of Abstentions or Conflicts
5. Consent Agenda:
 - a. Tonight's Agenda
 - b. Meeting Minutes of April 26, 2023
 - c. Meeting Minutes of Work Session April 26, 2023
6. Citizen Comments: No action may be taken on a matter raised under this agenda item. (Three minutes per person).
7. Announcements:
 - a. Election and Dates for Filing a Declaration of Candidacy, June 1 through June 7, 2023
8. Public Hearings: None
9. Action Items:
 - a. Resolution 2023-01, Acknowledging Receipt of and Adoption of the Tentative Fiscal Year Budget for the Town of Leeds and Setting the Date for the Public Hearing, June 14, 2023
 - b. Resolution 2023-02, Restricting Access to ACE Complaint Records
 - c. Discussion possible action regarding Designation of Restricted Area for Fireworks
 - d. Resolution 2023-03, Modify Oak Grove Road Speed Limit to 25 mph.
10. Discussion Items:
 - a. Discussion regarding compliance for SLFRF/ARPA funds spending.
 - b. Updating Ordinance 2009-21, Consolidated Fee Schedule
 - c. Peach Days scheduled for August 31, 2023, Leeds Seed Display
 - d. Planning Commission appointments
11. Citizen Comments: No action may be taken on a matter raised under this agenda item. (Three minutes per person).
12. Staff Reports:
13. Closed Meeting- A Closed Meeting may be held for any item identified under Utah Code section 52-4-205.
14. 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 Leeds Town Hall on 879-2447 at least 24 hours prior to the meeting.

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

Certificate of Posting.

The undersigned Clerk/Recorder does hereby certify that the above notice was posted May 22, 2023 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.**


Aseneth Steed, Clerk/Recorder

Town of Leeds

Town Council Meeting for Wednesday, May 24, 2023

Regular Meeting 7 PM

Call to Order/Roll Call: 7:00

ROLL CALL:

	<u>Present</u>	<u>Absent</u>
MAYOR: BILL HOSTER	X	_____
COUNCILMEMBER: DANIELLE STIRLING	X	_____
COUNCILMEMBER: RON CUNDICK	X	_____
COUNCILMEMBER: STEPHEN WILSON	_____	_____
COUNCILMEMBER: KOHL FURLEY	_____	_____

Town Planner Scott Messel present

Invocation: Councilmember Cundick

Pledge of Allegiance: Councilmember Stirling

Declaration of Abstentions or Conflicts: None

Approval of May 24, 2023, Agenda

Councilmember Cundick moved to approve tonight's agenda of May 24, 2023. Second by Councilmember Stirling .

Motion passed in a Roll Call Vote.

ROLL CALL VOTE:

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
MAYOR: Bill HOSTER	X	_____	_____	_____
COUNCILMEMBER: DANIELLE STIRLING	X	_____	_____	_____
COUNCILMEMBER: RON CUNDICK	X	_____	_____	_____
COUNCILMEMBER: STEPHEN WILSON	_____	_____	_____	X
COUNCILMEMBER: KOHL FURLEY	_____	_____	_____	X

Town Council Meeting Minutes of April 26, 2023

Councilmember Cundick moved to approve tonight's agenda of April 26, 2023. Second by Councilmember Stirling .

Motion passed in a Roll Call Vote.

ROLL CALL VOTE:	Yea	Nay	Abstain	Absent
MAYOR: Bill HOSTER	X	_____	_____	_____
COUNCILMEMBER: DANIELLE STIRLING	X	_____	_____	_____
COUNCILMEMBER: RON CUNDICK	X	_____	_____	_____
COUNCILMEMBER: STEPHEN WILSON	_____	_____	_____	X
COUNCILMEMBER: KOHL FURLEY	_____	_____	_____	X

Councilmember Stirling moved to approve the Work Session meeting minutes of April 26, 2023. Seconded by Councilmember Cundick. Motion passed in a Roll Call Vote.

ROLL CALL VOTE:	Yea	Nay	Abstain	Absent
MAYOR: Bill HOSTER	X	_____	_____	_____
COUNCILMEMBER: DANIELLE STIRLING	X	_____	_____	_____
COUNCILMEMBER: RON CUNDICK	X	_____	_____	_____
COUNCILMEMBER: STEPHEN WILSON	_____	_____	_____	X
COUNCILMEMBER: KOHL FURLEY	_____	_____	_____	X

Citizen Comments:

Michelle Peot reported during the LDWA board meeting, a matter concerning the ownership of mineral rights for the Silver Pointe Estates was raised. Don Fossen had spoken to the Department of Natural Resources, who informed him that senior mineral rights take precedence over junior development rights. This means that if the uranium mines were to be reopened in the future, they would have the legal right to do so under Utah law. Upon further investigation of public records, it was confirmed that Jerry Glazier's company retained the mineral rights. Michelle felt it is important for the Town to be aware of this information.

Jerry Glazier is the individual who owned 5M Inc., the mining company that acquired all the mines in the area. When the property was transferred, Silver Reef Properties involved Rick Sant, who had a conflict of interest as he was also partnering with Crocker for the development of the adjacent property. Additionally, there may be other investors in Silver Reef Properties, but their identities are not officially listed, apart from Jerry Glazier. She offered to share the quitclaim deed. The only exceptions were given for basement excavations and removal of loose surface rocks for landscaping.

Another resident made a request in the future that the town agenda would not contain acronyms but be expanded in length to provide additional information so that residents can better understand the topics being discussed.

Announcements:

a. Election and Dates for Filing a Declaration of Candidacy June 1 through June 7, 2023

It was stated that the filing and declaration period would be from June 1st to June 7th, with the deadline set at 5 o'clock PM on June 7, 2023. There are two open seats available for the Town Council, and interested individuals can obtain the necessary packets from the clerk's office. These packets can be filled out at one's convenience but must be submitted before the 5:00 June 7, 2023 deadline. The council members encouraged anyone with questions to reach out to them for further information about the responsibilities, demands, and rewards of serving on the council.

Public Hearing: None

Action Items:

- a. Resolution 2023-01, Acknowledging Receipt of and Adoption of the Tentative Fiscal Year Budget for the Town of Leeds and Setting the Date for the Public Hearing, June 14, 2023

The first action item discussed was Resolution 2023-01, Acknowledging Receipt of the tentative fiscal year budget for the town of Leeds. It was announced that the public hearing for this matter would be held on June 14th, 2023. The council members were provided with a draft of the fiscal year budget for 2024, and it was noted that a thorough review of the budget would be necessary due to its extensive content.

Mayor Hoster expressed gratitude to Mayor Peterson for his assistance in navigating the budgeting process, as he had provided valuable insights based on his previous experience. It was highlighted that a significant amount of money was allocated for the Main Street project, which was currently under discussion with UDOT to address flood-related issues. The funds earmarked for this project were still intact and had been accruing interest. Due to the high costs during the COVID period, no road projects were undertaken, but prices had since decreased, allowing for potential for the project in the future.

Specific changes and updates were mentioned, including the cemetery project donations and an increase in franchise and price from Dominion. The addition of a code enforcement officer position was also discussed, with estimated weekly hours and hourly rates specified. The council members considered investing in another vehicle for the streets and parks department, allowing the current truck to be repurposed for code enforcement activities.

Further details were shared regarding engineering services, anticipating projects along Oak Grove, and reviewing proposed developments in the town.

The Council considered adding a code enforcement officer and a new vehicle for streets and parks. The budget includes an estimate for the code enforcement officer's wages, and the council discusses the need to separate this item in the budget.

Mayor Hoster said they anticipate better clarification on the Main Street project after discussions with UDOT and expect cost savings on water line and catch drains as the material prices are slowly recovering from the pandemic. They also mention an increase in engineering services to accommodate anticipated projects along Valley and Main Street.

Mayor Hoster said he expected more clarity from UDOT after Friday's meeting, the council anticipated utilizing the abandoned water line for catch drains to mitigate flooding and potentially save costs.

The budget proposal will be open for public hearing on June 14th, 2023, providing the council and the public with an opportunity to suggest amendments. A brief discussion about liquor license permits ensued, with the understanding that they were renewed annually and incurred a total of \$400 per license in 2023.

The council members were encouraged to review the budget thoroughly, and any amendments or recommendations could be addressed before the public hearing.

Councilmember Cundick made a motion to accept the Tentative Fiscal Year Budgets for the Town of Leeds and set a Public Hearing for June 14, 2023.

Councilmember Stirling seconded the motion

Motion passed in a Roll Call Vote.

ROLL CALL VOTE:	Yea	Nay	Abstain	Absent
MAYOR: BILL HOSTER	X	_____	_____	_____
COUNCILMEMBER: DANIELLE STIRLING	X	_____	_____	_____
COUNCILMEMBER: RON CUNDICK	X	_____	_____	_____
COUNCILMEMBER: STEPHEN WILSON	_____	_____	_____	X
COUNCILMEMBER: KOHL FURLEY	_____	_____	_____	X

a. Resolution 2023-02, Restricting Access to ACE Complaint Records

The next action item is Resolution 2023-02, which restricts access to ACE (Administrative Code Enforcement) complaint records. The resolution aims to maintain transparency and openness while protecting the privacy and confidentiality of individuals involved in making a code enforcement complaint. The council reviews and approves the resolution.

Councilmember Cundick made a motion to approve Resolution 203-02, restricting access to the Administrative Code Enforcement complaint records. Councilmember Stirling seconded the motion

Motion passed in a Roll Call Vote.

ROLL CALL VOTE:	Yea	Nay	Abstain	Absent
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MAYOR: BILL HOSTER	X	_____	_____	_____
COUNCILMEMBER: DANIELLE STIRLING	X	_____	_____	_____
COUNCILMEMBER: RON CUNDICK	X	_____	_____	_____
COUNCILMEMBER: STEPHEN WILSON	_____	_____	_____	X
COUNCILMEMBER: KOHL FURLEY	_____	_____	_____	X

b. Discussion possible action regarding Designation of Restricted Area for Fireworks

Mayor Hoster said the next action item is to discuss and possibly act regarding the designation of a restricted area for fireworks. We have been informed that a private citizen, Mr. Brian Hanson, has offered his property for hosting fireworks on the Fourth of July. We need to confirm the date with Mr. Brian. I don't have his address for the record. It is located at the corner of Vista and Main. We will obtain the proper address for documentation purposes.

Scott Messel said there is not a designated address to the vacant lot because there is no house, but the address is 480 North Main for the property owners home not the vacant.

The discussion focused on the designation of the restricted area for fireworks. It would be beneficial to have Councilman Furley involved. Last year, we did not have fireworks due to the drought, but this year, conditions may allow us to proceed. However, the final decision depends on the fire department and the air authority, as they have jurisdiction over fireworks. Assuming both entities approve, and the necessary resources are available, we will conduct the fireworks in this area. Please note that there will be noise, clutter, and parking associated with the event. The council should consider these aspects. The decision to approve the designation will not be made tonight. We can discuss it before making a motion.

Councilmember Cundick said it has been a couple of years since we had fireworks. Unfortunately, the town no longer owns a suitable space, and neighboring spaces are also not available. Fireworks are a positive addition if we prioritize safety with the fire department's involvement. I am in favor of authorizing it if the weather and all concerned parties, including the fire department, permit it.

Mayor Hoster said it could be a commendable year if all the necessary factors align. There are some concerns regarding weeds on the property, but the fire department should be able to address that and ensure it does not pose a fire hazard. As long as the government assesses and provides a recommendation, that should be sufficient. Let's use the corner of Main and Vista instead. It appears that parking might be an issue there, but the nearby strip mall could serve as a parking area, allowing people to view the fireworks from there. We can also inquire about using the big parking area nearby. That's a good idea.

Councilmember Stirling pointed out there may be more parking available along Main Street than near Babylon Mill next to the park therefore parking should not be a major concern. Mayor Hoster observed that It seems like everything is pointing towards authorizing this designation and asked for a motion from the council, pending authorization from the critical fire district authorities, to proceed with the fireworks.

Councilmember Cundick moved to authorize the designation of the restricted area for fireworks at the corner of Vista and Main contingent on the fire District authority’s approval. Councilmember Stirling seconded the motion.

Motion passed in a Roll Call Vote.

ROLL CALL VOTE:	Yea	Nay	Abstain	Absent
MAYOR: BILL HOSTER	X	_____	_____	_____
COUNCILMEMBER: DANIELLE STIRLING	X	_____	_____	_____
COUNCILMEMBER: RON CUNDICK	X	_____	_____	_____
COUNCILMEMBER: STEPHEN WILSON	_____	_____	_____	X
COUNCILMEMBER: KOHL FURLEY	_____	_____	_____	X

c. Resolution 2023-03, Modify Oak Grove Road Speed Limit to 25 mph.

Mayor Hoster said the last action item is Resolution 2023, which suggests modifying the speed limit on Oak Grove Road to 25 miles per hour. Here's some background information: A few months ago, during a Department of Transportation conference, some Leeds residents requested a trail along Oak Grove Silver Reef Road, from I-15 to the Dixie National Forest entrance. The Metropolitan Planning Organization (MPO) received these recommendations and contacted me for further discussion. We examined the traffic count and noticed that there is a legally blind citizen who walks on the road for exercise. Since there are no sidewalks or pathways on the sides of the road, this information was forwarded to the MPO. Additionally, Oak Grove Road is a narrow two-lane road where pedestrians and cyclists are at risk, especially when two cars pass each other or during dawn and dusk. The MPO shared these concerns with me and questioned the current speed limit in that area. The speed limit was previously changed to 20 miles per hour by the former mayor, Petersen, as stated in the Town of Leeds Ordinance 20 1901. However, beyond the Dixie National Forest entrance, the speed limit remains at 35. Considering the safety risks mentioned in the application for a trail and the presence of driveways accessing the road, it makes sense to reduce the speed limit from 35 to 25. This modification would be made to the Town of Leeds Ordinance 2019-01, Traffic specifically addressing the speed limit on Silver Reef Road from Main Street to the point where it forks with Oak Grove Road. After discussing with our town planner, Scott Messel, we

confirmed that the town has the authority to change the speed limit since it owns the road. If you drive under the underpass and head up Oak Grove Road, the speed limit would be 25 miles per hour. The concern raised about limited visibility with the terrain beyond the Y-intersection is valid, but there are only a couple of houses in that area, and once you pass the big curve, the road straightens out, providing better visibility. However, I was informed by the Chairman of the Planning Commission that some individuals tend to speed in that area, reaching speeds of 45 to 50 miles per hour. This behavior is particularly observed by residents who have driveways along that road.

Councilmember Stirling said my argument against reducing the speed limit to 25 mph is that the current limit of 35 is not effectively enforced, and people continue to speed without consequences. She suggested that the Town focus on enforcing the existing 35 mph speed limit before considering a further reduction.

Mayor Hoster said the concerns raised by the MPO and residents about the safety of pedestrians and cyclists on the road are valid, especially since there are no dedicated bike paths or walkways. While driving on the road, it was noted that the two speed bumps are within the 20-mph zone. However, going at 25 mph felt slow, and it was observed that the majority of drivers were comfortable driving at 35 mph. There haven't been any reported incidents of people getting hit on that road, but the MPO and residents have raised concerns about safety. The Council deliberated on the issue and ultimately voted to deny the proposal to change the speed limit from 35 to 25 mph.

Some Council members expressed the need for increased enforcement of the existing 35 mph speed limit and suggested exploring alternative safe routes for pedestrians and cyclists. They highlighted examples of bike paths in other areas that are not subject to a 25-mph speed limit and emphasized the importance of separating bike paths from the main road. The Council acknowledged the ongoing efforts to establish a bike path and agreed that the proposal could be revisited if new information becomes available or if conditions change.

- a. Councilmember Stirling made a motion to deny Resolution 2023-03, Modify Oak Grove Road Speed Limit to 25 mph on the premise that lack of enforcement for the current regulation.

ROLL CALL VOTE:	Yea	Nay	Abstain	Absent
MAYOR: BILL HOSTER	X	_____	_____	_____
COUNCILMEMBER: DANIELLE STIRLING	X	_____	_____	_____
COUNCILMEMBER: RON CUNDICK	X	_____	_____	_____
COUNCILMEMBER: STEPHEN WILSON	_____	_____	_____	X

10. Discussion Items:

a. Discussion regarding compliance for SLFRF/ARPA funds spending.

Mayor Hoster said the first discussion is about compliance with the SLFRF (State and Local Fiscal Recovery Funds) and ARPA (American Rescue Plan Act) funds. These acronyms can be confusing, but I can explain them. SLFRF refers to the State and Local Fiscal Recovery Funds, which are provided to address COVID-19 related needs and support community recovery efforts. ARPA stands for the American Rescue Plan Act, which is the same as ARPA. These funds are received to combat the effects of COVID-19 and must be reported to the federal government. The amount we received is \$103,320, and it needs to be spent based on the guidelines provided by the federal government. We have various options for using these funds, but they should be related to COVID-19. One suggestion is to use the funds for renovating the Town Hall to accommodate the new normal of Zoom meetings and digital record-keeping. Other possibilities include improving audiovisual equipment for better presentations, enhancing access to the clerk's office, upgrading HVAC systems for health and safety, building pickleball courts, improving internet services, supporting community food programs, senior services, job training, small business revitalization, and health and wellness initiatives. We have until December 2024 to decide how to allocate the funds and until 2026 to spend them. If we choose not to spend the funds, we can return them to the federal government. The SLFRF and ARPA funds are essentially the same, and both have the same timeline. It's important to consider the long-term impact and involve residents in decision-making

b. Updating Ordinance 2009-21, Consolidated Fee Schedule

Moving on to another topic, we need to update Ordinance 2009-21, the Consolidated Fee Schedule. The purpose is to potentially increase fees to cover the costs of implementing a code enforcement officer and related activities. Councilmember Stirling said, We should study fees from other communities like St. George to get an idea of the range. Our planner can help with this, and it would be helpful to review the fee schedules of other nearby towns.

Councilmember Stirling said I want to mention that we should consider including fees for handling GRAMA requests (Government Records Access Management Act), as they have caused a significant administrative burden. These requests have increased statewide, and it's important to compensate for the time spent fulfilling them. .

c. Peach Days scheduled for August 31, 2023, Leeds Seed Display

Mayor Hoster said Lastly, we need to discuss Peach Days, scheduled for August 31, 2023, and the need to include the LEEDS seed display. I think the main point of discussion here is that we need someone from Bloom to take the lead on this project. If they decide to proceed with it, coordinating the efforts would require someone to oversee the process. The dimensions we're looking at are four feet by eight feet, which is quite large. It would involve a significant

amount of seeds and time. Personally, I attended the county fair and saw some beautiful examples of such projects. However, our challenge lies in finding volunteers who are available and willing to help, as people are often occupied with other commitments. Our capacity to undertake this project is quite limited. I suggest consulting with BLOOM (Bloom refers to the Beautification of Leeds Outreach Committee) to gauge their interest in taking it on. If they are willing, we can proceed with their assistance. It's not a matter of voting, but rather relying on their involvement. If they decline, it will be nearly impossible for us to carry out the project on our own. So, let's postpone a decision until we've consulted with them and gathered their thoughts. Bloom refers to the Beautification of Leeds outreach committee.

Planning Commission appointments

Mayor Hoster said Ken Hadley's term ends on June 30, 2023. An alternate replaced Jennifer Luft, leaving a vacancy for an alternate position. Additionally, Bill McLaughlin and Miranda Nessen have expressed limited time commitments. So, we have some open positions to consider. However, I suggest waiting for a recommendation from Danny, as he mentioned speaking with some individuals. I haven't received an update on those conversations yet. Unless any council members have specific recommendations for planning commission appointments, we can discuss it privately. For those in the audience, is anyone interested in joining the planning commission? That concludes the discussion on planning commission appointments.

Citizen Comments:

Michelle Peot suggested using the ARPA funds to digitize all the town records.

Councilmember Stirling said I wanted to echo what Michelle mentioned earlier about utilizing ARPA funding to digitize documents. It's challenging to find certain town or LDWA documents, and some minutes are not easily searchable due to indexing issues. Perhaps we could hire summer students who are tech-savvy to assist with the digitization process. Offering internships where they gain experience while helping with the project would be beneficial. It may be worth considering involving an IT person or someone with coding skills to improve the website structure, perhaps using WordPress with customized CSS. Many students are currently on summer break and could be available for this. We should explore creating a dedicated document library rather than having everything on the main website. This would provide better organization and accessibility.

Mayor Hoster said regarding the website platform, we have not made any decisions yet. We are simply considering how the ARPA funds could be utilized for this purpose. We will gather more information from the individual who built the current site

and evaluate if we want to continue with WordPress or transition to a different platform like Civics Plus. The goal is to have a more efficient archive website with improved search capabilities.
starting from my right.

Staff Reports:

Councilmember Stirling gave her staff report. She said , I have been collaborating with Aseneth on the Administrative Code Enforcement process. She has done an incredible job creating the draft, and I've been cross-referencing the ordinances to ensure that each violation is included in the warning and notice of violation. However, it will take a couple more weeks

Councilmember Cundick reported on the water authority ordinance. That was previously tabled. I recently met with some members of the LCWA who expressed concerns and shared their vision for the future plans of LDWA. The main issue at hand is whether LDWA will be able to expand its capabilities to meet the growing water needs of the town and/or if they will need to obtain water from the Conservancy.

He said It is evident that our town is nearing its limit in terms of available water resources. Any additional water we require must be pumped from the ground since we lack a gravity-fed reservoir. The cost of pumping water is quite high, and with each new house requiring water, the strain on pumps increases, leading to higher costs for everyone involved. This cost burden needs to be taken into consideration.

The proposed ordinance suggests that if LDWA needs to expand to secure more water, they could obtain it from the Conservancy as a municipal designated water purveyor. This would eliminate the need for pumping additional water from the ground and provide a secondary, more sustainable water source. LDWA is currently exploring this possibility, and until we have a better understanding of how it aligns with their plans, it would be premature to proceed with the ordinance. We need a coordinated effort between all parties involved to ensure its success.

It is crucial for LDWA to be able to meet the growing water demands of the town. If they are unable to do so, alternative solutions may need to be pursued, which could place the town in a challenging situation. We remain hopeful that a positive outcome will be reached as LDWA continues to work towards addressing these concerns.

Mayor Hoster said I would like to express my gratitude to both Ron and Danielle, council members who have shown exceptional dedication and volunteered their time for crucial matters in our town. Their remarkable efforts deserve public recognition, and I sincerely thank them for their contributions. Now, moving on to my staff reports, I would like to address a few important items.

Firstly, I want to mention the recent significant fentanyl bust on I-15. This event has prompted discussions with law enforcement and will lead to a meeting involving all the mayors. Unfortunately, I won't be able to attend, and Councilmember Cundick will be representing me. This meeting will focus on addressing gang activity in Washington County and will involve the participation of mayors, county commissioners, the sheriff's office, and discussions related to House Bill 392.

I am pleased to report that progress is being made regarding EMS funding through House Bill 392. Nearly all fire service providers have submitted resolutions to the county commissioners, proposing a ballot initiative for up to a 1% tax increase. I recently spent several hours with the interim fire chief, carefully examining tax records for the entire county. We analyzed current tax rates and compared them to potential sales tax revenue. Although the calculations were complex, our findings indicated that if we were to implement the full 1% tax increase, the impact on residents would be relatively minimal. We hope this proposal receives voter approval, as it will significantly benefit our fire and EMS services without burdening property taxes. This would also allow tourists to contribute to these services. It is highly likely that this initiative will appear on the ballot.

Regarding the speed limit action item, the assessment of the trail for Silver Reef and up Oak Grove is currently underway. Two organizations are involved in evaluating potential funding sources for this project. Our engineering partners have provided valuable feedback, highlighting the existence of easements that can accommodate a separate trail for pedestrians and cyclists, ensuring their safety. We are awaiting the results of this evaluation and the availability of funding opportunities through various applications.

Closed Meeting: None

Adjournment: 8:28

Approved this Fourteenth Day of June 2022.



Bill Hoster, Mayor

ATTEST:



Aseneth Steed, Clerk/Recorder

Town of Leeds

Town Council Meeting for Wednesday, April 26, 2023

Joint Meeting 6:02 PM

Town Council

ROLL CALL:

	<u>Present</u>	<u>Absent</u>
MAYOR: BILL HOSTER	<u>X</u>	<u></u>
COUNCILMEMBER: DANIELLE STIRLING	<u></u>	<u>X</u>
COUNCILMEMBER: RON CUNDICK	<u>X</u>	<u></u>
COUNCILMEMBER: STEPHEN WILSON	<u></u>	<u>X</u>
COUNCILMEMBER: KOHL FURLEY	<u>X</u>	<u></u>

Planning Commission

ROLL CALL:

	<u>Present</u>	<u>Absent</u>
CHAIRMAN: DANNY SWENSON	<u></u>	<u>X</u>
COMMISSIONER: ALAN ROBERTS	<u></u>	<u>X</u>
COMMISSIONER: KEN HADLEY	<u>X</u>	<u></u>
COMMISSIONER: TOM DARTON	<u>X</u>	<u></u>
COMMISSIONER: GARY ROSENFELD	<u>X</u>	<u></u>

LDWA MEMBERS:

	<u>Present</u>	<u>Absent</u>
ALAN COHN	<u>X</u>	<u></u>
DORIS MCNALLY	<u>X</u>	<u></u>
KURT ALLEN	<u>X</u>	<u></u>
DON FAWSON	<u>X</u>	<u></u>

Scott Messel, Town planner present

Invocation: Commissioner Darton

Pledge of Allegiance: Mayor Hoster

Commissioner Darton made a motion to approve the agenda for the April 26, 2023 work meeting. Commissioner Rosenfield seconded the motion. Motion carried.

Declaration of Abstentions or Conflicts: Councilmember Cundick noted for the record he was the initiator and drafter of the ordinance.

1. Discuss and finalize proposed new water Ordinance 2023-03, Water Authority with Town Council, Planning Commission and LDWA Board

Mayor Hoster explained the work session is aimed to coordinate between the Town of Leeds and the Leeds Domestic Water Association (LDWA). Ron Cundick played a crucial role in drafting an ordinance between the town and the LDWA. This session is to address concerns that have brought them to this point, and it was an opportunity to enhance the relationship between the town and the LDWA, provide better service and protection for citizens, and identify legal ways to achieve that.

Alan Cohn, representing the Water Board, suggests that an MOU might be more appropriate than a town ordinance since we all live in the town and share the same water supply. If something happens, the town has problems with water, everybody's affected. He feels like going at it from an ordinance standpoint, may be jumping the gun a little bit.

Mayor Hoster noted Alan Cohn's suggestion and explained that the reason for approaching an ordinance is because there were gaps in a prior ordinance that exists between the town and the Leeds Domestic Water Association (LDWA). There are concerns about the LDWA being the acknowledged water authority within the town and how this affects developers who believe the town is biased and enabling a private company to facilitate property rights. The mayor met with the Washington County Water Conservancy District, who also has concerns over this issue. There are several other concerns, and Ron Cundick will describe the context of the meeting since he is more privy to conversations between the LDWA and the town of Leeds. The meeting is for dialogue only, and there will be no voting or action taken.

Councilmember Cundick referenced the handout provided to the committee of the background and rationale to the new ordinance. He explains why a new ordinance is needed. The ordinance was initially written during a time of conflict in Leeds when the town was attempting to take over LDWA, and it has been largely ignored since. The goal of the new ordinance is to bring together LDWA and the town so that developers must come to those two entities to move forward, rather than bypassing them and going to the Washington County Water Conservancy District. The new ordinance designates LDWA as the water

provider and provides an exclusive right to it, making it easier for developers to know where to go for decisions. Mayor Hoster addressed the concerns expressed about creating a monopoly and suggested that LDWA should be the moderator of the utility, which would allow the town to seek water from the Washington County Conservancy District if necessary. The ordinance would strengthen LDWA's role and provide consistency in policies.

The consensus was it would be more flexible to have an MOU in place rather than trying to cover everything in a statute. An MOU would allow for easier changes and modifications if needed in the future, without having to go through the process of amending a statute. However, it's important to ensure that the MOU includes all necessary details and provisions to protect the interests of the town and LDWA.

Doris McNally, a member of the water board, suggests that the original ordinance from 2009 is on weak legal grounds because their company is privately held and not a governmental entity. However, the mayor argues that it is not illegal for a municipality to regulate a private company that has a monopoly within its jurisdiction. McNally expresses frustration with the lack of collaboration between the town and water company and believes there needs to be a discussion about the master plan for the future. The mayor explains that the purpose of the ordinance is to avoid competition with another water company, which would diminish services to shareholders.

Don Fawson, a member of the Water Board, thanked Councilmember Cundick for interceding in a recent issue and getting a loan to bring things up to standard. He also mentioned that the Water Board's attorneys are some of the best in the state and provided their opinion on the town's ability to regulate the LDWA, a nonprofit mutual water company. According to the attorneys, the town does not have the authority to regulate the LDWA but can approve new development and enter into an agreement to be the water provider. Additionally, the attorneys noted that an ordinance would not accomplish its intended purpose and that the town may build its own water system if it chooses. Fawson suggested that the town sit down with LDWA to work out the terms of an agreement and warned that passing the ordinance would be of no legal effect and could lead to litigation. Mayor Hoster clarified that the town is not trying to take over the water company, but wants to protect the town's obligation to health, safety, and welfare for all citizens. Alan Cohn of the Water Board asked what the vulnerabilities facing the town were regarding the developers, but the mayor felt the relevance to this discussion was not clear.

In the discussion, Don Fawson from the Water Board mentioned that they have been working to resolve past contention and frustration by having discussions with parties involved and trying to come to an understanding. He noted that they have been doing this with at least one of the developing groups, which has had significant contention. Fawson mentioned that they recently met with the group and had a productive discussion, which left both sides with good feelings about what needs to be done. He also noted that they have been having discussions with the Washington County Water Conservancy District, the town, and the company to bring understanding about water rights and how they can give and take with one another. This positive approach to addressing past problems is a step in the right direction for the community.

Doris McNally raised a question about the water authority documents and whether they were intended to incorporate other water companies that serve the outskirts of the area in addition to the LDWA. Councilmember Cundick clarified that the documents were only for culinary water.

Commissioner Darton asked about how much of Leeds is served by the LDWA and how many shares are owned by residents. Alan Cohn from the Water Board replied that there are around 400 shares in total, and when asked about the percentage of residents served by LDWA, McNally estimated it to be around 95-96%. McNally also noted that there are commercial, industrial, and institutional shares in addition to residential shares. Fawson clarified that everyone in the town currently being served by LDWA held water shares, except for a few homes served by Angell Springs.

Mayor Hoster explained that the purpose of the conversation is not for the town to take over the water company, but to mitigate the existing liabilities between the town, developers, and LDWA. He believes that the old ordinance has many problems, and all attorneys agree that it needs to be addressed. The concern is that if another company provides water to the town, it will diminish the town's ability to be competitive and provide essential services. Additionally, there are concerns about property rights for developers who have been unsuccessful in getting water from LDWA. He clarified to McNally that the Regional Water agreement revised in 2019 that was a discussion scratched from the April 26, 2023 town council agenda has no correlation between that agreement and this water ordinance.

Don Fawson discussed the history of the water company in the town, mentioning that it has only been around for 50 years. He told of two instances, Sullivan's many years ago and Silver Pointe, where the company had issues with water supply for proposed housing developments. He noted that the town was not against the developments, but the water company did not have the

resources to supply them, so they were told they had to bring the water rights. He mentioned that the town is currently working through concerns with a new development called Silver Eagle and he stated that SITLA has water rights for development. Mayor Hoster brings up Grapevine as a recent development that had been proposed and notes that the town cannot simply deny the development but must have legal justification for doing so. They discussed the possibility of an agreement between the town and LDWA to provide first right of refusal throughout the town, which would allow the town to deny Grapevine and other developments that did not receive water from LDWA. Doris McNally suggests that a Memorandum of Understanding would be appropriate for this type of agreement. Cohn noted that a contract would not be binding with third parties, but it would still be a legal document. Don Fawson expressed his desire to understand the situation, noting that the water board is not in the business of stopping growth.

Mayor Hoster explained that an agreement with a utility provider would enable the town to deny other providers that would compete against the existing utility, and that the town has the right to refer to such an agreement.

Fawson says the thing the board is struggling with right now is the idea that we have enough capacity to handle the town's infill as well as potential developments in other areas including SITLA, Silver Eagle Estates, Silver Pointe estates, and the Sullivan property if they choose to develop. The LDWA board are currently trying to determine if they want to expand their water rights to encompass the other areas or leave it to the Washington County Water Conservancy District to deal with.

Mayor Hoster asked if that meant that developers were being approved only if they brought the wet water with them.

Fawson said that was not necessarily true. He explained that having water rights does not necessarily mean having access to water. Infrastructure such as equipment, pipelines, and aquifers are also needed to supply water. If a developer wants to bring in water, they will need to drill a well, obtain water rights, and put in the necessary infrastructure. However, this is not always economically feasible. The Washington County Water Conservancy District has the duty to bring water to people in the county, but not the obligation to have water brought to them. The town can regulate new development, but existing developments may have different water rates depending on their water source. The Washington County Water Conservancy District can deliver water to a certain point and charge a set amount, but the town would need to charge

individual meters and handle maintenance and billing. Alternatively, the town could contract with LDWA or the Washington County Water Conservancy District to take over these services.

Kurt Allen, a member of the Water Board, expressed his support for an ordinance that establishes a relationship between LDWA and the town. He acknowledges the importance of working with the Washington County Water Conservancy District but emphasized the need for the town to maintain control over its own destiny. He cautioned against allowing the Washington County Water Conservancy District to provide water to developments within the town without going through the town, as this would undermine the town's integrity. He believes that the Washington County Water Conservancy District should focus on selling water to government entities rather than private entities. He notes that despite some differing opinions, they are close to reaching an agreement with the help of legal counsel. He concluded by emphasizing the need for the town, water company, and irrigation company to work together to protect the water in their community.

Councilmember Cundick expressed concern about the loss of control if the administration, maintenance, and building of LDWA were turned over to Washington County Water Conservancy District or contractor. This includes setting rates and overall administration. To maintain control, LDWA could become the exclusive or primary provider and have control over infrastructure and standards, even if paid for by someone else. This would allow LDWA to increase revenue and hire a full-time professional manager. By controlling billing and administration, LDWA could expand its revenue base, especially as development occurs.

Kurt Allen believes that it is important for Leeds to maintain control over their own fate by managing the growth and administration. The developers should use Washington County Water Conservancy District water only when LDWA is unable to provide it themselves. LDWA should handle the billing and meter reading themselves to maintain control, and the town agrees with this approach. This way, they will be able to use the town's water while still retaining control over the development.

Councilmember Cundick acknowledges that the town may need to use the Washington County Water Conservancy District's water in the future but wants to clarify that the statutes give cities and towns authority over the water. This control is necessary to accomplish certain things, and having an ordinance that

designates the town is in charge is important. This way, when a developer tries to avoid certain requirements, the town can refer to the ordinance and ensure compliance. Councilmember Cundick suggests that LDWA could be designated as the primary provider rather than the exclusive provider under the ordinance.

Mayor Hoster stated that he had discussed the matter with Don Fawson, and he agrees with the points made. The mayor then brought up a hypothetical situation in which a company sues the town for damages caused by the waterline they installed in Silver Pointe, which has led to radiation contamination. If the lawsuit is successful, the town's assets would be owned by the company, and the town would be exclusively tied to that provider. However, if the town has an ordinance that allows for another company to become the provider, the town could argue that the assets have no value and switch to a different provider. LDWA II would then become the provider of the water.

Kurt Allen asked if he can comment on Mayor Hoster's statement, saying that he believes it is unlikely that such a catastrophic scenario would happen. He believes that LDWA is a well-run water company and that the state and insurance would prevent a private company from taking over. Mayor Hoster clarified that the Washington County Water Conservancy District, not he, came to them with the concern about a private entity taking over. He suggested that if LDWA were to lose all its value due to a lawsuit, the town should have the ability to switch to another provider. This would provide an "umbrella of protection" for LDWA, but not the town. Kurt asked the Mayor to confirm that the ordinance would provide government protection, but Mayor Hoster clarified that it would simply allow the town to switch providers in case of emergency. Cundick and Allen agreed that the ordinance would not provide protection, but Mayor Hoster emphasized that what it does is provide the town with the capability to switch from LDWA to another provider if something were to happen to LDWA.

Kurt Allen suggested that the community should start using the Washington County Conservancy District water as it is the smartest thing to do since the LDWA cannot service all the geographic areas. They all agree that they need additional water and have a relationship with the Washington County Water Conservancy District. Allen believes that the ordinance can be simple and that the trilateral relationship with the town, LDWA, and the Washington County Water Conservancy District can meet all the needs of the community while keeping control of the water. Mayor Hoster talked about the wording of the ordinance and how it can protect the LDWA from accusations of bias and

capriciousness. Alan Cohn sought clarification on LDWA being the sole water provider, and Kurt Allen explained that the town can purchase water from the Washington County Water Conservancy District through LDWA.

Commissioner Darton sought to understand what they are trying to accomplish and suggested that the town grant LDWA a monopoly on the town's territory, and the town becomes the designated contracted provider of the extra water from the Washington County Water Conservancy District. There was a discussion about what position this puts LDWA in. Councilmember Cundick insists it puts LDWA in the driver's seat and able to manage the growth. Kurt Allen emphasized the need for Leeds to be proactive in decisions of development within its annexation policy boundaries and not leave it to Toquerville. Commissioner Darton reminded that if Leeds does not take a proactive approach to influence the area's growth, Leeds will have all the undesirable impacts without any benefits and that is not an acceptable scenario.

Fawson expressed support for the agreement and voiced appreciation for Councilmember Cundick and his future thinking and efforts in initiating the dialogue and attention to the need for an agreement or MOU that is applicable to all water users.

Mayor Hoster called for an adjournment.

13. Adjournment 7:12 PM

Approved this 24th Day of May 2023.



Bill Hoster, Mayor

Approved this 24th Day of May 2023.

Danny L Swenson
Danny Swenson, Chairman

ATTEST:

Aseneth Steed
Aseneth Steed, Clerk/Recorder