

Interlaken Town Council Regular Meeting Minutes
Monday, 2 April 2018, 6:30 PM – 7:30 PM
Town Pump House, 236 Luzern Rd., Midway, UT

1. Call to Order.

Mayor Simpkins called the meeting to order at 6:40pm.

2. Roll Call – Members Present:

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

3. Presentations: None.

4. Public Comment:

Dave Sheldon, 252 Jungfrau. Dave noted that he was waiting for Epic’s review of his construction project, and wondering what the process was. Mayor Simpkins outlined the process as follows:

- a. Epic Reviews the plans
- b. Epic makes a recommendation to the planning commission
- c. PC reviews and makes a recommendation to the town council
- d. Town council approves and permit is issued

5. Consent Agenda: None.

6. Approval of Agenda or Changes.

The council discussed the agenda and agreed to hold an emergency town council closed session immediately following the regular meeting regarding BHR negotiations.

Motion: Council Member Bowen moved to approve the amended agenda.

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

Discussion: no discussion

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

7. Approval of 3/5/18 Council Regular Meeting Minutes

Motion: Council Member Sue O’Nan moved to approve the 3/5/18 meeting minutes.

Second: Council Member Harrigan seconded the motion.

Discussion: no discussion

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

8. Soper Amateur Radio Tower Application

Mayor Simpkins read into the record a letter denying Mr. Soper’s application. A copy of the letter is attached to these minutes. Mr. Soper asked if his application fees would be refunded. The council agreed that they would make a decision and notify him within a week. Clerk Smith agreed to send Mr. Soper a copy of the denial letter.

9. Planning Commission Update

General Plan – Susanna Littell stated that the general plan task force would have a draft available for review for the May 7th Town Council meeting. The council would prefer that they get a chance to review and comment on the draft before holding a public hearing.

Littell suggested the council refer to the 3/28/18 planning commission minutes for updates on Interlaken building projects. Simpkins noted that the town does not have an excavation permit, or prescribed fees at this time. It is felt that clarification was needed regarding permitting for landscaping.

Daines, Lot #112 – this permit application was just submitted.

Cloward, Lot #174 – requesting a variance for a zero setback to the Wasatch State Park boundary. The council agreed that this request should be presented to the state park, and that the council would not have the authority to consider this request.

Sheldon, Lot #011 – the planning commission recommends approval of this application. The council showed concern that Epic had not fully approved. A motion was made for approval, pending final approval by Epic Engineering.

Motion: Council Member Harrigan moved to approve the Sheldon permit application pending final approval by Epic Engineering.

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. Financial Matters – Water System Billing

Clerk Smith distributed a staff report (see minute attachments). Here is a summary of the report:

FY2018 Water Billing Status - April 2, 2018	
Total amount billed	\$ 165,396.15
Total amount collected	\$ 138,937.80
Remaining collectables	\$ 26,458.35
Number of lots paid in full	154
Number of lots partially paid	2
Number of lots with no payment	28

Smith noted that all lots with outstanding balances will be charged \$25 per month, in accordance with the town’s water rate resolution. Smith noted that although collection has not reached close to 100%, there are no cash flow concerns at this time. Smith has used email to send invoices to those lot owners with an email address on record. He agreed to send out an invoice through US mail to all those with outstanding balances in the next week.

11. Midyear Conference – St. George

Simpkins noted that the ULCT conference will be held in St. George, April 25 through 28 (Wed-Sat). Simpkins has already registered and invited the council and the planning commission to attend. The town will pay the conference fees.

12. Status on Previous Action Items

No Updates.

13. Other Business

Speed bumps – the town is looking for someone to install proposed speed bumps.

14. Public Comment.

Tasha Lingos, 311 Interlaken – Tasha asked if the town would consider planting trees to the north of the pump house to screen the building from the views up the hill, for houses on Interlaken Drive. She noted that the original for the pump house project included this type of screening. Simpkins stated that she would look into this.

15. Council Comments. None.

16. Adjournment.

Council Member Sue O’Nan moved to adjourn the meeting. Council Member Harrigan seconded the motion. The motion passed unanimously. The meeting was adjourned at 7:32 PM.

The next Town Council meeting will be held on Monday, May 7th, at 6:30pm, at the Town Pump House, 236 Luzern Rd.



Interlaken Town
P.O. Box 1256
Midway, UT 84049
(435) 565-3812

April 2, 2018

Dear Mr. Soper,

Thank you for allowing us the time to evaluate the information you presented at the March 6th, Interlaken Town Council Meeting. I would like to provide you with the Town's response:

As a starting point, the tower as proposed will reach a height of 55 feet. The maximum allowable height for any structure, including chimneys, antennas and other attached structures is 40 feet. As a result, the 55 tall tower, as proposed, is prohibited by local ordinance. However, federal regulations forbid municipalities from imposing an absolute prohibition on amateur radio communication towers. In its Memorandum Opinion and Order in PRB-1 ("PRB-1"), the FCC ruled that municipalities cannot preclude effective amateur communications. Pursuant to PRB-1, the Town is required to make a reasonable accommodation to construct amateur radio towers. A reasonable accommodation does not entitle an applicant to construct his desired tower design without regard to local considerations. When making a reasonable accommodation, federal regulations allow the Town to regulate the placement, screening, and/or height of antennas to address local health, safety, or aesthetic concerns.

While the Town does not have a specific process for evaluating this use, it does have processes for evaluating other land use applications, like new homes, remodels, accessory structures/uses, landscaping, etc. These processes all require an applicant to provide the Town with complete and accurate information so we can evaluate the application and determine if it meets local ordinances, building codes, setback requirements, and other related issues. While your proposed use is unique, all land use applicants are required to follow a similar process. Further because the tower is a structure, you are required to obtain a building permit to construct it.

Based on our review of the application materials you have submitted to date, we are unable to approve the application at this time. We have made this decision based on the application materials you have submitted, written correspondence and conversations regarding your proposed tower, and requests we have made for additional information which you have not yet submitted. The information we requested includes, but is not limited to accurate survey information, accurate conceptual drawings demonstrating what the tower will look like including any and all structures that will be attached to the tower, alternative locations and tower configurations, engineering drawings and data required to review your proposed tower, and other materials. Specifically, the Town requested the followings materials that to date, you have not provided:

On November 6, 2017 we asked you to provide the Town with an accurate survey identifying the boundaries of your property. We requested this information so we could evaluate whether the proposed tower will comply with the City's setback requirements. Specifically, we requested accurate survey drawings to evaluate if the tower constructed at your proposed height in your proposed location was at risk of falling onto neighboring properties. Rather, you provided us with a drawing of your property that has been stamped "THESE PLANS ARE NOT TO BE USED TO OBTAIN A BUILDING PERMIT." After the March 6th, 2018 meeting you resubmitted the same drawing, but had erased the stamp.

On December 11, 2017 we requested that you provide us with an accurate representation of the proposed tower including drawings that demonstrate what the tower will look like, what will be attached to it, and how it will impact the views of other members of the community, including your neighbors. Rather than submit this information, you responded by suggesting that because of the color of the metal, the visual impact of the tower will be less than a power line pole. While that may well be the case, because you have not provided the Town with this information, we cannot evaluate the aesthetic impact the tower as proposed may create.

On November 6, 2017 we requested that you float a balloon above the proposed site of your radio tower. You refused to coordinate this test with your neighbors and floated a balloon briefly on November 9, 2017. However, you did not do this during a time when your neighbors or Town officials were able to observe this test. You also provided us with limited views from only a few locations.

In October 2017, the Town Engineer, Josh Call, identified several deficiencies in your application materials. After speaking with Mr. Soper, Mr. Call suggested that Mr. Soper retain an structural engineer to prepare drawings and calculations for the proposed tower. To date, you have not supplied the Town with any information prepared by an engineer. Without accurate drawings and calculations, the Town's engineer is unable to evaluate your application.

We also asked that you provide us with alternative locations where you could construct a tower on your property. Rather than provide the Town with information for alternative locations, you responded that because there would be additional costs involved, you did not want to provide us with that information.

Rather than provide us with accurate information, you have repeatedly refused to provide the Town with the additional information we have requested. The information we have requested is to allow us to evaluate the legitimate health, safety, welfare, and aesthetic concerns of the Town, its citizens, and your neighbors. The information you have provided does not allow us to evaluate these concerns and we cannot approve your application as submitted. It is entirely possible that we may be able to identify a location and configuration that allows you to construct a tower while addressing the Town's concerns. However, because your application is incomplete, we cannot make that determination.

If you are able and willing to provide us with the information we have requested, information which is required for any applicant seeking a building permit or other land use approval, we can evaluate your application and should be able to reasonably accommodate your desire to construct a radio tower.

If you would like the town to consider a new application, you will need to provide us with the following:

- Engineering drawings that may be used for building permit applications. The Town's engineering consultant, Epic Engineering, has already recommended you hire an engineering firm to help you with your plan submissions.
- Conceptual drawings of what your proposed tower and mounted antennas would look like from the road and neighbors' properties, not only adjacent properties. The town also

requests a balloon float coordinated with town officials and your neighbors to help assess the visual impact.

- Alternative locations with conceptual drawings from the road and neighbors' properties, not only adjacent properties.
- An accurate survey showing the placement of the tower and all existing structures on the property, including antenna configurations and all buildings.
- Drawings detailing locations where the tower could fail and fall, with identified distances of where it would land within our own property boundaries.

Lastly, there seems to be confusion on the term "structure." The Town has adopted the International Building Code (IBC) as part of its Land Use Code – Title 11. The definition of a structure is "that which is built or constructed." Based on the IBC definition your ham radio tower is a structure. The fact that you consider the radio tower an "accessory use" does not mean it is not a structure, exempt it from the IBC, or relieve you of your obligation to provide the Town with complete and accurate information allowing us to evaluate the construction of your proposed radio tower. Regardless of your intended use, a tower is a structure. (<https://codes.iccsafe.org/public/document/IBC2015/chapter-2-definitions>).

The Town is willing to accommodate your desire to construct a ham radio tower as long as it complies with the Town code below:

***A structure of which is a tower or antenna is allowed under Title 11.06.070 ,
Section 11.06.070 Maximum Height Provisions for all Buildings, Item A. :***

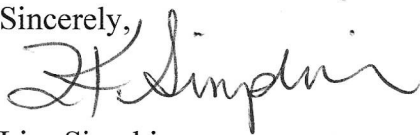
The height of any building shall not exceed 35 feet. The total height shall be measured as the vertical distance from the natural grade, as defined in this Title, to the highest point of a roof. To allow for unusual conditions or appurtenances the following exceptions apply:

A. Antennas, chimneys, flues, vents, or similar structures may extend up to 5 feet above the specified maximum height limit.

This would limit your total height of 40 feet maximum. Of course, in order to obtain a building permit, you will still need to provide the Town with accurate and complete information demonstrating that a 40 foot tower would comply with setback requirements and be contained within your property boundaries in the event of failure. If you would like to submit a NEW application or supplement your existing application with the information outlined above, we would be happy to review your application. You will also need to provide the Town with engineering drawings and structural calculations before we can approve your request and issue a building permit.

This is a final land use decision subject to review pursuant to requirements set forth in Utah Code Ann. Sec. 10-9a-801.

Sincerely,



Lisa Simpkins

Mayor, Interlaken Town



Interlaken Town
 P.O. Box 1256
 Midway, UT 84049
 (435) 565-3812

Water Billing Staff Report
Bart Smith, Interlaken Town Clerk
April 2, 2018

RE: FY2018 Water Billing Update
 TO: Interlaken Town Council

This is a status report for the annual FY2018 Interlaken water billing. Here is a summary of all collected revenue and outstanding debts to date.

FY2018 Water Billing Status - April 2, 2018	
Total amount billed	\$ 165,396.15
Total amount collected	\$ 138,937.80
Remaining collectables	\$ 26,458.35
Number of lots paid in full	154
Number of lots partially paid	2
Number of lots with no payment	28

The payment terms, as specified in the invoices, are the following:

Late Payments: *Payment is due in full by 25-Mar-18. If not paid in full by this date, your account is considered past due and subject to interest and a \$25/month late fee.*

Delinquent Accounts: *If the full payment is not received by 24-Apr-18 the account is considered Delinquent. A Notice of Delinquency will be sent to the lot owner.*

Discontinued service: *If full payment is not received 60 days after a Notice of Delinquency, water service will be discontinued after a 24-hour delinquency notice is hand delivered to the service address. A \$100 disconnection fee and a \$100 reconnection fee will be charged for discontinued service.*

Fees and interest: *All past due accounts are subject to interest and a \$25/month late fee.*

There should be no concern now, as there are no cash flow issues at this time. However, all lots with outstanding debts to date will be charged a \$25 per month late fee, assigned on the 25th of each subsequent month for accounts with an outstanding balance. I will keep the council updated as I continue to monitor the FY2018 water-billing collections.

Sincerely,

Bart Smith
 Interlaken Town Clerk