

**Minutes of the Interlaken Town Council Regular Meeting
Monday, 11 December 2017, 8:00 PM – 10:00 PM
Town Pump House, 236 Luzern Rd., Midway, UT**

1. Call to Order.

Mayor Simpkins called the meeting to order at 8:06 pm.

2. Roll Call – Members Present:

Lisa Simpkins, Mayor
Chuck O’Nan, Council Member
Sue O’Nan, Council Member
Greg Harrigan, Council Member
Scott Neuner, Council Member
Bart Smith, Town Clerk

3. Presentations: None.

4. Public Comment:

Tasha Lingos, 311 Interlaken. Tasha brought up the BHR issue, asking if the town had made any progress on negotiating fees from BHR for use of Interlaken Drive. Simpkins noted that this issue was currently legally pending, and she could not discuss it. The town has presented an offer to BHR, and lawyers from both parties are in discussion. Tasha also asked if the dumpsters would stay in their current location and Simpkins responded, yes, for now.

Terri Goodall, 255 Interlaken. Terri asked if we have looked at getting our own mailboxes. Simpkins noted that the post office will not give us our own zip code or change how mail is delivered to Interlaken.

Bill Goodall, 255 Interlaken. Bill asked if there was any way we could pressure them to change the PO policy, given that each of us pay \$65 annually for our PO boxes. Harrigan noted that we don’t have a place to put them.

Chris Burkley, 264 Big Matterhorn. Chris asked who was in charge of the stand where newspapers are delivered. The newspaper structure by the park was recently vandalized. Ed Little and Asim Bolca originally built the structure.

Dean Stookey, 303 Interlaken Drive. Dean asked if the land east of the pump house was part of Interlaken. Harrigan noted that it is part of Midway, and owned by Zenger.

Jill Fuchs, 260 Big Matterhorn. Jill asked if we could penalize lot owners with driveways that wash mud onto the roads. Harrigan noted that we have an ordinance against leaving debris on the road that would apply. Simpkins noted that we should be careful enforcing fines until 2018 when Wasatch County assigns an officer to our town. The state of Utah passed a law stating that a municipality cannot have a volunteer or officer enforce ordinances other than a police officer. Heber Valley Animal Control is currently enforcing our animal control issue.

Bill Goodall, 255 Interlaken. Bill asked if the debris ordinance applied only to construction. Harrigan noted that it applies to any debris, regardless of the source.

Rick Rowlands, 264 St. Moritz. Rick asked if there was an ordinance against debris and junk in the yard. Harrigan noted that there was an ordinance against cars that are not registered or operable. After January 1st, Simpkins suggested he contact the town clerk with any complaints, and the town will start the process of enforcement.

Michael Barille, 247 Interlaken Drive. Mike appreciated the presentation on the water fees. He would like to see the town continue to work on a 15 to 20 year plan for the water system. He would like to have presentation materials for PC meetings and land use issues available sooner than 24 hours prior to the meeting. Susanna Littell, PC chair, agreed to have these materials available sooner in the future.

5. Consent Agenda: None.

6. Approval of Agenda or Changes.

PC member Elizabeth Hora-Cook asked to have agenda item 13, Revisions to Land Use Code, moved up in the meeting. Clerk Smith noted that it was important to leave agenda item 9 in place, expecting lengthy discussion, and allowing time for Mr. Soper to respond to issues brought up in the discussion of his SUP application. The agenda was amended to move item 13, Revisions to Land Use Code, to item 10. The agenda was also changed to strike the term “public hearing” from agenda item 4.

Motion: Council Member Sue O’Nan moved to approve the agenda as amended.

Second: Council Member Harrigan seconded the motion.

Discussion: no discussion

Vote: The motion was approved with the Council Members unanimously voting Aye.

7. Approval of 11/06/17 Council Meeting Minutes.

Motion: Council Member Harrigan moved to approve the 11/06/17 meeting minutes.

Second: Council Member Neuner seconded the motion.

Discussion: no discussion

Vote: The motion was approved with the Council Members unanimously voting Aye.

8. Setting 2018 Calendar Year Council Meeting Schedule

The council discussed the 2018 meeting schedule and decided to meet the first Monday of each month, except for January, in which they would meet on January 8th. All meetings will begin at 6:30pm, and be held at the town pump house, 236 Luzern Rd.

Motion: Council Member Harrigan moved to approve the proposed 2018 calendar year meeting schedule.

Second: Council Member Sue O’Nan seconded the motion.

Discussion: no discussion

Vote: The motion was approved with the Council Members unanimously voting Aye.

9. Soper Amateur Radio Support Structure Reasonable Accommodation Application

Presentation of Staff Report – Bart Smith, Interlaken Town Clerk

Clerk Smith asked Mr. Soper questions regarding his application and presented documents as part of his discussion. These documents are referenced in the minutes and attached as appendices 01 through 11.

Smith noted that the town is in the process of reviewing Mr. Soper’s application to construct an amateur radio tower support structure, attached to the west side of his house. Smith noted that the reason he, in particular, has been taking the lead on the research and reporting on this application, is because he is one of only 4 town staff members, and the only one who is directly involved in town council business. Smith was chosen by the council to do this work.

Smith started by addressing concerns expressed in Mr. Soper’s email, dated 11/28/17 and sent to the clerk. In this email, Mr. Soper stated (Appendix 03):

“Please highlight the definition of ‘structure’ in the Interlaken Estates CC&Rs and in our town ordinances and Land Use Codes and explain how an antenna can be defined as a structure.”

Smith stated that the issue of enforcement of CC&Rs by the town was not the issue being addressed. However, the CC&Rs are deed restrictions that run with the land. The issue of enforceability by the town government may be unclear, but a lot owner can move to have them enforced. The CC&Rs sunset on November 7, 2022, in about 5 years. The CC&Rs state ([Appendix 02](#)):

“No buildings other than one dwelling house and one garage shall be erected on the lots hereby conveyed; no other **structures** of any kind, type, or style whatsoever shall be erected or placed thereon.”

Smith asked Mr. Soper how he would describe his project, if not a structure. Mr. Soper stated that the people advising him are calling it an “accessory use,” not a **structure**. Smith presented Mr. Soper’s application ([Appendix 01](#)) and asked him if it was accurate to the best of his knowledge. Mr. Soper stated that it had been amended by through questions from Smith, and corresponding answers, but without access to his computer, he couldn’t positively answer the question.

Smith noted that in Mr. Soper’s application, on page 1, he named his project as “Soper Amateur Radio Antenna Support **Structure**.” Smith also noted that in the original application, on page 3, Smith had described the project as “Request for a reasonable accommodation to construct a HAM radio tower.” Right below this text, Mr. Soper corrected Mr. Smith’s description and added the text “What I believe you are asking: Request to erect an amateur radio antenna support **structure**.” Smith also noted that Mr. Soper used the term “structure” to describe his project 19 times in his application. In addition, Smith scrolled down to page 8 of the application and noted that in a page taken from the support structure’s manufacturer, which Mr. Soper included in the application, the manufacturer references the structure design being in accordance with “ANSI/TIA/EIA-222-F Structural Standards for Steel Antenna Towers and Antenna Supporting **Structures**.”

Mr. Soper noted that when Smith began referencing the CC&Rs as a potential issue, he felt things were getting confused, and he began referring to his project as an “accessory use,” not a “structure.”

Smith presented an email from Mr. Soper, dated 7/29/17, containing his original request regarding his antenna support structure ([Appendix 04](#)). In that email, the text reads:

“...I purchased an antenna support structure last year that will connect it (antenna) to the peak of the roof on the west-side of my home. For reasonable reception/communication in normal and emergency situations, the antenna will be 20 to 30-feet above the peak of my metal roof – this translates into roughly 38 to 48 feet above ground level. Currently there is an antenna at the roof peak.”

Smith presented a diagram that he created that depicts the description of the support structure used by Mr. Soper in the above email ([Appendix 05](#)). Soper noted that he had spoken with attorneys regarding the term “structure” and he was no longer using that term to describe his project. Smith stated that Soper’s comment regarding any ambiguity regarding the term “structure” would be “duly noted.” Soper stated that we need to find a common definition between himself, the clerk, and council as to what defines a “structure.”

Smith directed the discussion to the height issue. He noted that height may be the most important issue regarding this application because it may affect someone’s view and there are also safety issues associated with this project. For example, what if the tower fails or the connection to the antenna at the top of the tower fails; these issues are of a concern to the town. Soper noted that height is also directly related to effectiveness of communication. Referring to the elevation diagram Smith created from Mr. Soper’s original description of his structure ([Appendix 05](#)), Smith asked Soper why the

height in his original description was given as "...20 to 30-feet above the peak of my metal roof – this translates into roughly 38 to 48 feet above ground level."

Mr. Soper stated that he made this estimate in his original 7/29/17 email before he knew the exact height. Smith pointed out that Mr. Soper also stated more recently, at the 11/6/17 town council meeting that in response to a question from council member Harrigan, that the tower height would be 20 to 30-feet above the roof ([Appendix 07](#)). Soper stated that he has been trying to answer Smith's questions, take measurements, and do a balloon float, which didn't work. Mr. Soper then stated that "the structure itself is probably 30 feet above my roof. There's a structure, and an antenna on top." The total height should be about 55 feet. Smith noted that the key issue relating to the visual impact is how far the structure extends above the roof. Smith reiterated that Mr. Soper's current assessment is that it will be 30 feet above the roof. Mr. Soper stated "That may be the structure, and so you can add 5 feet to that if you like." Soper amended his assessment to approximately 33.4 feet above the roof, with the understanding that he can't be completely accurate until the structure is secured to the ground.

Simpkins requested clarification regarding the height of Mr. Soper's house, on the west wall. Mr. Soper took issue with Smith's diagram ([Appendix 05](#)) showing a west wall height of 18 feet. Mr. Soper stated that the west wall of his house was 21.6 feet high. Smith asked if that information was stated anywhere in his application. Mr. Soper stated that he didn't know, and he doubted that it was, because he has been continuing to respond to Smith's questions.

Smith presented another diagram, taken from page 11 of Mr. Soper's application ([Appendix 06](#)). The diagram shows that the distance from the base of the house to the top of the support structure is 44 feet.

Smith presented the two site plans submitted with Mr. Soper's application. The first site plan ([Appendix 09](#)) was submitted with Mr. Soper's application on 10/28/17. Smith asked if Mr. Soper could determine from this plan the distance between the antenna structure and the lot line or the roadway right of way. Mr. Soper stated that he couldn't. Smith presented the final site plan Mr. Soper submitted, from an email dated 11/17/17 ([Appendix 10](#)). Smith asked Mr. Soper if he could determine the distance from the tower structure to the lot line or the road right of way from this diagram. Bill Goodall stated that it could be done, using the scale of the 30-foot setback on the plan. Mr. Soper could not determine from the site plan the distance from the tower structure to the roadway right of way, because the roadway ROW was not depicted on the diagram. Soper objected that he was not given a list of questions that were necessary to complete his application, including the distance from his tower structure to the roadway right of way.

Smith presented a diagram showing measurements on Mr. Soper's lot he made using a laser-measuring device ([Appendix 11](#)). These approximate measurements show the base of the structure to be approximately 56 feet 7 inches from the center of the roadway right of way, plus or minus 4 inches. This means the base of the tower structure would sit approximately 40 feet from the edge of the roadway right of way. If the supports for the tower failed, the antenna could land approximately 15 feet into the roadway right of way.

Soper stated that the tower would be supported by two brackets attached to the wall of his house, and supported by guy wires. He noted that towers typically do not fall "like a pencil and there are engineering studies to prove it." Goodall asked why Smith was pursuing the issue regarding the distance from the tower to the roadway right of way. Smith answered that although he had made his own measurements of this distance, he was making note of the fact that Mr. Soper had not provided this information, even after multiple requests from himself.

Smith presented his staff report, dated 12/11/17 and noted that it was a snapshot of the current status of the Soper tower project. The report was not released prior to this meeting to either the council or the public. The report references various appendices that are denoted by letters A, B, C...

Smith quoted a section of the report that describes a ruling by the tenth circuit court of appeals:

“...the cornerstone on which we will predicate our decision [PRB-1] is that a reasonable accommodation may be made **between the two sides.**” And later in the same ruling:

“PRB-1 recognizes that regulations affecting the placement, screening and height of antennas are permissible when based on health, safety, or aesthetic considerations, as long as they reasonably accommodate amateur communications with the minimum practicable regulation necessary. Thus, the County’s justification of preserving the aesthetic views was acknowledged by PRB-1 as a legitimate concern.”

Evans v. Bd. of County Comm’rs. Of Boulder County, 994 F.2d 755, 762 (10th Cir. 1993).

Smith noted that the main concerns reflected in this staff report fall into four categories:

- Aesthetic concerns – the tower’s visual impact on views from neighboring lots
- Health and safety – potential hazards and safety risks due to the tower’s size, location, and proximity to adjacent lots and the public roadway right of way
- Necessity for the proposed structure, including height and placement – alternative proposals for a tower/antenna configuration that would provide adequate communication that would address the aesthetic and health and safety concerns of the town
- Incomplete plan set – a dimensional site plan and elevation drawing have not yet been submitted. In addition, the town engineer has expressed concern that the plan set does not include necessary engineered drawings and specs to perform a plan review.

Mr. Soper stated that he was told that the town council needed to approve his application before he could submit his plans to Epic Engineering for review. Smith noted that Mr. Soper was entitled to start a plan review with Epic with the understanding that any additional expense beyond the \$100 fee for plan review would be paid for by Mr. Soper. Epic did a brief review of Mr. Soper’s application and determined that Mr. Soper had not provided sufficient information for an engineering plan review. Epic suggested that Mr. Soper hire an engineer to prepare the material before submitting his plans.

Smith acknowledged that the original procedure put in place required Mr. Soper to get a town council review for content and compliance with the town’s ordinances prior to submission to Epic Engineering for a thorough plan review. Smith, in more recent emails, told Mr. Soper he was free to submit his plans to Epic Engineering, with the understanding that he would be responsible for any additional Epic fees beyond the \$100 fee collected with the application.

The original procedure was put in place to spare Mr. Soper the expense of having Epic review plans for a tower configuration that the council would not approve. The minimal Epic plan review fee of \$100 was not sufficient to cover a repeat review of his structure, in the event the approved tower configuration was different than Mr. Soper’s original request.

Mayor Simpkins noted that the council wouldn’t approve the application prior to the full Epic Engineering review and approval. Mr. Soper stated his understanding of the process and mentioned that the council completes a preliminary review before passing the application to Epic. He then stated he was told that the council gives final approval after the Epic plan review, with a public hearing to be held during the process.

Soper noted that he just learned that an antenna does not fall like a pencil. It's connected by 2 brackets on the house and folds upon itself rather than falling over as one piece. Smith noted that Mr. Soper had stated at the 11/6/17 council meeting that one of his ground-mounted antennas had been knocked down by a microburst wind event. Mr. Soper stated that his proposed tower structure mount would be different and likely not collapse in that fashion.

Smith presented page 11 from Mr. Soper's application ([Appendix A](#)) and quoted text from that page:

"The antenna support structure should be a minimal visual obstruction to other homeowners' views because of the steep slope of the terrain, the fact it will be connected to my home, and because of tall trees along the road at the top of my property."

Smith presented two photographs ([Appendix C](#)) taken from Mr. Soper's neighbors' homes. Mr. Soper noted that he wasn't allowed to take photos himself. The first photo, taken from the Debrusk home's front deck (332 Bern Way) located uphill from the Soper home, shows the proposed minimum height of the tower, without the antenna. The antenna would add approximately 6 more feet to the height of the structure. Smith noted that without confirmed height measurements, the actual location could vary. But based on the information provided, this is a reasonable estimate of the tower height. Smith noted that the trees were below the sight line from the Debrusk's deck, and the tower was clearly visible above the trees.

Mr. Soper noted that the higher you get on the Debrusk property, the worse it will look. Simpkins noted that moving the tower down the slope would reduce the visual impact. Soper stated that the lower you go on his property, the worse the effectiveness of communication.

Smith presented another photo taken from the deck of the Arbanas home (334 Bern Way) that showed a similar visual impact. Mr. Soper objected that the photos were taken as high as possible on the property. Smith noted that the photos were taken from the decks on the main floor.

Harrigan noted that the town is doing its due diligence in looking at the visual impact of the tower structure and that his proposed tower was affecting lots of people. He noted that each time Smith asked him a question, he pushed back. Bill Goodall asked what Smith was attempting to do. Smith noted that he was presenting his report to the public, and giving Mr. Soper a chance to respond to the report.

Smith noted that he had asked Mr. Soper for a dimensional elevation drawing to be included in his application. Mr. Soper used data from Google Earth as a source of elevation information. Smith presented a report ([Appendix D](#)) that investigated the accuracy of Google Earth data. In Interlaken Town, there are significant variations in topography, which would fit the analysis of the report data for Region 3. The report results state that there is a root mean square error in Google Earth height data for this region type of approximately 18 feet. So if you're using Google Earth height data in our neighborhood, you can only be accurate within about plus or minus 18 feet.

Soper stated that he was using the data to make comparable measurements, not individual measurements. Harrigan noted that at the 11/6/17 council meeting, the council asked him to perform a balloon test. Mr. Soper agreed at that meeting, tried the test once when it was windy, giving his neighbors a 1-hour notice, and then gave up and said he couldn't do it. Soper stated that everyone wanted more notice for the test, and that it was not possible to predict a day that would have no wind to accommodate such a test. Harrigan noted that the early morning may be the best time to do the test, and that Mr. Soper might have to hire someone to do the test if he is not able. Mr. Soper questioned whether the town had funds for such a test, implying he was not willing to pay for a test.

Chris Burkley, 264 Big Matterhorn, was concerned that if this tower was allowed, other towers might be constructed throughout the town, possibly impacting his view as well as others. Mr. Soper

disagreed and questioned how many people in this community could pass 3 technical exams to end up being an extra class radio operator. Sue O’Nan noted that we cannot set a precedent without studying what is actually going on, and that’s why clerk Smith has to ask these questions.

Chris Burkley also voiced his concern about the effect of high winds on the tower, possibly knocking it down. Mr. Soper noted that the PRB-1 ruling is specific to licensed amateur radio operators. Simpkins noted that there are several licensed operators in the community. Bill Goodall asked why those operators were all allowed to have towers. Smith noted that none of the towers that he and Simpkins had viewed were obstructing any neighbors’ views. In addition, the towers were mostly 50 or 60 feet from a road or a neighboring lot line.

Smith noted that he has requested a dimensional site plan from Mr. Soper on multiple occasions. He presented the emails ([Appendix E](#)), dated 9/25/17, 10/23/17, and 10/25/17. On 10/28/17 Mr. Soper sent an email stating:

“Just finished my site plan. It’s below. May not be to your standards, but it’s the best I can do. As I’ve said before, I provided a description and longitude and latitude that would locate the 11-inch triangular antenna support structure.”

Smith noted that Mr. Soper did provide a photo of his hex beam antenna ([Appendix F](#)) in his application. Smith also presented a photo from a magazine review of the same antenna. This is the antenna that would be mounted on top of the tower structure. Smith noted that Mr. Soper has indicated that in addition to his hex beam antenna, other antennas may be mounted on his tower. To date there has not been a representation of those antennas on any drawing or photo supplied by Mr. Soper. Mr. Soper noted that at the 11/6/17 council meeting he stated that the 4-foot antenna that is currently mounted on his roof would be attached to the side of the tower. Smith recalled Mr. Soper saying that, but had not yet received any information about where exactly on the tower it would be mounted.

Sandra Soper mentioned to Smith that Mr. Soper was an engineer, and asked if Smith was an engineer. Smith stated that he was an engineer, and indicated he would say more on that topic later. Smith presented an email from Mr. Soper ([Appendix G](#)) in which Mr. Soper stated that he wasn’t able to float a balloon to test the visual impact of his tower structure due to the unpredictability of the local winds. Mr. Soper stated “Therefore, if any of you wish to float a balloon, you are welcome to do so. I’m not putting myself at risk again.”

Smith presented another email ([Appendix H](#)) in which he requested information about how the antenna would be connected to the tower structure. Mr. Soper responded that he would use a TIA-222 approved aircraft aluminum mast to mount the antenna, but no additional information about how the antenna would be connected to the tower structure.

Smith described his academic background – a B.S. in Applied and Engineering Physics from the Cornell University College of Engineering, and a M.S. in Atmospheric Sciences from Oregon State University. Smith created a wind load model ([Appendix I](#)), which he used to predict the effects of a wind gust, of a specific duration, on the antenna structure. Certain assumptions and simplifications were made in the model, which are listed along with the results. The model predicts the wind force load on the antenna and the travel distance of the antenna, in the event the wind gust would break the antenna connection to the support tower. The simplifications made in the model would generally reduce the predicted travel distance of the antenna. Smith noted that he was not a licensed engineer, but he would provide his calculations to Mr. Soper for his review. He also noted he has experience in this field as an academic researcher.

The results of Smith’s model were summarized in a table. For example, a gust of 40 mph for a duration of a second, would produce a wind load of 85 pounds, and a horizontal travel of the antenna,

in case of a failure, of 35 feet. For a 60 mph gust for 1.5 seconds, the wind load would be 192 pounds, with a horizontal travel distance of 117 feet.

Mr. Soper stated that he had seen none of Smith's presentations in advance, and had only a 24-hour notice that he had been added to the council agenda. Harrigan noted that Mr. Soper had threatened to sue the town and has demanded answers and action and has been recalcitrant about giving answers to questions that Smith has posed.

Smith expressed that he didn't feel that Mr. Soper had adequately provided the full picture of what he's trying to do, and if there are alternative ways to do it. If, for example, he could use a retractable antenna that was moved down the slope, that would address the issues of visual impact and safety. The town had not received any alternatives to what Mr. Soper has proposed to date. Smith also noted that Mr. Soper's plan set is incomplete. The application does not include a dimensional site plan, a dimensional elevation drawing, or engineering drawings and specifications necessary for Epic to do a plan review.

Smith presented the summary findings of his 12/11/17 report, and made the following recommendations:

As detailed in the above sections of this report, Mr. Soper's application is missing critical information that would allow the Town to properly evaluate his request for a reasonable accommodation to construct an amateur radio support structure. To summarize, this is the information the town needs to evaluate and make a decision regarding approval of his application:

- A dimensional site plan, showing the measured locations and footprints of all structures on his lot, his proposed tower, the road right of way, and his lot lines.
- A dimensional elevation drawing that shows the height of his roof, the point of attachment of the tower to the house, the location and height of the tower, the size and location of any antennas or equipment to be attached to the tower, and the elevation of the roadway right of way.
- A plan and drawing of the final configuration of all antennas to be mounted on the support structure.
- Engineered drawings and specifications necessary for Epic to do a plan review, including specifics regarding the tower's connection to the house and all mounted antennas and accessories connected to the tower structure.
- Evidence, including calculations, that his proposed tower configuration is the only possible configuration that would accomplish his stated communication goals. Alternatively, Mr. Soper could provide an alternative configuration that addresses the town's concerns regarding aesthetics and the health and safety risks associated with his proposed tower configuration. Mr. Soper has also not responded to requests to provide the Town with information about alternative locations for his Tower that will not adversely affect his neighbors' views. Ideally, I would like Mr. Soper to provide the Town with information from an independent third party exploring alternative locations and configurations that will allow him to effectively communicate.

In summary, Smith recommended that the council request Mr. Soper to provide the information listed above to the council, before considering a decision to approve his application. Soper noted that the effectiveness of HAM radio communication is directly related to the height of the antenna. And that an alternative configuration would be for him to mount a 100-foot antenna at the bottom of his property to achieve the same communication objective.

Council Comment Regarding the Soper Antenna Support Structure Application

Harrigan noted that the council is trying to figure out how a 6-foot antenna mounted on a 55-foot tower would impact Mr. Soper's neighbors in both aesthetics and safety. Mr. Soper noted that regardless of Smith's calculations, the antenna is not going to fly 122 feet. If it does, his roof will land on his neighbor's house. Mr. Soper asked if Smith had studied how towers fall. Smith noted that his analysis had nothing to do with the tower failing. It had to do with what happens if the hex beam antenna, in a gust of wind, goes flying off the top of the roof. It's a simple dynamics calculation. Granted there's turbulence involved and other stochastic processes, but there's a very simple calculation that has to do with momentum transfer to an object of that size and area. Mr. Soper asked what's the probability that the antenna comes off. Smith answered that he would like to answer that question, but he didn't have any information from Mr. Soper about how the antenna is connected to the tower structure.

Sue O'Nan asked how often would Mr. Soper perform maintenance and check that the antenna remains secured to the tower. Does the town take Mr. Soper's word that it remains secured, or is there a certified inspection? Mr. Soper stated that the town would have to take his word for it. Sue O'Nan noted that his antenna could cause significant damage to other people's houses. Sue O'Nan also noted that we have to be careful about setting precedents. She noted that this is a hobby. The council has spent a lot of time reading the information Mr. Soper has provided, but they feel they still need more information to make the correct decision for the entire neighborhood, not just for Mr. Soper's hobby.

Mr. Soper noted that the basis of the FCC ruling is not to encourage a hobby, but to facilitate emergency communications provided by amateurs. He expressed his interest in that. Sue O'Nan asked how far away he wanted to communicate – to China and Russia? Mr. Soper said yes to both. Sue O'Nan noted that if it was for emergency purposes for our neighborhood, it wasn't necessary to communicate with Russia or China.

Chuck O'Nan noted that Mr. Soper's HAM radio communication activity was a hobby, not a job. With his antenna located on the ground, Mr. Soper can communicate with someone 1500 miles away. O'Nan asked Mr. Soper how far away he could communicate with the antenna at a height of 50 feet. Mr. Soper responded that he hoped he would be able to talk to the world. O'Nan noted that if Mr. Soper was using his tower for emergency communications, how would communicating with Afghanistan serve that goal? Mr. Soper gave an example of an Interlaken neighbor who was in Belize during an earthquake. A local HAM radio operator in Belize was able to communicate with a HAM radio operator in the US to let the neighbor's wife know he was okay. Mr. Soper noted that the higher the antenna, the better the bounce off the ionosphere, and the better the communication capability. O'Nan thought that the bounce would improve if the tower was located further down the hill, away from the house and neighboring trees. Mr. Soper responded that it would not because it would be lower, and because the hillside is still there. Mr. Soper also noted that relocating the tower down the hill would place it closer to the lot line, which was a concern to Smith.

Other neighbors voiced their concern regarding the safety and visual impact of the tower and thanked the council for doing their due diligence to protect the neighborhood. Harrigan noted that without performing due diligence, the town could become liable. Chuck O'Nan asked Mr. Soper what measure would he take to prevent kids from climbing up the tower. Mr. Soper answered that he could block out the lower section of the tower to prevent climbing if the town thought that was necessary. O'Nan asked if the tower fell down, how it would fall. Mr. Soper stated that the tower would most likely snap and fall down upon itself, because it is anchored to the house at two points. O'Nan asked about the 30 foot section of tower above the roof which was not secured – what would happen to that if it failed. Mr. Soper answered that it would probably fall on his cars.

Public Comment Regarding the Soper Antenna Support Structure Application

A resident asked if the tower would have to conform to the current height restrictions in our land use code. Simpkins answered that it wouldn't – it's a different process. An amateur HAM radio tower would be regulated by the FCC. Our land use code excludes antennas higher than 5 feet above the highest point on the house. Harrigan noted that the town is trying to find a way to make the tower work, but there is concern about the placement of it.

Ed Little, 460 Eiger Way. Ed was concerned about potential lawsuits. He noted that the council is trying to protect us from litigation. If the tower impacts residents negatively, he is concerned that they may sue the town. Unless we do this right, we're putting all of ourselves in jeopardy for lawsuits. If the tower blocks someone's million-dollar view, it's a guaranteed lawsuit. If we rush it, we're endangering ourselves. Mr. Soper stated that most towns handle this issue by stating that between the federal law and the state law a town is powerless. Smith noted that this wasn't true in every case. The 10th Circuit Court of Appeals ruled on an original application for a 100-foot HAM radio tower, in a similar situation, where the proposed tower would obstruct views in a mountainous neighborhood. The request was altered to 55 feet, which was also denied, and the court ruled in favor of the municipality, approving a 35-foot tower.

Glenn Arbanas, 334 Bern Way. Glenn noted that there are a four lots neighboring Mr. Soper's property that would have to bear the brunt of this view obstruction, including his lot. He didn't feel that 4 lot owners out of the town's 184 lots bearing the brunt of this impact, would constitute reasonable accommodation. Mr. Soper asked Glenn if the tower would block his view. Glenn responded that he could see the roof of Mr. Soper's house when he does his dishes at his kitchen sink, and that the tower would be twice the height of his roof, greatly impacting his view. Simpkins noted that Mr. Soper doesn't seem to understand the visual impact of his tower. Mr. Soper stated that if you get far enough away from the tower, it disappears. Simpkins added that there would be a large spider web shaped structure on the top of it, the hex beam antenna, which is 10 and a half feet wide.

Susanna Littell, 331 Jungfrau. Susanna asked if relocating the tower to the pump house would be a better solution. Would it be possible to dress it up like a Christmas tree? She noted that the cell tower in Midway was made to look like a tree. The general response from the audience was no, it would not be better.

Council Discussion, Motion on Application

Harrigan noted that Mr. Soper keeps asking for a decision on his application, but that his application is not complete. Simpkins noted that the town's main concerns are the health, safety and welfare of the town, the height of the tower, the location and visual impact to the neighborhood and the adjacent neighbors. The council is not denying the application, nor accepting the application, but still deliberating, and waiting upon Mr. Soper's responses to requests for more information and a balloon test.

Motion: Council Member Harrigan moved to accept Clerk Smith's report as written, to ask Mr. Soper to review the report and provide the information that's been requested numerous times, noting the major areas of concern are the safety and well-being of the town, the location of the tower, and the visual impact on the adjacent neighbors. The council is not denying the application. The council is asking Mr. Soper to complete the application by providing the information the council has asked for, including the balloon test that was requested at the previous council meeting.

Second: Council Member Sue O'Nan seconded the motion.

Discussion: no discussion

Vote: The motion was approved with the Council Members unanimously voting Aye.

10. Revisions to Land Use Code

Elizabeth Hora-Cook, planning commission member, made a recommendation to the council to revise setbacks in the town land use code to 30-feet from the center of the roadway right of way.

Motion: Council Member Harrigan moved to revise the setbacks to at least 30 feet from all lot lines or 30 feet from the center of the roadway right of way.

Second: Council Member Neuner seconded the motion.

Discussion: no discussion

Vote: The motion was approved with the Council Members unanimously voting Aye.

11. Water Master Search Status

The council discussed the two applicants for the open water master position, Brady Probst and Trent Davis, who have agreed to share the job with a \$1400 per month salary split evenly between them.

Motion: Council Member Neuner moved to approve Brady Probst and Trent Davis to share the position of Interlaken Water Master, with the \$1400 per month salary.

Second: Council Member Harrigan seconded the motion.

Discussion: no discussion

Vote: The motion was approved with the Council Members unanimously voting Aye.

The council also discussed compensation for Ed Little, who has been acting as interim Water Master, from Mac's resignation on October 7 through December 31, 2017. Ed has agreed to perform these duties, charging the town \$1000 per month for November and December, or \$2000 in total.

Motion: Council Member Chuck O'Nan moved to approve payment of \$2000 to Ed Little for his position as interim Water Master till the end of 2017.

Second: Council Member Harrigan seconded the motion.

Discussion: no discussion

Vote: The motion was approved with the Council Members unanimously voting Aye.

12. Water Rate Amendment Resolution

The council discussed the 2017-12-11 Water Rate Staff Report presented by Clerk Smith at the earlier water rate hearing. It was decided to follow the recommendations in that report, budgeting for a \$20,000 annual water master salary, including payroll taxes.

Motion: Council Member Sue O'Nan moved to amend the base water rates for FY2018 to \$732 for unconnected lots and \$893 for connected lots or lots with an active building permit and to amend the base water rates for FY2019 to \$744 for unconnected lots and \$900 for connected lots or lots with an active building permit.

Second: Council Member Harrigan seconded the motion.

Discussion: no discussion

Vote: The motion was approved with the Council Members unanimously voting Aye.

13. Budget Amendment

The council discussed the 2017-12-11 Budget Staff Report presented by Clerk Smith. It was decided to follow the recommendations in that report. These recommendations include a budget amendment that would increase the estimated water system base revenue amount to match the revenue collected according to the revised water rates, to increase the water master salary expense amount to match the approved water master salary, and to correct an error in the budget adopted on 2017-08-07 itemizing Building Fund transfers:

- Amendment: Increase Line 30 from (\$6,000) to (\$10,000) to match budgeted transfer amount.
- Amendment: Increase Line 92 to match collected water base fee revenue, \$157,721.
- Amendment: Increase Line 116 to match new water master salary, \$16,800 (12 x \$1400 per month).

- Amendment: Increase Line 123 to match new water master payroll taxes, at approximately 18% of salary, \$3,200.

Motion: Council Member Sue O’Nan moved to amend the FY2018 budget with the amendments noted above.

Second: Council Member Harrigan seconded the motion.

Discussion: no discussion

Vote: The motion was approved with the Council Members unanimously voting Aye.

14. Financial Matters

Clerk Smith reported that the FY2016 Utah State Auditor report, letter of corrective action, and self-evaluation plan had all been submitted to the state auditor’s office. The state is releasing all tax revenue to Interlaken that was previously withheld. Smith noted that the FY2017 report would be due by December 31, 2017, and that the state could again penalize Interlaken if the report was not submitted in time. Smith agreed to track the progress of the report to ensure proper submission.

15. Status on Previous Action Items. None Reported.

16. Other Business. None.

17. Council Comments. None.

18. Adjournment.

Council Member Sue O’Nan moved to adjourn the meeting. Council Member Neuner seconded the motion. The motion passed unanimously. The meeting was adjourned at 9:57 PM.

The next Town Council meeting will be held on Monday, January 8th, at 6:30pm, at the Town Pump House, 236 Luzern Rd.