

Town Council Regular Meeting January 8, 2018

[Supplementary Information and Meeting Materials](#)

Town Council Regular Meeting January 8, 2018

[Agenda Item 7](#) - Council Executive Session Minutes
11/15/2017

**Interlaken Town Council Executive Session Agenda
Wednesday, 15 November 2017, 7:30 PM – 9:45 PM
Town Pump House, 236 Luzern Rd., Midway, UT**

1. Call to Order.

Mayor Simpkins called the meeting to order at 7:30pm.

2. Roll Call – Members Present:

Lisa Simpkins, Mayor
Chuck O’Nan, Council Member
Greg Harrigan, Council Member
Sue O’Nan, Council Member, arrived at 8:00pm
Scott Neuner, Council Member, was absent

Bart Smith, Town Clerk
Susanna Littell, Planning Commission Member
Elizabeth Hora-Cook, Planning Commission Member

3. Approval of Agenda or Changes.

Motion: Council Member Harrigan moved to approve the agenda as amended.

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

Discussion: no discussion

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

4. Discussion of Interlaken ROW Issues– Brent Bateman from State Ombudsman Office, Town Legal Counsel Tim Bywater, Town Council, Planning Commission

Brent Bateman, the state property rights ombudsman, discussed and received questions regarding Interlaken Town’s ownership of the roads, and the 33-foot wide roadway right of way. The conversation centered on the town’s ability to exert control over activities in the ROW, including parking regulation enforcement, lot owners’ work (construction), and enforcement of the town’s ordinances related to the ROW.

Brent’s opinion was that the town has a defensible position that the ROW is 33 feet wide. He asked how close were the original plat roads to the current surveyed roads. It was noted that the dedication language is there in the original plat. If the actual roads are not the same as the original plat, we would have two types of roads – prescriptive and owned. The dedication is a transfer to the public, so the lot owners do not own the roads.

The Summit Engineering map, using the center of the road and the 33-foot ROW is very defensible – it’s publicly owned property, until the town abandons it. This all presupposes that the original plat dedication is close to what’s on the ground. The Summit survey was recorded. Although, “defensible” is solid, you can’t say that it’s absolutely sure. Individual lot owners may have a special situation. In narrower sections of the road, the ROW may be narrower. If it hasn’t been dedicated, then it’s a “road by use.” After 10 years of use, it’s a road by use according to state law, but the ROW width is not necessarily 33 feet if it wasn’t dedicated as such.

Areas of concern – the road that extends into the State Park – if it was not part of the original dedication, it cannot be a road by use, because Wasatch State Park is the sovereign. Also of concern is the road that extends into Midway by the Zenger property, by BHR.

Simpkins asked to what extent we allow lot owners to do work in the ROW. Brent noted that what they put out there is at their peril. The town has the right to tow cars parked in the public ROW. Brent noted from his experience, that if some day we decide to widen the roads, someone will fight us.

Simpkins asked what other municipalities allow in the ROW. Brent responded that very few municipalities care about what people do in the ROW is it's not a health, safety, or welfare issue. Putting foliage in an area that blocks visibility or putting something in the ROW that could cause damage if you pulled off the road are areas of concern. Harrigan mentioned Hawkins' dugout of a slope which created a steep drop next to the road as a safety hazard. Brent noted that if he's in the public ROW, the town could take action, otherwise there's nothing you can do. Harrigan noted that if he builds a guardrail in that location, the town would be okay with that.

It was decided to have the planning commission look at the ordinances and recommend to the council what lot owners should be allowed to do in the ROW, as well as continue to work on an encroachment permit.

5. Discussion of Public Hearing Schedule for Land Use and Budget Amendments– Council and Planning Commission

It was decided to hold a Land Use Hearing, Water Rate Hearing, Budget Hearing, and the regular town council meeting back to back on December 11, starting at 6:00pm. One of the issues to be addressed at the pc hearing would be the definition of a setback. The new salary for the water master was also discussed, and the council agreed it should be set at \$30,000.

6. Council Comments. None.

There was a discussion regarding the Soper application to construct an amateur radio antenna support structure. The town's legal counsel, Tim Bywater, noted that the town was not required to approve the applicant's desired configuration. The town must provide reasonable accommodation and may consider aesthetic, safety, health, and welfare concerns in its decision. The town may consider a shorter or retractable tower, or a different location, in it's decision to provide reasonable accommodation. It is important that the town include a discussion of how it reached its decision, and be transparent in its process. The town is not obligated to reach a decision at the request of the applicant, and may ask the applicant for more information necessary to evaluate the application.

7. Adjournment.

Council Member Greg Harrigan moved to adjourn the meeting. Council Member Sue O'Nan seconded the motion. The motion passed unanimously. The meeting was adjourned at 9:44 PM.

The next Town Council meeting will be held on Monday, December 11th, following public hearings for land use, water rates, and a budget amendment. The hearings start at 6:00pm, at the Town Pump House, 236 Luzern Rd.

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**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 has 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.

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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):

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“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

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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.

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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.

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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

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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,

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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

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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

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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.

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10. Revisions to Land Use Code

left off here Council Discussion and motion on land use code revisions.

11. Water Master Search Status

- Meeting with Brady Probst and Trent Davis
- Motion to approve expenditure for temporary Water Master

12. Water Rate Amendment Resolution

Council Discussion and motion on resolution

13. Budget Amendment

Council Discussion and motion on budget amendment

14. Financial Matters – Status on Utah State Auditor Report

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.



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

December 11, 2017

From: Bart Smith, Interlaken Town Clerk

Staff Report: Review and recommendation for Mr. Soper's application for reasonable accommodation to construct an amateur radio support structure

To: Interlaken Town Council

This report provides an update on the status of the application submitted by Mr. Soper for reasonable accommodation to construct an amateur radio antenna support structure. The original status report pertaining to this application, dated November 3, 2017, was presented to the council and Mr. Soper in its final form on November 6, 2017 at the Interlaken Town Council meeting. It is the intent of this current report to provide the council with an update on the issues raised in the earlier report, and to make a recommendation to the council regarding the application.

It is important that the council understand the implications of the FCC regulation (PRB-1) on its decision regarding the issue of "reasonable accommodation." Based on an initial review of case law, the regulations, FCC opinions, and other materials, by our town attorney, the Town is obligated to make a reasonable accommodation to Mr. Soper's request; however, the town is not obligated to approve the applicant's desired tower configuration. The Tenth Circuit Court of Appeals, which has jurisdiction over Utah, has held:

Even though the FCC has the power to enact regulations which would preempt conflicting local ordinances, it specifically stated "[t]he cornerstone on which we will predicate our decision [PRB-1] is that a reasonable accommodation may be made **between the two sides**." In fact, in PRB-1 the FCC expressed its desire to give deference to the local authorities: "We are confident ... that state and local governments will endeavor to legislate in a manner that affords appropriate recognition to the important federal interest at stake here." Therefore, the FCC has decided to permit local regulatory behavior which accomplishes the local agency's legitimate purposes through the minimum practicable regulation.

...

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 local concern.

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

The main concerns regarding the proposed tower configuration, as noted in the earlier staff report, can be summarized as follows:

- 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.

I will address each of these issues separately and summarize my recommendations at the end of the report. Additional supporting information is provided in the appendices attached to the report.

Aesthetic Concerns

In Mr. Soper's application, on page 11, Appendix A, he states that the tower:

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

In Mr. Soper's original email request dated July 29, 2017, Appendix B, he states:

“...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.”

In Appendix C, there are photos, facing south, taken from two neighboring homes: 332 Bern Way and 334 Bern Way. Both photos were taken from the deck of the homes, in a typical line of sight. The Soper home appears in both photos with a green metal roof, partially obscured by a stand of conifers located on the south side of Bern Way. The proposed tower would be attached to the west side of the house, centered on the west wall, extending past the peak of the roof. According to Mr. Soper's description of his tower, as 20 to 30 feet above the peak of his roof, or 38 to 48 feet above ground level, that would indicate that he estimates the height of the roof peak as 18 feet from ground level. If that is the case, then the tower would extend upwards somewhere between a minimum height of twice the roof peak height in the photo, to approximately two and two-thirds the roof peak height in the photo. The bottom portion of the tower would be blocked from view by the conifers, but a significant portion of the tower would be viewable from both homes. Without accurate data describing the measured height of the building, I can only estimate the height of the tower structure in these photos. Using an approximate scale based on the building height, I've indicated a best estimate of the minimum height of the tower on the photos. Note that the antenna structure mounted on top of the tower, described on the company's website as having a 10.8 foot turning radius, may add additional height, as well as create a larger visual impact.

Mr. Soper provided a diagram in his application, which shows an estimated elevation drawing for the proposed tower, Appendix A. In the application, Mr. Soper states that the elevation data was acquired from Google Earth. In my previous status report, dated 11/3/17, I stated:

“The elevation data provided by Mr. Soper appears to have been obtained using Google maps. This data may not accurately represent the actual elevations and relationships between the structures and sight lines. I recommend Mr. Soper provide written documentation from his neighbors, supporting his opinion that the tower would not impact their views, as well as provide more detailed information and drawings illustrating the sight lines and how the proposed tower will impact the site lines on the neighboring properties.”

The inaccuracy of Google Earth topographical data is well documented on several Internet sites and case studies. In appendix D, you'll find a case study that documents these inaccuracies. Region 3 in this case study most closely approximates the terrain surrounding Mr. Soper's lot, with height variations of 25 meters or more. On page 96 of

the study, Table 1 indicates an RMS error of 5.69 meters (18.7 feet) in Region 3 terrain. Google Earth elevation data in this type of terrain is only accurate with 18.7 feet.

I have requested a dimensional site plan and elevation drawings on numerous occasions from Mr. Soper. In the 11/3/17 report, I stated:

“The site plans shown in Mr. Soper's application do not provide an accurate, dimensional representation of the buildings, lot lines, roads, and existing antenna structures on his property. In addition, there is no dimensional drawing showing the elevation aspect of his tower in relationship to his home, neighboring homes, the placement of the tower support, or any detail regarding how the supports would be attached to the house.”

Appendix E shows some of the history of my requests for a dimensional site plan. In an email sent by Mr. Soper on 10/28/17, the site plan shows no dimensional data, and Mr. Soper states:

“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.”

In a later email dated 11/17/17, Mr. Soper attached a site plan, which he referred to as “Antenna Site Plan-FINAL.” This site plan had some dimensional data with respect to his house and observatory, but lacked data showing the location of the tower with respect to lot lines and the roadway right of way. The provided plan was difficult to read and did not provide elevation data.

Mr. Soper did provide a photo of the Hex-Beam antenna he intends to mount on his support structure. In Appendix F you'll find his photo along with photo provided by the manufacturer that shows the antenna in profile. Mr. Soper has indicated that in addition to this Hex Beam antenna, other antennas may be mounted on his tower. To date, there hasn't been a representation of those antennas on any drawing or photo supplied by Mr. Soper. I believe the town should ask for clarity on the exact configuration of antennas and masts to be mounted on the tower, to adequately assess the visual impact of the final structure.

At the town council meeting on 11/6/17, Mr. Soper agreed to perform a balloon height test at the request of neighboring lot owners to demonstrate the impact of the tower

on their views. In Appendix G, the email thread indicates that Mr. Soper was initially willing to perform the test, but abandoned the project. Note that affected lot owners were given only a one-hour notice to attend the test.

Health and Safety

Without dimensional data that describes the location of the tower structure with respect to the roadway right of way and neighboring lot lines, it is difficult to determine the impact the tower might have in case of a failure in a windstorm or other severe weather. Of special concern is the Hex Beam antenna and any other structures that would be mounted on top of the tower. In the case of a windstorm, significant pressure could be exerted on these structures and if their mounting connections failed, they could be launched into the road or a neighboring lot.

Appendix H contains an email thread in which I requested more information regarding the connection of the antenna to the supporting tower. Mr. Soper declined to give any detail about the actual connection plan. This issue remains one of concern.

Appendix I contains a report authored by myself, that models the force on the Hex Beam center of mass from a wind gust of a specific velocity and duration, and the resulting horizontal flight distance in the event the antenna breaks free. There are model assumptions and simplifications factored into the flight distance calculations, but the force calculations are based on a well-accepted wind load force formula, and use data supplied by the Hex Beam manufacturer to calculate wind loads.

The table of results indicates that the Hex Beam antenna could be subject to a force of over 191 lbs. for a wind gust of 60 mph. This underlines the importance of the structural connection between the antenna mast and the tower. For this same wind speed, the horizontal travel could be as high as 117 feet, clearly enough travel to bring the antenna into the roadway right of way or a neighboring lot.

Mr. Soper has provided information that indicates that his support tower can handle an antenna area of up to 6.8 sq ft in gusts of up to 105 mph, Appendix J. The Hex Beam antenna has a wind load area of 5.1 sq ft. However, he has not provided any details as to how the support tower will be connected to his house, and if that connection is up to spec to support that wind load.

Appendix K shows an email from Josh Call, dated 10/26/17, stating his concerns:

“I have spoken with John Riley, our structural engineer, he recommends that Mr.

Soper hire a structural engineer to do the drawings and calculations. In Mr. Soper's latest email, he stated, 'I have a log home, so no worries about securing the heavy duty house bracket to framing.' Unfortunately this does not work for an engineering review, as town engineer we need to be certain that this structure will not cause structural issues to the home. I am struggling with how to communicate this with Mr. Soper, as we haven't begun official review and I can't really spend time on this without having to bill it somewhere. In answer to your question, I think it is in the town's best interest to know exactly how tall this tower will be above the home, and that should be identified in the SUP."

Necessity for the Proposed Structure

Mr. Soper responded to the 11/3/17 staff report in an email and attached document, Appendix M, commenting on specific issues raised in the report section titled "Review of the Application." In response to the recommendation that Mr. Soper explore an alternative height and location of his tower, to alleviate concerns regarding visual impact and safety, Mr. Soper responded, on page 4 and 5:

"The Town has, more than once, been provided adequate information to support the need for the requested tower height. Repeating the same answers is unreasonable."

"The town has, more than once, been provided adequate information to support the need for the requested tower location at the given elevation. Moving it to any lower position on the lot would require a taller tower to reach the same overall elevation as needed for adequate transmission and reception. Repeating the same answers is unreasonable."

Mr. Soper's application does not include any calculations that specifically show that his proposed tower height and location is the only way to achieve his desired transmission and reception.

Incomplete Plan Set

Mr. Soper's submitted plans lack the following documents that are necessary to review 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 height of the tower and the size and location of any antennas or equipment to be attached to the tower.
- Engineered drawings and specifications necessary for Epic to do a plan review.

Mr. Soper has been asked repeatedly for the site plan and elevation drawing and has not produced a document that has measured, dimensional data.

On page 8 of Mr. Soper's response to the 11/3/17 staff report, Appendix L, Mr. Soper states in response to Epic's concern regarding lack of detail in Mr. Soper's submitted plans:

“As explained above, the entire system, including tower, foundation and support brackets, has been designed and built to TIA-222. This satisfies any applicable codes and therefore does not require a design review by the town engineer.”

Summary and 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:

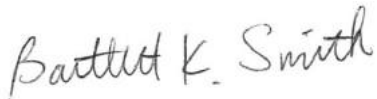
- A dimensional site plan, showing the measured locations and footprints of all structures on his lot, his proposed tower, the road right of way, and his lot lines.
- A dimensional elevation drawing that shows the height of his roof, the point of attachment of the tower to the house, the location and 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 connections 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.

These issues were raised in my earlier staff report, dated 11/3/17, Appendix M. Mr.

Soper did not adequately address the concerns expressed in that report in his response, Appendix L, and as a result, my recommendation at this time is that the council request Mr. Soper to provide the information listed above to the council, before considering a decision to approve his application.

In addition, Epic has voiced their concern over the lack of detail provided by Mr. Soper's plans, and their inability to perform an adequate engineering review based on the provided information. Mr. Soper is free to communicate with Epic regarding his plans. But he has been instructed that additional time spent consulting with Epic may be charged to him directly. Mr. Soper is also free to contract with an engineer of his choosing to prepare complete plans that will allow the Town to adequately review his request. His \$100 plan review fee does not include consulting fees from Epic, but only a routine plan review.

Sincerely,

A handwritten signature in cursive script that reads "Bart Smith".

Bart Smith, Interlaken Town Clerk

**INTERLAKEN TOWN
WASATCH COUNTY, UTAH**

**AMENDED WATER RATE ORDINANCE
DECEMBER 11, 2017**

ORDINANCE NO. 6

AN ORDINANCE AMENDING THE INTERLAKEN TOWN WATER
USAGE RATES

WHEREAS, Interlaken Town (the "Town") has undertaken certain improvements to acquire a culinary water system from the Interlaken Mutual Water Company and finance those improvements in part with a loan from the State of Utah, Department of Environmental Quality, Drinking Water Board (the "DWB") which would require that the Town establish water rates to cover debt service on the loan and otherwise comply with the conditions of the loan; and

WHEREAS, the Town Council held this day a properly noticed public hearing on the issue of establishing or raising its water rates for purposes of complying with the conditions and requirements of the loan commitment from the DWB; and

WHEREAS, the Town Council has received and heard all comments on the proposed water rate increase submitted for its consideration.

NOW, THEREFORE, it is hereby ordained by the Town Council of Interlaken Town, Wasatch County, Utah, (the "Town Council") as follows:

Section 1. Water rates to be charged by the Town shall be as follows for all lots within the Town which are connected to the Interlaken Town Water System on or before January 1st, in the current fiscal year:

First 10,000 gallons per month (basic rate)	\$75.00 per month
Next 5,000 gallons	\$ 7.50 per 1000 gallons
Next 5,000 gallons	\$ 10.00 per 1000 gallons
Next 10,000 gallons	\$12.50 per 1000 gallons
Over 30,000 gallons	\$ 25.00 per 1000 gallons
January 2018 additional surcharge per lot	\$29 one-time fee

Water rates to be charged by the Town shall be as follows for all lots within the Town which have been issued an active building permit on or before January 1st, in the current fiscal year:

First 10,000 gallons per month (basic rate)	\$75.00 per month
Next 5,000 gallons	\$ 7.50 per 1000 gallons
Next 5,000 gallons	\$ 10.00 per 1000 gallons
Next 10,000 gallons	\$12.50 per 1000 gallons
Over 30,000 gallons	\$ 25.00 per 1000 gallons
January 2018 additional surcharge per lot	\$29 one-time fee

Water rates to be charged by the Town shall be as follows for all lots within the Town which are NOT connected to the Interlaken Town Water System and have NOT been issued an active building permit on or before January 1st, in the current fiscal year:

Base rate for undeveloped lots without a building permit	\$62.00 per month
January 2018 additional surcharge per lot	\$12 one-time fee

Section 2. The Town Council finds the rates listed in Section 1 of this Ordinance to be necessary and desirable, which rates are hereby found and determined to be just, reasonable and necessary charges for the use of municipal water services.

Section 3. The list of rates provided in Section 1 of this Ordinance shall remain in effect until revised from time to time by the Town Council by ordinance or by resolution.

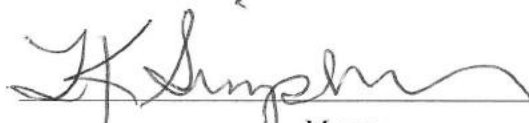
Section 4. The water rates designated in Section 1 of this Ordinance shall become effective January 1, 2018.

Section 5. The Town Council hereby adopts the Water Conservation Plan prepared for water system of the Interlaken Mutual Water Company, pursuant to the acquisition of said system. All resolutions, or ordinances or parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 6. The Town Clerk is directed to complete and execute the Record of Proceedings attached hereto as Exhibit A to officially record the proceedings at which this Water Rate Ordinance was considered for adoption.

Section 7. The Town Clerk is directed to publish a copy of this ordinance in the newspaper and this ordinance shall take effect as of January 1, 2018.

APPROVED AND ADOPTED: December 11, 2017.



Mayor

ATTEST:



Town Clerk



(SEAL)

EXHIBIT A

RECORD OF PROCEEDINGS

The Town Council (the "Council") of Interlaken Town, Utah (the "Issuer"), met in public session at the regular meeting place of the Council in Interlaken, Utah, on December 11, 2017 (the "Meeting"), at the hour of 7:00 p.m., or as soon thereafter as feasible, with the following members of the Council being present:

Lisa Simpkins	Mayor
Susan Marie O'Nan	Councilmember/Treasurer
Chuck O' Nan	Councilmember
Greg Harrigan	Councilmember
Scott Neuner	Councilmember

Also present:

Bartlett Smith	Town Clerk
----------------	------------

Absent: None

which constituted all the members thereof:

After the Meeting had been duly called to order and after other matters were discussed, the foregoing ordinance (the "Ordinance") was introduced in written form and fully discussed.

A motion to adopt the Ordinance was then duly made by Councilmember Susan O'Nan and seconded by Councilmember Greg Harrigan, and the Ordinance was put to a vote and carried, the vote being as follows:

Those voting YEA: Lisa Simpkins
Susan O'Nan
Chuck O'Nan
Greg Harrigan
Scott Neuner

Those voting NAY: none.

Those Abstaining: none.

Other business not pertinent to the Ordinance appears in the minutes of the Meeting. Upon the conclusion of all business on the Agenda and motion duly made and carried, the Meeting was adjourned.

CERTIFICATE OF ACTING TOWN CLERK

I, Bartlett Smith, the duly appointed and qualified Acting Town Clerk of Interlaken Town, Utah (the "Issuer"), do hereby certify that the attached Ordinance is a true, accurate and complete copy thereof as adopted by the Town Council of the Issuer at a public meeting duly held on December 11, 2017 (the "Meeting"). The persons present and the result of the vote taken at the Meeting are all as shown above. The Ordinance, with all exhibits attached, was deposited in my office on December 11, 2017 and is officially of record in my possession.

IN WITNESS WHEREOF, I have hereunto subscribed my signature and impressed hereon the official seal of the Issuer, this December 11, 2017.

Bartlett K. Smith

Town Clerk

(SEAL)



CERTIFICATE OF COMPLIANCE WITH
OPEN MEETING LAW

I, Bartlett Smith, the undersigned Town Clerk of Interlaken Town, Utah (the "Issuer"), do hereby certify, according to the records of the Issuer in my official possession, and upon my own knowledge and belief, that in accordance with the requirements of Section 52-4- 202, Utah Code Annotated 1953, as amended, I gave not less than twenty-four (24) hours public notice of the agenda, date, time and place of the December 11, 2017, public meeting (the "Meeting") held by the governing body of the Issuer as follows:

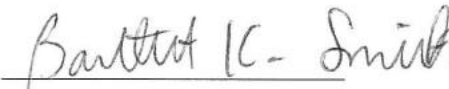
(a) By causing a notice, in the form attached hereto (the "Meeting Notice"), to be posted at the principal office of the Issuer at least twenty-four (24) hours prior to the convening of the Meeting, the Meeting Notice having continuously remained so posted and available for public inspection until the completion of the Meeting; and

(b) By causing a copy of the Meeting Notice to be delivered to a newspaper of general circulation in the geographic jurisdiction of the Issuer at least twenty-four (24) hours prior to the convening of the Meeting; and

(c) By causing the Meeting Notice to be posted on the Utah Public Notice Website at least twenty-four (24) hours prior to the convening of the Meeting.

(d) By giving notice to each member of the Town Council.

IN WITNESS WHEREOF, I have hereunto subscribed my official signature this December 11, 2017.


Town Clerk

(SEAL)

(Attach Meeting Notice including proof of posting thereof on the Utah Public Notice Website)



Entity: Interlaken Town

Body: Interlaken Town Council

Subject:	Budgeting
Notice Title:	Interlaken Town Council Water Rate and Budget Ammendment Hearing
Meeting Location:	Town Pump House 236 Luzern Rd. Midway 84049
Event Date & Time:	December 11, 2017 December 11, 2017 07:00 PM - December 11, 2017 08:00 PM
Description/Agenda:	<ol style="list-style-type: none">1. Call To Order.2. Roll Call.3. Presentations Presentation of proposed Town Ordinance No. 6 Amended Water Rates. Presentation of Proposed FY2018 Budget Amendment.4. Public Comment. Comments will be taken on the proposed Amended Water Rate Ordinance and the proposed Budget Ammendment. Comments are limited to three minutes per speaker. Those wishing to comment should stand, state their full name and address, whom they represent and the subject matter to be addressed. Total time allocated to public comments will be no more than 60 minutes.5. Council Comments.6. Adjournment.
Notice of Special Accommodations:	In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify Bart Smith at 435-565-3812.
Notice of Electronic or telephone participation:	NA
Other information:	
Contact Information:	Bart Smith (435)565-3812 interlakenclerk@gmail.com
Posted on:	December 03, 2017 09:11 PM
Last edited on:	December 03, 2017 09:11 PM

licating bids for the new construction of the Midway City Public Works maintenance shop. It is the metal portion for a new equipment maintenance shop. We would like to have the structure purchased, delivered and ready for installation by Thursday March 1, 2018. We have enclosed a copy of the architecture drawings for review.

Bids must include a set of engineered plans and purchase prices of the materials required to build the metal portion of this new building.

Bids are due by 2pm on Thursday December 7, 2017. Bids can be submitted in the following ways.

Mail in to:
Midway City
PO Box 277 Midway, UT 84049

Hand delivered to:

on Monday, December 11, 2017 at 4:00 pm. The meeting will take place at the Heber Valley Visitor's Center, 475 N Main Street, Heber City, UT 84032. The purpose of this meeting is to receive public input for the 2017 budget.

Published in The Wasatch Wave December 6, 2017.

NOTICE OF BUDGET HEARING

Wasatch County Fire District Public notice is hereby given that on December 12, 2017 at 6:00 pm, a public budget hearing for the Wasatch County Fire District will be held at the Wasatch County Administration Building, located at 25 N Main in Heber City, Utah. The purpose of the hearing is to adopt the 2018 calendar year budget for the Fire District.

December 11, 2017 at 6:30 p.m. at the Town Pump House located at 236 Luzern Rd., Midway, UT. For more information contact the town clerk at (435) 565-3812 or interlakenclerk@gmail.com.

Bart Smith

Interlaken Town Clerk

Published in The Wasatch Wave November 29, and December 6, 2017.

NOTICE TO WATER USERS

The applications below were filed with the Division of Water Rights unless otherwise designated).

These are informal proceedings per Rule R655-6-2. Protests concerning an application must be legibly written or typed, contain the name and mailing address of the protesting party, STATE THE APPLICATION

Sunburst Ranch PUD / Master Plan Amendment (Steve Condie) - A Request to Amend the Master Plan for the Sunburst Ranch PUD Located at Ranch Way and Swiss Alpine Road (Zoning is R-1-22 and RA-1-43). Recommended without Conditions by the Midway City Planning Commission.

Copies of the above item may be obtained from the Midway City Recorder at 75 North 100 West, Midway (Midway City Office Building). Midway City is happy to provide reasonable accommodations for individuals with disabilities. For assistance, please contact the Midway City Recorder at 654-3223 x118.

Published in The Wasatch Wave November 29, and December 6, 2017.

that the Wasatch County Solid Waste Disposal District will hold a public hearing on December 12, 2017 at 6:00 pm. The purpose of the hearing is to hear and approve the 2018 budget and amendments to the 2017 budget. The location of the hearing is 25 North Main Street, Heber City, Utah.

Kelly Christensen

District Manager

Published in The Wasatch Wave November 22 and 29, and December 6, 2017.

PUBLIC NOTICE

Public Notice is hereby given that the Wasatch County Parks and Recreation Special Service District #21 will hold a public hearing on December 12, 2017. The purpose of the hearing is to hear and approve the 2018 budget and amendments from

Legal Notices

Notice for Land use hearing
on December 11, 2017
Notice for water rate & budget
hearing on December 11, 2017

PAGE B5

Should you have any questions please contact Shane Owens at 435-503-5739 or at sowens@midwaycityut.org

Thank you for taking time to bid our project, we look forward to working with you.

Mayor Colleen Bonner
Shane Owens

MCPW Administrative Lead
Published in The Wasatch Wave December 6, 13 and 20, 2017.

PUBLIC NOTICE

PUBLIC NOTICE is hereby given that the Wasatch County Special Service District #9 mineral lease, will hold a public hearing on December 21, 2017 at 6 p.m. the meeting will be held at 25 North Main Street Heber City Utah. The purpose of the hearing is to hear and approve the 2018 budget and amendments to the 2017 as needed. The board will also hear and possibly approve the following; minutes of past meetings, meeting schedule for 2018 and other matters. Public welcome.

Brent R. Titcomb
Board member

Published in The Wasatch Wave December 6, 13 and 20, 2017.

NOTICE

Heber Valley Tourism and Economic Development will hold a public budget meeting

available on the fire District Web

Site wasatchcountyfire.com. The District Board will also open the Wasatch County Fire District 2017 calendar year budget to allow for the adjustment of any additional revenue and expenses.

Ernie Giles, Fire Chief

Published in The Wasatch Wave December 6, 2017.

PUBLIC NOTICE OF LAND USE HEARING

The Interlaken Town Planning Commission will hold a public hearing on Monday, December 11, 2017 at 6:00pm, at the Town Pump House, 236 Luzern Rd., Midway, UT to consider approval of proposed revisions to the Interlaken Municipal Land Use Ordinances. The text of the proposed changes will be available from the Interlaken Town Clerk ten days prior to the hearing. Comments and questions may be submitted to the Interlaken Town Clerk at (435) 565-3812 or interlakenclerk@gmail.com.

Published in The Wasatch Wave November 29, and December 6, 2017.

PUBLIC NOTICE

Interlaken Town will hold a Public Hearing on the proposed Amended Water Rate Ordinance and Amended Fiscal Year 2018 Town Budget on De-

December 11, 2017 at 6:30 p.m. at the Town Pump House located at 236 Luzern Rd., Midway, UT. For more information contact the town clerk at (435) 565-3812 or interlakenclerk@gmail.com.

CHANGE APPLICATION(S)
55-12868 (a43086): Jordan M. Dursa, South Kamas Irrigation Company propose(s) using 1.0 ac-ft from groundwater (Southwest of Woodland) for IRRIGATION; STOCKWATERING; DOMESTIC.

EXTENSION(S)
55-9346 (a22519): C. David and Adrienne Warren, Kris and Christine Pollock, Timpanogos Irrigation Company is/are filing an extension for 3.15 ac-ft from groundwater (2 miles East of Heber) for IRRIGATION; STOCKWATERING; DOMESTIC.

Kent L. Jones, P.E.
STATE ENGINEER
Published in The Wasatch Wave November 29, and December 6, 2017.

NOTICE OF PUBLIC HEARINGS

Notice is hereby given that a public hearing will be held by the Midway City Council on Wednesday, 13 December 2017, 6:00 p.m., in the City Council Chambers, Midway Community Center, 160 West Main Street, Midway, Utah. Time will be allowed for public comment regarding the following item:

Registered Voters: 3,019; Ballots Cast: 2,016; Voter Participation: 66.8%; all eligible absentee and provisional ballots were counted.

Mayor: Colleen Bonner, 853 votes, 42.69% and Celeste T. Johnson, 1,145 votes, 57.31%.

City Council: Don Huggard, 826 votes, 24.73%; Jeff Drury, 1,298 votes, 38.86%; Jared (JC) Simonsen, 858 votes, 25.69%; W. Kent Kohler, 358 votes, 10.72%.

Brad Wilson

Midway City Recorder

Published in the Wasatch Wave November 29, and December 6, 2017.

PUBLIC NOTICE

Charleston Water Conservancy District Notice of December 2017 Meeting & Public Hearing to Adopt the 2018 Budget. Notice is hereby given that the Charleston

Water Conservancy District has re-scheduled it's December 2017 meeting to December 7, 2017 at 7:00 pm. held at the Charleston Town Hall to consider and adopt the 2018 Budget.

Published in The Wasatch Wave November 22 and 29, and December 6, 2017.

WASATCH COUNTY SOLID WASTE DISPOSAL DISTRICT Public Notice is hereby given

that the Wasatch County Solid Waste Disposal District will hold a public hearing on December 6, 2017. The purpose of the hearing is to hear comment from the public and discuss possible approval of a 3% cost of living for the following elected and appointed office, Treasurer, Recorder, Surveyor, Clerk/Auditor, Attorney, Sheriff, Assessor, County Council and County Manager. The hearing time is 6:00 P.M.; location of the hearing is 25 North Main Street, Heber City, Utah.

Brent R. Titcomb

Wasatch County Clerk/
Auditor

Published in The Wasatch Wave November 22 and 29, and December 6, 2017.

PUBLIC NOTICE

Public Notice is hereby given that the Wasatch County Council will hold a public hearing on December 6, 2017. The purpose of the hearing is to hear and approve the 2018 general fund budget and other funds and amendments from the 2017 budget. The hearing time is 6:00 P.M. location of the hearing is 25 North Main Street, Heber City Utah.

Brent R. Titcomb

Wasatch County Clerk/
Auditor

Published in The Wasatch Wave on November 22 and 29, and December 6, 2017.

Town Council Regular Meeting January 8, 2018

[Agenda Item 9](#) – Oath of Office

Wasatch County
State of Utah

OATH OF OFFICE
TOWN OF INTERLAKEN

Council

I, Chuck O’Nan, do solemnly swear that I will support, obey, and defend the Constitution of the United States and the Constitution of this State, and that I will discharge the duties of my office with fidelity.

Chuck O’Nan

Subscribed and sworn to before me this ____ day of, _____, 2_____.

My commission expires:_____.

Notary Public, Town Clerk, Bart Smith

Wasatch County
State of Utah

OATH OF OFFICE
TOWN OF INTERLAKEN

Mayor/Council

I, Lisa Simpkins, do solemnly swear that I will support, obey, and defend the Constitution of the United States and the Constitution of this State, and that I will discharge the duties of my office with fidelity.

Lisa Simpkins

Subscribed and sworn to before me this ____ day of, _____, 2_____.

My commission expires:_____.

Notary Public, Town Clerk, Bart Smith

Wasatch County
State of Utah

OATH OF OFFICE
TOWN OF INTERLAKEN

Council

I, Marge Bowen, do solemnly swear that I will support, obey, and defend the Constitution of the United States and the Constitution of this State, and that I will discharge the duties of my office with fidelity.

Marge Bowen

Subscribed and sworn to before me this ____ day of, _____, 2_____.

My commission expires:_____.

Notary Public, Town Clerk, Bart Smith

Wasatch County
State of Utah

OATH OF OFFICE
TOWN OF INTERLAKEN

Council

I, Susan O’Nan, do solemnly swear that I will support, obey, and defend the Constitution of the United States and the Constitution of this State, and that I will discharge the duties of my office with fidelity.

Susan O’Nan

Subscribed and sworn to before me this ____ day of, _____, 2_____.

My commission expires:_____.

Notary Public, Town Clerk, Bart Smith

Town Council Regular Meeting January 8, 2018

[Agenda Item 10](#) – HL&P Franchise Agreement

INTERLAKEN TOWN ORDINANCE NO. 7

ORDINANCE GRANTING TO HEBER LIGHT & POWER, AND ITS SUCCESSORS AND ASSIGNS, AN ELECTRIC LIGHT AND POWER FRANCHISE

THE LEGISLATIVE BODY OF INTERLAKEN TOWN ORDAINS AS FOLLOWS:

**SECTION 1
FINDINGS AND INTENT**

The Findings and Intent of this Ordinance are:

- a. For more than 100 years. Heber Light & Power (“HL&P”) has provided electrical service to the Heber Valley including areas in and near Interlaken Town (“Town”)
- b. The Town desires to grant a Franchise to Heber Light & Power: (a) to allow it to install facilities in public streets and rights-of-way, (b) to provide electric service within the Town’s boundaries, and (c) to comply with Utah Code Ann. § 11-13-204(7).

**SECTION 2
FRANCHISE GRANTED**

A nonexclusive Franchise for electrical light and power is granted to Heber Light & Power, a Utah interlocal agency, its successors and assigns, to construct, install, operate and maintain electrical facilities over, across, and under the present and future streets, alleys, and public ways of the Town (collectively, “Public Ways”), including facilities to interconnect with HL&P’s generation and other like facilities, for the purpose of furnishing, supplying, transmitting, and distributing electricity to the Town and its inhabitants within the Town’s boundaries and throughout HL&P’s electrical system, upon such terms, conditions, restrictions, and regulations as are contained in this Ordinance. This Franchise does not relieve HL&P of the obligation to comply with Town code provisions and regulations, including but not limited to the requirements to obtain all necessary permits. This Ordinance and the Franchise are hereinafter collectively referred to as the “Franchise.”

In the event of an annexation of additional area into the Town, the area included within the HL&P Franchise shall be expanded to include such area.

**SECTION 3
TERM & RENEWAL**

The Franchise is granted for a term of five (5) years commencing with the date on which this Ordinance becomes effective and shall end on January 7, 2023 unless extended as provided below.

At the expiration of this Franchise, the Franchise will automatically be extended for a period of five (5) years and will continue to be extended for subsequent five (5) year periods unless either the Town or HL&P gives written notice to the other, at least one hundred twenty (120) days prior to the expiration of the Franchise period or any extension period, that the party

giving notice objects to an automatic renewal. Upon such notice, the Town and the HL&P shall agree to either extend the period of this franchise for a mutually acceptable period of time, or the parties shall use good faith efforts to renegotiate a replacement Franchise. During negotiations HL&P shall have the continued right to use the Public Ways of the Town as set forth herein and HL&P will continue to provide, at the prevailing rates, temporary service to the Town and the public, and HL&P will not remove any of its facilities used to provide such service until receiving approval by the Town.

Upon request by either party, HL&P shall meet with representatives of the Town to report HL&P's projected capital improvements in the Public Ways for the next year and to discuss concerns either Party may have.

**SECTION 4
RECORDS ACCESS**

The Town shall have reasonable access during normal business hours to inspect, audit or make copies of all books, records and other information related to HL&P's operations and business at the Town's own expense; provided, however, that the Town must preserve the confidentiality of such information.

**SECTION 5
EQUAL TREATMENT**

In providing service under this Franchise, HL&P shall comply with the following to ensure equal treatment of customers living outside of HL&P's member municipal boundaries to those within:

- a. the rates and conditions of service for customers outside the municipal boundaries of the municipal members of HL&P shall be at least as favorable as the rates and conditions of service for similarly situated customers within the municipal boundaries of the municipal members:
- b. a general rebate, refund or other payment made to customers located within the municipal boundaries of the municipal members shall also be provided to customers located outside the municipal boundaries of the members;
- c. a schedule of rates and conditions of service, or any change to the rates and conditions of service shall be approved by the governing body of HL&P;
- d. prior to implementation of any rate increase, the governing body of HL&P shall first hold a public meeting to take public comment on the proposed increase, after providing at least twenty days and not more than sixty days' advance notice to its customers on the ordinary billing and on the Utah Public Notice Website created by Utah Code Ann. § 63F-1-701.
- e. HL&P shall operate as a single entity providing service both inside and outside of the municipal boundaries of its members.

SECTION 6 OMBUDSMAN

a. HL&P has engaged and shall maintain an ombudsman to resolve complaints from customers not within HL&P's members' boundaries that concern the terms contained in Section 5 above and that are not resolved through HL&P's internal dispute resolution procedure as provided in Section 6.c. below. The ombudsman shall be an individual with knowledge, skill, experience, training, or education in the retail electric industry.

b. Subject to Section 6.c., the ombudsman shall have power to review, investigate, mediate and arbitrate customer complaints. The ombudsman shall then make written recommendations to the governing body of HL&P or its General Manager and to the complaining customer. If the recommendations are rejected by either HL&P or the complaining customer, or if mediation otherwise fails to resolve the dispute, the ombudsman will arbitrate the dispute following the procedures of the Utah Uniform Arbitration Act. Any decision issued by the ombudsman may be confirmed under Utah Code Ann. § 78B-11-123. The ombudsman may not award any attorney fees. However, if judicial enforcement becomes necessary, attorney fees may be awarded to the prevailing party by the court. HL&P shall pay the ombudsman's fees and expenses. HL&P and the complaining customer shall cooperate with, provide information to, and allow inspections, tests, and audits reasonably requested by the ombudsman in furtherance of his or her duties. The ombudsman shall have the same rights of access to HL&P records as those granted to the Town in Section 4, above.

c. Before the ombudsman may review, investigate, mediate or arbitrate a customer complaint, the customer must give HL&P, through any internal dispute resolution procedure adopted by the Board, thirty (30) days to resolve the complaint to the customer's satisfaction.

SECTION 7 INDEMNIFICATION

The Town shall, in no way, be liable or responsible for any loss or damage to property or any injury to, or death, of any person that may occur in the construction operation or maintenance by HL&P of its electrical facilities. HL&P shall indemnify, defend and hold the Town harmless from and against such claims, demands, liens and all liability or damage on account of HL&P's use of the public ways within the Town, and shall pay the costs of defense plus reasonable attorney fees for any claim, demand or lien brought thereunder. The Town shall: (a) within thirty days give written notice to HL&P of any claim, demand or lien with respect to which the Town seeks indemnification hereunder and (b) permit HL&P to assume the defense of such claim, demand, or lien. If HL&P is prejudiced by the Town's failure to give timely notice of a claim and the opportunity to defend, HL&P shall not be required to indemnify the Town from the claim. If HL&P fails, after notice and opportunity, to assume such defense, HL&P shall be subject to liability for any settlement made. If a claim is settled by the Town, without giving HL&P notice and opportunity to assume such defense, HL&P shall not be liable for any settlement made without its consent. Notwithstanding any provision hereof to the contrary, HL&P shall not be obligated to indemnify, defend or hold the Town harmless to the extent any claim, demand or lien arises out of or in connection with any negligent or willful act or failure to act of the Town or any of its officers, employees, or contractors.

**SECTION 8
SUCCESSORS AND ASSIGNS**

This Franchise shall apply to HL&P and its successors and assigns. HL&P shall be subject to all legal right, power and authority now or later possessed by the Town to control and direct by ordinance or resolution the Franchise and the manner in which HL&P shall use and enjoy it.

**SECTION 9
FEES**

Upon the request of the Town, HL&P shall collect on behalf of the Town any fee that the Town is allowed to impose on HL&P customers for the purchase or use of electricity.

**SECTION 10
EFFECT of INVALIDITY**

The Franchise is granted pursuant to the laws of Utah. If any article, section, sentence, clause, or phrase of this Franchise is for any reason held invalid or unconstitutional, the invalidity shall not affect the validity of this Franchise or any of the remaining portions. The invalidity of any portion of this ordinance shall not abate, reduce, or otherwise affect any consideration or other obligation required of HL& P.

**SECTION 11
CUSTOMER'S EXISTING RIGHTS**

This Franchise is not intended nor should it be interpreted as limiting the rights of HL&P's customers under its policies or applicable law.

**SECTION 12
ACCEPTANCE AND EFFECTIVE DATE**

This Franchise shall be effective and shall replace any existing Franchise between HL&P and the Town upon HL&P's acceptance of the Franchise within thirty (30) days of the Town council's adoption of this Ordinance. If the Franchise is not timely accepted, this Franchise is deemed withdrawn.

By accepting this Franchise, HL&P agrees to provide electric service in the Town boundaries and other properties owned by the Town and located within the HL&P's service area during the term of the Franchise and in a manner consistent with this Franchise and HL&P's policies, as the policies may be changed from time to time. The Town boundary is shown on **Exhibit A** and the portion HL&P's service in the area of the Town on **Exhibit B**.

SECTION 13 REMEDIES

If HL&P fails to perform any term of this Agreement, the Town may give HL&P written notice to cure (“Notice to Cure”). The Notice to Cure shall specify the nature of the alleged failure to perform and the manner in which said failure may be cured.

HL&P shall have 30 days following receipt of the Notice to Cure to correct the failure to perform. If the nature of the alleged failure is such that it cannot reasonably be cured within such 30-day period, then the commencement of the cure within such time period, and the diligent prosecution to completion of the cure thereafter, shall be deemed to be a cure within such 30-day period.

If HL&P does not timely cure the failure to perform, it shall be in default. In the event of HL&P’s default, the Town may terminate the Franchise by giving HL&P written notice of the termination (“Notice of Termination”) of the Franchise. The Franchise shall automatically terminate 120 days after HL&P’s receipt of the Notice of Termination. Termination of the Franchise shall be the Town’s sole remedy in the event of an uncured breach under the terms of the Franchise.

If HL&P cures within the time period provided in this Section 13 or if the Town does not give a Notice of Termination within 120 days of the delivery of the Notice to Cure, then no default shall exist and the Town may take no further action without submitting a new Notice to Cure and complying with the other requirements of this Section 13.

SECTION 14 REASONABLE ACCOMMODATION OF OTHER ELECTRICAL SERVICE PROVIDERS

In order to reduce, as much as possible, the duplication of electrical infrastructure within the Town and surrounding areas, HL&P will reasonably accommodate Rocky Mountain Power or any other electrical service providers’ use of HL&P’s electrical infrastructure where necessary or convenient to the other electrical service provider. This provision is intended to protect the Town from the installation of unnecessary and unsightly transmission lines, and it is not intended to create a third-party beneficiary to this Franchise. HL&P may use electrical infrastructure within the Town to provide electrical service to areas outside of the Town boundaries.

In any event, HL&P shall not place infrastructure in any location where similar infrastructure is already located without written approval by the Town, which approval shall not be unreasonably withheld.

SECTION 15 OTHER FRANCHISES

Should other electric companies request franchises to construct, install or maintain electrical facilities in the Town’s streets, alleys and public grounds, the Town agrees that such franchises shall not include terms or conditions applicable to such other electric companies that are more favorable than those contained in this franchise. This Section 15 shall not apply to Sections 4, 5, and 6 of this Franchise.

**SECTION 16
TOWN REGULATORY AUTHORITY**

In addition to the provision herein contained, the Town reserves the right to adopt such additional ordinances and regulations as may be deemed necessary in the exercise of its police power for the protection of the health, safety and welfare of its citizens and their properties or exercise any other rights, powers, or duties required or authorized, under the Constitution of the State of Utah, the Laws of Utah or Town Ordinance.

**SECTION 17
PLAN, DESIGN, CONSTRUCTION AND INSTALLATION OF HL&P FACILITIES**

HL&P shall install, construct, maintain and replace its electrical facilities located in the Town's Public Ways, in a manner consistent with Prudent Utility Practice including the Town's laws and ordinances, to minimize to the extent reasonably practical, interference with traffic on or use of the Public Ways. "Prudent Utility Practice" means the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, and/or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost, consistent with good business practices for the electric utility industry and reliably, safely and expeditiously. Prudent utility practices are not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to mean practices, methods or acts generally accepted in the geographic region where the parties operate. Prudent Utility Practice includes meeting, at a minimum, the laws and regulations applicable to the facilities or decisions involved and the National Electrical Safety Code, as last revised.

Except in the case of an emergency, HL&P shall, prior to commencing new construction or major reconstruction or excavation in the Public Ways, apply for applicable permit(s) the Town with respect to the construction, maintenance and operations of its facilities. The Town shall not unreasonably withhold, condition, or delay the issuance of such permits. HL&P will abide by all applicable ordinances and all lawful rules, regulations and requirements of the Town, and the Town may inspect the manner of such work and require remedies as may be reasonably necessary to assure compliance. Notwithstanding the foregoing HL&P shall not be obligated to obtain a permit to perform emergency repairs.

All Electrical Facilities shall be located so as to cause minimum interference with the Public Ways of the Town and use by others and all Electrical Facilities shall be constructed, installed, maintained, renovated or replaced in accordance with applicable codes, rules, and regulations.

HL&P shall repair or replace, at its own expense and to as good a condition as existed prior to modification by HL&P, any and all rights of way, pavements, sidewalks, street improvements, excavations, other facilities, landscaping, or other improvements, public or private, that it damages in the Franchise operations.

The Town shall have the right without cost to use all poles and suitable overhead structures owned by HL&P within Public Ways for Town wires used in connection with its fire alarms, police signal systems, or other public safety communication lines as well as decorative or informational Town banners used for governmental purposes; provided, however, any such uses shall be for activities owned, operated or used by the Town for a public purpose and shall not include the provision of CATV, internet, or similar services to the public. Provided further, that HL&P shall assume no liability nor shall it incur, directly or indirectly, any additional expense in connection with the installation or use of said poles, and the use of said poles and structures by the Town shall be in such a manner as to prevent safety hazards or interferences with HL&P's use of same. Nothing herein shall be construed to require HL&P to increase pole size, or alter the manner in which HL&P attaches its equipment to poles, or alter the manner in which it operates and maintains its Electrical Facilities. Town attachments shall be installed and maintained in accordance with the reasonable requirements of HL&P and the current edition of the National Electrical Safety Code pertaining to such construction. Further, Town attachments shall be attached or installed only after written approval by HL&P in conjunction with HL&P's standard pole attachment application process, which process shall be timely and reasonable. HL&P shall have the right to inspect, at its own expense, such attachments to ensure compliance with this Section and to require the Town to remedy any defective attachments.

HL&P shall have the right to excavate the Public Rights of Ways subject to lawful conditions, ordinances and requirements of the Town. Before installing new underground conduits or replacing existing underground conduits, HL&P shall, as early as is practical, notify the Town of such work by written notice and shall allow the Town, at its own expense, to share the trench of HL&P to lay its own conduit therein, provided that such action by the Town will not unreasonably interfere with HL&P's Electrical Facilities or delay project completion.

SECTION 18 RELOCATION OF ELECTRICAL FACILITIES

The Town reserves the right to require HL&P to relocate its Electrical Facilities within the Public Ways in the interest of public convenience, necessity, health, safety or welfare at no cost to the Town. Within a reasonable period of time after written notice, HL&P shall promptly commence the relocation of its Electrical Facilities. Before requiring a relocation of Electrical Facilities, the Town shall identify, with the assistance and consent of HL&P, a reasonable alignment for the relocated Electrical Facilities within the Public Ways of the Town.

The Town shall assign or otherwise transfer to HL&P all right it may have to recover the cost for the relocation work and shall support the efforts of HL&P to obtain reimbursement.

HL&P shall not be obligated to pay the cost of any relocation that is required or made a condition of a private development. If the removal or relocation of Electrical Facilities is caused directly or otherwise by an identifiable development of property in the area or is made for the convenience of a customer, HL&P may charge the expense of removal or relocation to the developer or customer. For example, HL&P shall not be required to pay relocation costs in connection with a road widening or realignment where the road project is made a condition of or caused by a private development.

Passed by the Town Council of Interlaken Town, Utah this 8th day of January, 2018.

Signed: _____
Lisa Simkins, *Mayor of Interlaken
Town*

Attested:

Bart Smith, *Interlaken Town Clerk*

(SEAL)

EXHIBIT A
Town Boundary

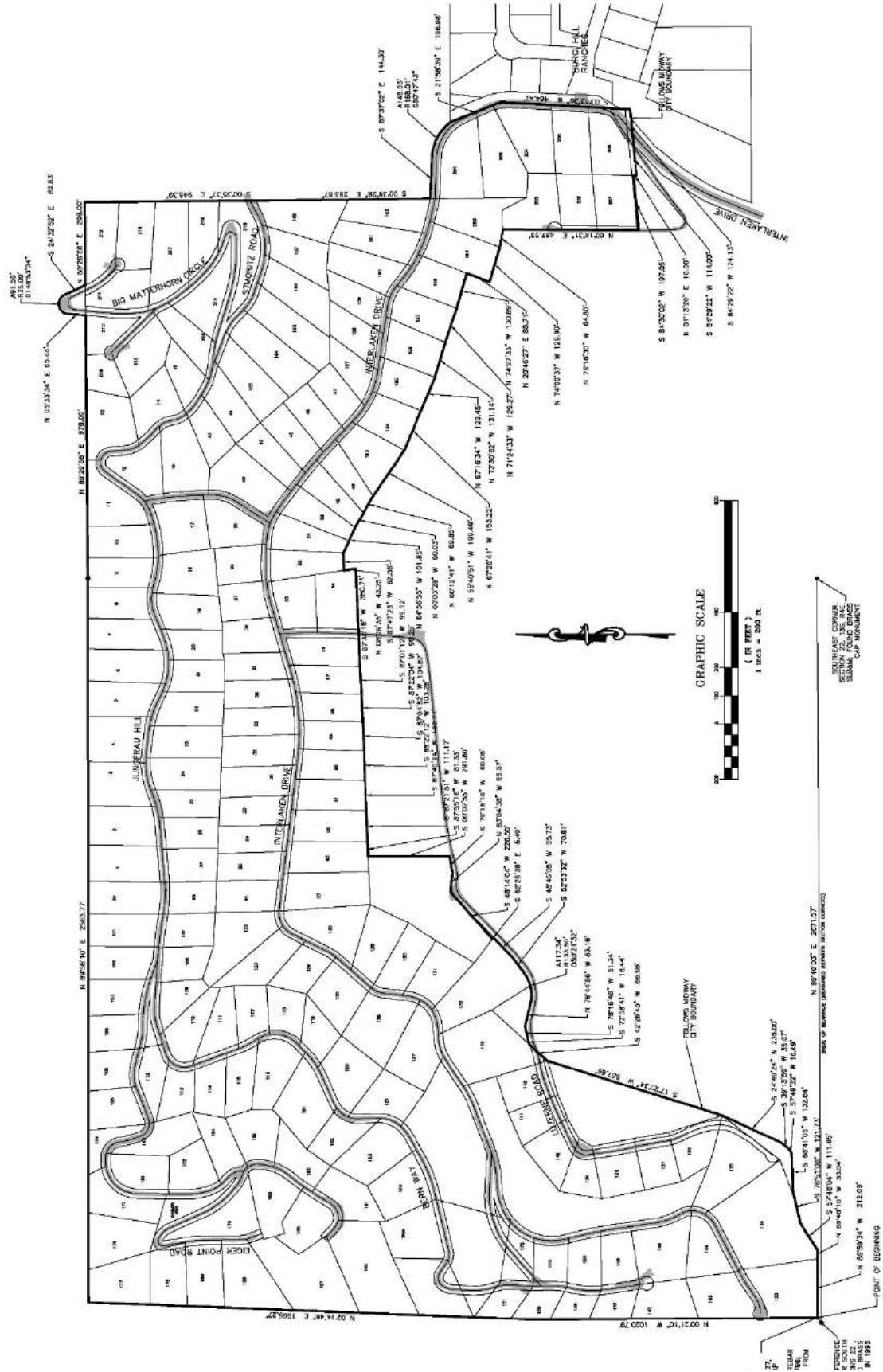
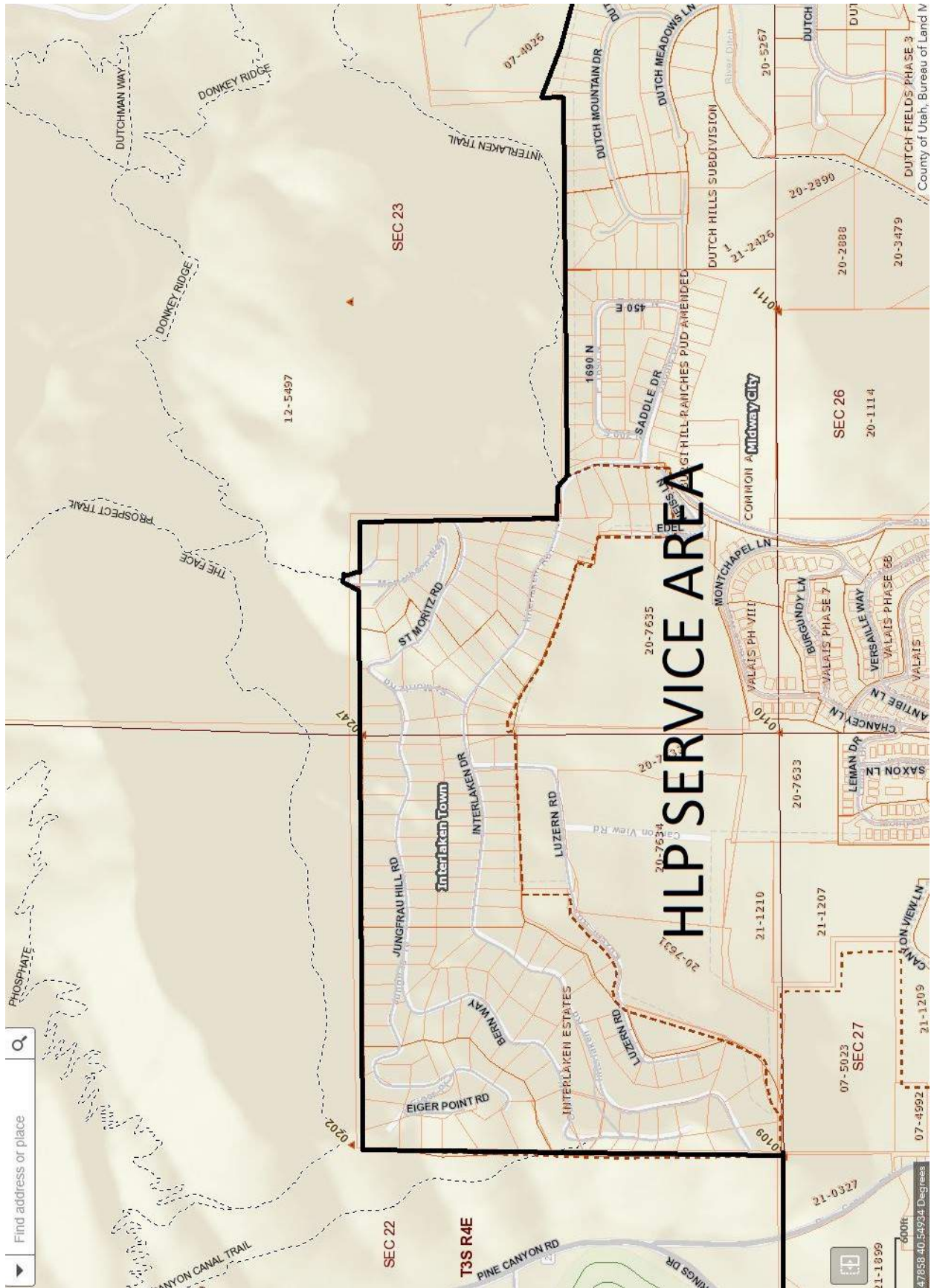


EXHIBIT B
HL&P Service Area



Town Council Regular Meeting January 8, 2018

[Agenda Item 12](#) – Title 02 Municipal Government
Ordinance Review and Discussion

of Town Code and State Law, shall notify Town Council members and the public of such meetings.

C. A quorum of the Town Council shall consist of three voting members. A quorum shall be necessary to conduct business.

D. A failure to vote by a member shall be counted as an abstention.

E. Unless approved by the Mayor or three voting members of the Town Council, the Town Council will follow the published agenda for that meeting.

F. An item may be placed on the agenda by the Mayor or two Town Council members.

G. Meetings will be governed by the current version of the Utah Code as amended and by the parliamentary rules as outlined in the current edition of *Roberts Rules of Order*.

Section 2.02.020 Presentation of Agenda Items

A. No person shall be permitted to speak unless recognized by the Mayor, who shall designate time limits to persons permitted to speak on any matter properly before the Town Council. Each person speaking before the Town Council shall first state his/her name, address, and then the substance of his/her remarks.

B. Matters before the Town Council shall be presented in the following manner, unless otherwise directed by the Mayor.

1. Presentation by staff.
2. Presentation by applicant.
3. Comments from the public, where appropriate (decided by the Mayor).
4. Comments and questions from the Town Council.
5. Further comments by applicant and public.
6. Concluding comments and recommendations from staff.

Section 2.02.030 Form and Character of Motions

A. Upon review of the public record on a request and due deliberation among the members of the Town Council, any member of the Town Council, **except the Mayor**, may make a motion. The motion shall include not only the direction of the motion (table, continue for further investigation, return to referring body for further study, approval, approval with conditions, or denial), but also a recitation of the specific findings and conclusions supporting each motion.

B. A second shall be required for each motion (a motion shall die in absence of a second).

10-3b-402 Mayor in a five-member council form of government.

- (1) The mayor in a municipality operating under a five-member council form of municipal government:
 - (a) is a regular and voting member of the council;
 - (b) is the chair of the council and presides at all council meetings;
 - (c) exercises ceremonial functions for the municipality;
 - (d) may not veto any ordinance, tax levy, or appropriation passed by the council; and
 - (e) except as modified by ordinance under Subsection 10-3b-403(2), has the powers and duties described in Section 10-3b-104.
- (2)
 - (a) If the mayor is absent or unable or refuses to act, the council may elect a member of the council as mayor pro tempore, to:
 - (i) preside at a council meeting; and
 - (ii) perform, during the mayor's absence, disability, or refusal to act, the duties and functions of mayor.
 - (b) The municipal clerk or recorder shall enter in the minutes of the council meeting the election of a council member as mayor pro tempore under Subsection (2)(a).

Enacted by Chapter 19, 2008 General Session

Town Council Regular Meeting January 8, 2018

[Agenda Item 13](#) – Title 11 Setback Code Revision

Current Setback References in Interlaken Municipal Code and CC&Rs

CC&R References to Setbacks

5. No dwelling house or garage shall be erected or placed on the premises hereby conveyed nearer than 30 feet from the exterior line of said premises.

References to Setbacks from Title 11 “Land Use” revised 2016-09-12

CHAPTER 11.02 DEFINITIONS

For the purpose of this Title, the following words and phrases shall, unless defined differently in a particular section, have the meanings respectively ascribed to them:

1. Building. Any structure built for the support, shelter, or enclosure of persons, animals, or property of any kind.
 - a. Main building. The principal building upon a lot.
 - b. **Setback** line requirement. A line requirement designating the minimum distance which buildings must be set back from a street or lot line.
 - c. Building, accessory. A subordinate building, the use of which is incidental to that of the main building
- ...
27. Lot Width. The distance between the two (2) side lot lines of a parcel measured at the required minimum building **setback**.
28. Manufactured Home. See State of Utah law and definitions.
29. Modular Home. See State of Utah law and definitions.
30. Non-Complying Structure. A structure that: (a) legally existed before its current land use designation; and (b) because of one or more subsequent land use ordinance changes, does not conform to the **setback**, height restrictions, or other regulations, excluding those regulations which govern the use of land.
- ...
38. **Setback**. The shortest distance between the property line and the foundation, wall, or a framing member of the building supporting a floor or roof (a deck shall not be considered a floor; however, a support for a roof over a deck shall be the point for measuring **setbacks**).

Section 11.04.070 Location Requirements

- A. The main dwelling unit shall be **set back** at least 30 feet from all lot lines or 30 feet from the closest edge of the roadway right of way.
- B. The accessory building shall be **set back** at least 30 feet from all lot lines, or 30 feet from the center of the roadway right of way.

C. A 10 foot setback shall be permitted along the property line that abuts an entity other than Interlaken property, such as the State Park boundary.

D. For corner lots, the main dwelling and any accessory building shall be set back from the rear property line a distance of at least 30 feet.

Section 11.06.120 Exception to Front and Side Setback Requirements

The setback from the street for any dwelling located between two existing dwellings in any residential zone may be the same as the average for the said two dwellings, provided the existing dwellings are on the same side of the street and are located within 150 feet of each other. However, no dwelling shall be located closer than 30 feet from the street surveyed road right of way.

Section 11.12.030 Notice Regarding Changes to Zoning Ordinance Requirements

A. For public hearings to hear proposed changes to General Plan provisions or Land Use requirements for any one or more of the following subjects, the Town shall provide notice as required in this Chapter:

1. A ten percent or more increase or decrease in the number of square feet or units that may be developed.
2. A ten percent or more increase or reduction in the allowable height of a building.
3. An increase or reduction in the allowable number of stories.
4. A ten percent or more increase or decrease in the setback or open space requirements.
5. An increase or reduction in permitted uses.
6. Rezoning proceedings that may change the zoning classification of an individual real property owner's property.

Code Change Recommendations Regarding Setbacks in Title 11 “Land Use”

Goals:

- Make the setback requirements the same for both main dwellings and accessory buildings to avoid confusion between 2 standards, and ambiguities between attached garages and detached garages.
- Reduce setbacks in order to avoid big hillside dig outs for uphill sloped lots.
- Reduce setbacks in order to avoid steep driveways and excessive excavation for downhill sloped lots.
- Bring setback restrictions closer to those prescribed in the CC&Rs, and what was allowed historically.

Suggested Edits:

Section 11.04.070 Location Requirements

A. The main dwelling unit shall be set back at least 30 feet from all lot lines or 30 feet from the ~~elosest edge of the~~ center of the roadway right of way.

B. The accessory building shall be set back at least 30 feet from all lot lines, or 30 feet from the center of the roadway right of way.

C. A 10 foot setback shall be permitted along the property line that abuts an entity other than Interlaken property, such as the State Park boundary.

~~D. For corner lots, the main dwelling and any accessory building shall be set back from the rear property line a distance of at least 30 feet.~~

Section 11.06.120 — Exception to Front and Side Setback Requirements

The setback from the street for any dwelling located between two existing dwellings in any residential zone may be the same as the average for the said two dwellings, provided the existing dwellings are on the same side of the street and are located within 150 feet of each other. However, no dwelling shall be located closer than 30 feet from the street surveyed road right of way.

<p>The remaining references to setbacks in Title 11 “Land Use” in the current revision may be left intact. There are no other references to setbacks in Title 9.</p>
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Town Council Regular Meeting January 8, 2018

[Agenda Item 16](#) – No Parking Sign on Interlaken

Subject: Re: No Winter Parking

Date: Saturday, December 30, 2017 11:06:56 PM Mountain Standard Time

From: leslie haarup

To: susan onan

CC: Lisa Simpkins, Interlaken Clerk, Greg Harrigan

Thank you Chuck for your email... I won't be able to attend the meeting January 8th but plan on attending a meeting as soon as I return to Interlaken. I understand the challenges that the town may face but as a town we also have to respect the beauty in the area we live to try to keep it as natural as possible and be mindful to respect this. At some point the town has to start to care about the "aesthetics" in our community, try to enforce official obligations, yet be considerate to owners concerns in town, especially when there are another solutions, which make more sense and will be more effective. In your email it states the sign is below 328 Interlaken, and although it may appear, our property lines are a little tricky in our area, and I believe the sign is on 324 Interlaken's property, not 328, regardless of the "Right Of Way". I purchased 324 Interlaken in 2010 and we have never had any winter parking issues in our area including where our road continues out to the point and up the hill. It does not make sense to put the sign in this area when it could have been attached to an existing pole which is closer to where there are issues with winter parking. Additionally, I have concerns the new sign maybe to close to the fire hydrant. There is room to attach the "No Winter Parking" notice to the existing pole in the area and I believe the other "No Winter Parking" signs attached to existing poles had many more signs than the pole I'm suggesting. I'll forward a picture of the existing pole in another email, its on my ipad.

I wish to continue this discussion when I can attend a meeting. Unfortunately I can't return to Interlaken until possibly February.

I hope the Town Council understands, as we all live in various areas in Interlaken and are experiencing growth, we need to keep the integrity of our area as natural as possible. We can't do something not well thought which actually interferes in keeping the beauty in our community, especially when there is a solution which would be more effective on all fronts.

Thank you and Happy New Year to all.

Leslie Haarup

On Thu, Dec 28, 2017 at 10:00 AM, susan onan <sonan333@q.com> wrote:

Leslie, I am a member of the town council and the road committee. I placed the locations for the new "No Winter Parking" signs. It is the towns obligation to keep the roads safe and parking on the roads is a safety concern we needed to deal with officially. We can't enforce, ticket or tow vehicles if we do not have proper signage. All signage and locations were discussed and approved by all Town Council Members. There were 4 new signs and poles added throughout Interlaken and 4 signs placed on existing poles. The new pole you are referring to is located in the road "Right Of Way" below 328 Interlaken Drive and not on your property. The existing pole on the opposing side of the road in front of 315 Interlaken Dr. already supports 2 signs and wouldn't be as effective for on coming traffic. We have spoken to Super Dave about the sign locations and he has told us these will not pose any plowing or storage issues.

The area you referred to on Bern way is actually on Jungfrau Hill and the home owner dug this out in violation of town ordinances and we saw campers, trucks and trailers parked there for multiple days. The cost of the 8 signs, poles, installation and replacement was \$1,250.00.

We will put this item on the agenda for our next Town Council meeting on January 8th for discussion.

Thank you for your concern,

Chuck O'Nan

Town Council Regular Meeting January 8, 2018

[Agenda Item 17](#) – Lighting Specifications Ordinance

Subject: Lighting Ordinance in effect

Date: Tuesday, January 2, 2018 7:40:05 PM Mountain Standard Time

From: Steve Wilson

To: Interlaken Clerk

Hi Bart,

I hope you and Joe had a great holiday season and wish you a fantastic coming year!

I worked on the lighting ordinances back when they were being fine tuned, and am suggesting you send an email to the community letting everyone know that the lighting ordinance has gone into effect on 1/1/2018? I imagine most residents do not know about the change in lighting requirements, so a reminder with a link to the ordinance and possibly a brief explanation that outdoor lights which are not shielded need to be changed to be in compliance.

Cheers,

the public streets, to provide adequately for parking needs associated with the development of land and increased automobile usage, to set standards for off-street parking according to the amount of traffic generated by each use, and to reduce the on-street storage of vehicles.

The minimum number of parking spaces required for residential structures is two parking spaces per unit.

Section 11.06.230 Requirements for Single-Family Dwelling Units

Single-family dwelling units shall be constructed on permanent foundations.

Section 11.06.240 Requirements for Solar Panels

A. The purpose of this section is to regulate the permitting of solar panels for personal use and encourage renewable energy practices with minimal regulation while mitigating negative effects.

B. Flush mounted roof solar panels are allowed as a permitted use as long as the panels are mounted flush (or minimum parallel separation allowed for cooling) with the roof and are a maximum of 4” thick.

C. Structured roof mounted solar panels are permitted. Structured panels are defined as a panel that does not mount flush with the roof but has some type of structure to change the angle of the panel.

D. Free standing solar panel structures are a permitted with the following regulations:

1. A maximum height of 15' from natural grade.
2. A maximum area of 300 square feet.
3. The solar panel structure shall meet all the setback requirements for an accessory structure as required in the zoning district in which it will be located.

E. Solar panels require a building permit in all cases except when all the following requirements are met:

1. The solar panels are not hooked into any local electrical provider’s system.
2. The size of the panels is no more than 2’ x 2’.
3. No more than 2 amps are produced.

Section 11.06.250 Requirements for Outdoor Lighting

All outdoor lighting must conform to the specifications outlined in the “**Interlaken Town Lighting Specifications**” document.

PREAMBLE

The purpose of this Ordinance is to provide regulations for outdoor lighting that will:

- a. Permit the use of outdoor lighting that does not exceed the minimum levels specified in IES recommended practices for night-time safety, utility, security, productivity, enjoyment, and commerce.
- b. Minimize adverse offsite impacts of lighting such as light trespass, and obtrusive light.
- c. Curtail light pollution, reduce skyglow and improve the nighttime environment for astronomy.
- d. Help protect the natural environment from the adverse effects of night lighting from gas or electric sources.
- e. Conserve energy and resources to the greatest extent possible.

II. LIGHTING ZONES

The Lighting Zone shall determine the limitations for lighting as specified in this ordinance. The Lighting Zone encompassing the entirety of Interlaken Town is classified as **LZ1** and is described as follows:

LZ1: Low ambient lighting

Areas where lighting might adversely affect flora and fauna or disturb the character of the area. The vision of human residents and users is adapted to low light levels. Lighting may be used for safety and convenience but it is not necessarily uniform or continuous. After curfew, most lighting should be extinguished or reduced as activity levels decline.

III. GENERAL REQUIREMENTS

A. Conformance with All Applicable Codes

All outdoor lighting shall be installed in conformance with the provisions of this Ordinance, applicable Electrical and Energy Codes, and applicable sections of the Building Code.

B. Applicability

Except as described below, all outdoor lighting installed after the date of effect of this Ordinance shall comply with these requirements. This includes, but is not limited to, new lighting, replacement lighting, or any other lighting whether attached to structures, poles, the earth, or any other location, including lighting installed by any third party. Exemptions from III. (B.) The following are not regulated by this Ordinance

- a. Lighting for public monuments and statuary.
- b. Repairs to existing luminaires not exceeding 25% of total installed luminaires.
- c. Underwater lighting in swimming pools and other water features
- d. Temporary lighting and seasonal lighting provided that individual lamps are less than 10

watts and 70 lumens.

- e. Lighting that is only used under emergency conditions.
- f. In lighting zones 2, 3 and 4, low voltage landscape lighting controlled by an automatic device that is set to turn the lights off at 10 pm MT (Mountain Time) and at 11:00 pm MT between Memorial day and Labor day.

Exceptions to III. (B.)

- a. Lighting specified or identified in a specific use permit.
- b. Lighting required by federal, state, territorial, commonwealth or provincial laws or regulations.

All lighting shall follow provisions in this ordinance; however, any special requirements for lighting listed in a) and b) below shall take precedence.

C. Road / Street & Other Lighting Within The Right Of Way (ROW)

- a. No property owner will install or operating lighting fixtures within the public right-of-way.
- b. Interlaken Town may install or authorize to be installed lighting fixtures within the easement for the principal purpose of illuminating streets or roads.

D. Lighting Control Requirements

1. Automatic Switching Requirements

Controls shall be provided that automatically extinguish all outdoor lighting when sufficient daylight is available using a control device or system such as a photoelectric switch, astronomic time switch or equivalent functions from a programmable lighting controller, building automation system or lighting energy management system, all with battery or similar backup power or device.

Exceptions to III. (C.) 1. Automatic lighting controls are not required for the following:

- a. Lighting under canopies.

2. Automatic Lighting Reduction Requirements

The Authority shall establish curfew time(s) after which total outdoor lighting lumens shall be extinguished.

Exceptions to III. (C.) 2. Lighting reductions are not required for any of the following:

- a. When the outdoor lighting consists of only one luminaire.
- b. Code required lighting for steps, stairs, walkways, and building entrances.
- c. When in the opinion of the Authority, lighting levels must be maintained.
- d. Motion activated lighting.
- e. Lighting governed by special use permit in which times of operation are specifically identified.

V. RESIDENTIAL LIGHTING

A. General Requirements

For residential properties, all outdoor luminaires shall be fully shielded and shall not exceed the allowed lumen output in Table G, row 2.

B. Background

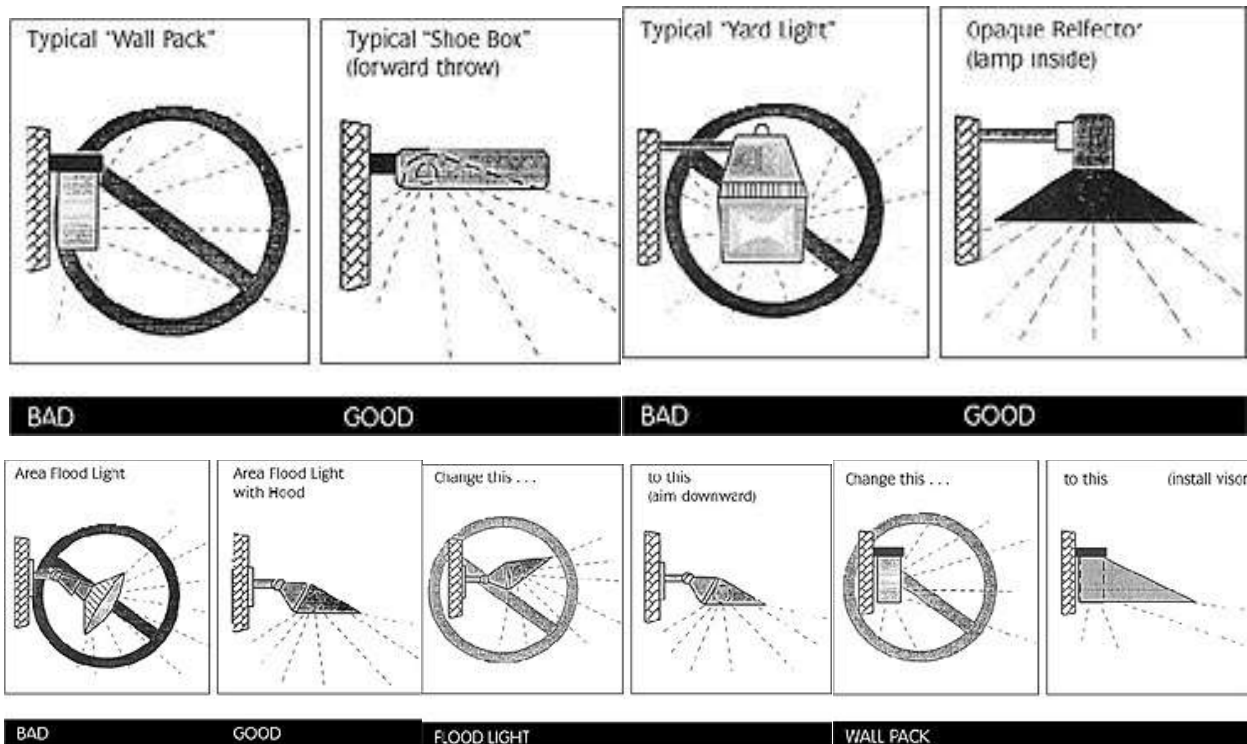
Every homeowner should become acquainted with: a) glare reducing, shielded exterior lighting fixtures; b) ways of reducing “light trespass,” and c) using minimum exterior lighting level (lumens). These principles are the basis of the Interlaken Town Outdoor Lighting Code.

Lighting trespass from one owner’s property to another deserves attention. Steep sloping lots require thoughtful placement and shielding to avoid your lights from illuminating hillside properties below you.

Place a shielded light over every door. Unshielded lights create glare and harsh shadows in which burglars can hide. Without shadows, the human eye is very sensitive to movement.

Poorly designed exterior pole-mounted lighting fixtures and residential exterior floodlights have made the public immune to security lighting. As a result, security lighting has lost the ability to turn heads and grab the attention of a potential witness.

Motion sensor controlled exterior lights alert neighbors and are better than lights that remain on all night. When someone approaches, light your home – not your neighbors (don’t restrict their vision with glare). Motion sensors are both safe and convenient.



Good Lighting Fixtures

<http://www.darksky.org/fixtures/res.html>

Exceptions

1. One partly shielded or unshielded luminaire at the main entry, not exceeding the allowed lumen output in Table G row 1.
2. Any other partly shielded or unshielded luminaires not exceeding the allowed lumen output in Table G row 3.
3. Low voltage landscape lighting aimed away from adjacent properties and not exceeding the allowed lumen output in Table G row 4.
4. Shielded directional flood lighting aimed so that direct glare is not visible from adjacent properties and not exceeding the allowed lumen output in Table G row 5.
5. Lighting installed with a vacancy sensor, where the sensor extinguishes the lights no more than 15 minutes after the area is vacated.
6. Lighting exempt per Section III (B.).

C. Requirements for Residential Landscape Lighting

1. Shall comply with Table G.
2. Shall not be aimed onto adjacent properties.

VI. LIGHTING BY SPECIAL PERMIT ONLY

A. High Intensity and Special Purpose Lighting

The following lighting systems are prohibited from being installed or used except by special use permit:

1. Temporary lighting in which any single luminaire exceeds 20,000 initial luminaire lumens or the total lighting load exceeds 160,000 lumens.
2. Aerial Lasers of higher power or used for purposes other than typical Green Laser Pointers used to highlight astronomical features for educational purposes (and in compliance with FAA prohibitions on spotlighting any aircraft).
3. Searchlights.
4. Other very intense lighting defined as having a light source exceeding 200,000 initial luminaire lumens or an intensity in any direction of more than 2,000,000 candelas.

B. Complex and Non-Conforming Uses

Upon special permit issued by the Authority, lighting not complying with the technical requirements of this ordinance but consistent with its intent may be installed for complex sites or uses or special uses including, but not limited to, the following applications:

1. Construction lighting.

2. Public buildings.

To obtain such a permit, applicants shall demonstrate that the proposed lighting installation:

- a. Has sustained every reasonable effort to mitigate the effects of light on the environment and surrounding properties, supported by a signed statement describing the mitigation measures. Such statement shall be accompanied by the calculations required for the Performance Method.
- c. Employs lighting controls to reduce lighting at a Project Specific Curfew (“Curfew”) time to be established in the Permit.
- d. Complies with the Performance Method after Curfew.

The Authority shall review each such application. A permit may be granted if, upon review, the Authority believes that the proposed lighting will not create unwarranted glare, sky glow, or light trespass.

VII. EXISTING LIGHTING

Lighting installed prior to the effective date of this ordinance shall comply with the following.

A. Amortization

On or before January 1, 2018, all outdoor lighting shall comply with this Code.

B. New Uses or Structures, or Change of Use

Whenever there is a new use of a property (zoning or variance change) or the use of the property is changed (including a change in ownership), all outdoor lighting on the property shall be brought into compliance with this Ordinance before the new or changed use commences.

C. Additions or Alterations

1. Major Additions.

If a major addition occurs on a property, lighting for the entire property shall comply with the requirements of this Code. For purposes of this section, the following are considered to be major additions:

- a. Additions of 25 percent or more in terms of gross floor area
- b. Single or cumulative additions, modification or replacement of 25 percent or more of installed outdoor lighting luminaires existing as of the effective date of this Ordinance.
- c. Resumption of Use after Abandonment
If a property with non-conforming lighting is abandoned for a period of six months or more, then all outdoor lighting shall be brought into compliance with this Ordinance before any further use of the property occurs.

VIII. ENFORCEMENT & PENALTIES

ENFORCEMENT AND PENALTIES NEEDS TO BE DECIDED ON. PERHAPS THE TOWN COUNCIL HELPS DECIDE THIS.

Consequences of failing to meet the lighting code requirements — probably a first warning period of 6 months, followed by a small, but reasonable monthly fine for failure to correct a problem.

Table G - Residential Lighting Limits

Lighting Application	LZ 1
Row 1 Maximum Allowed Luminaire Lumens* for Unshielded Luminaires at one entry only	420 lumens
Row 2 Maximum Allowed Luminaire Lumens* for each Fully Shielded Luminaire	1,260 lumens
Row 3 Maximum Allowed Luminaire Lumens* for each Unshielded Luminaire excluding main entry	315 lumens
Row 4 Maximum Allowed Luminaire Lumens* for each Landscape Lighting	Not allowed
Row 5 Maximum Allowed Luminaire Lumens* for each Shielded Directional Flood Lighting	Not allowed
Row 6 Maximum Allowed Luminaire Lumens* for each Low Voltage Landscape Lighting	Not allowed

* Luminaire lumens equals Initial Lamp Lumens for a lamp, multiplied by the number of lamps in the luminaire.

X. DEFINITIONS - Ordinance Text	
<i>Absolute Photometry</i>	Photometric measurements (usually of a solid-state luminaire) that directly measures the footprint of the luminaire. Reference Standard IES LM-79
<i>Architectural Lighting</i>	Lighting designed to reveal architectural beauty, shape and/or form and for which lighting for any other purpose is incidental.
<i>Authority</i>	The adopting municipality, agency or other governing body.
<i>Astronomic Time Switch</i>	An automatic lighting control device that switches outdoor lighting relative to time of solar day with time of year correction.
<i>Backlight</i>	For an exterior luminaire, lumens emitted in the quarter sphere below horizontal and in the opposite direction of the intended orientation of the luminaire. For luminaires with symmetric distribution, backlight will be the same as front light.
<i>BUG</i>	A luminaire classification system that classifies backlight (B), uplight (U) and glare (G).
<i>Canopy</i>	A covered, unconditioned structure with at least one side open for pedestrian and/or vehicular access. (An unconditioned structure is one that may be open to the elements and has no heat or air conditioning.)
<i>Common Outdoor Areas</i>	One or more of the following: a parking lot; a parking structure or covered vehicular entrance; a common entrance or public space shared by all occupants of the domiciles.
<i>Curfew</i>	A time defined by the authority when outdoor lighting is reduced or extinguished.

<i>Emergency conditions</i>	Generally, lighting that is only energized during an emergency; lighting fed from a backup power source; or lighting for illuminating the path of egress solely during a fire or other emergency situation; or, lighting for security purposes used solely during an alarm.
<i>Footcandle</i>	The unit of measure expressing the quantity of light received on a surface. One footcandle is the illuminance produced by a candle on a surface one foot square from a distance of one foot.
<i>Forward Light</i>	For an exterior luminaire, lumens emitted in the quarter sphere below horizontal and in the direction of the intended orientation of the luminaire.
<i>Fully Shielded Luminaire</i>	A luminaire constructed and installed in such a manner that all light emitted by the luminaire, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal plane through the luminaire's lowest light-emitting part.
<i>Glare</i>	Lighting entering the eye directly from luminaires or indirectly from reflective surfaces that causes visual discomfort or reduced visibility.
<i>Hardscape</i>	Permanent hardscape improvements to the site including parking lots, drives, entrances, curbs, ramps, stairs, steps, medians, walkways and non-vegetated landscaping that is 10 feet or less in width. Materials may include concrete, asphalt, stone, gravel, etc.
<i>Hardscape Area</i>	The area measured in square feet of all hardscape. It is used to calculate the Total Site Lumen Limit in both the Prescriptive Method and Performance Methods. Refer to Hardscape definition.

<i>Hardscape Perimeter</i>	The perimeter measured in linear feet is used to calculate the Total Site Lumen Limit in the Performance Method. Refer to Hardscape definition.
<i>IDA</i>	International Dark-Sky Association.
<i>IESNA</i>	Illuminating Engineering Society of North America.
<i>Impervious Material</i>	Sealed to severely restrict water entry and movement
<i>Industry Standard Lighting Software</i>	Lighting software that calculates point-by-point illuminance that includes reflected light using either ray-tracing or radiosity methods.
<i>Lamp</i>	A generic term for a source of optical radiation (i.e. “light”), often called a “bulb” or “tube”. Examples include incandescent, fluorescent, high-intensity discharge (HID) lamps, and low pressure sodium (LPS) lamps, as well as light-emitting diode (LED) modules and arrays.
<i>Landscape Lighting</i>	Lighting of trees, shrubs, or other plant material as well as ponds and other landscape features.
<i>LED</i>	Light Emitting Diode.
<i>Light Pollution</i>	Any adverse effect of artificial light including, but not limited to, glare, light trespass, sky-glow, energy waste, compromised safety and security, and impacts on the nocturnal environment.

<i>Light Trespass</i>	Light that falls beyond the property it is intended to illuminate.
<i>Lighting</i>	“Electric” or “man-made” or “artificial” lighting. See “lighting equipment”.
<i>Lighting Equipment</i>	Equipment specifically intended to provide gas or electric illumination, including but not limited to, lamp(s), luminaire(s), ballast(s), poles, posts, lens(s), and related structures, electrical wiring, and other necessary or auxiliary components.
<i>Lighting Zone</i>	An overlay zoning system establishing legal limits for lighting for particular parcels, areas, or districts in a community.
<i>Lighting Equipment</i>	Equipment specifically intended to provide gas or electric illumination, including but not limited to, lamp(s), luminaire(s), ballast(s), poles, posts, lens(s), and related structures, electrical wiring, and other necessary or auxiliary components.
<i>Low Voltage Landscape Lighting</i>	Landscape lighting powered at less than 15 volts and limited to luminaires having a rated initial luminaire lumen output of 525 lumens or less.
<i>Lumen</i>	The unit of measure used to quantify the amount of light produced by a lamp or emitted from a luminaire (as distinct from “watt,” a measure of power consumption).
<i>Luminaire</i>	The complete lighting unit (fixture), consisting of a lamp, or lamps and ballast(s) (when applicable), together with the parts designed to distribute the light (reflector, lens, diffuser), to position and protect the lamps, and to connect the lamps to the power supply.

<i>Luminaire Lumens</i>	For luminaires with relative photometry per IES, it is calculated as the sum of the initial lamp lumens for all lamps within an individual luminaire, multiplied by the luminaire efficiency. If the efficiency is not known for a residential luminaire, assume 70%. For luminaires with absolute photometry per IES LM-79, it is the total luminaire lumens. The lumen rating of a luminaire assumes the lamp or luminaire is new and has not depreciated in light output.
<i>Lux</i>	The SI unit of illuminance. One lux is one lumen per square meter. 1 Lux is a unit of incident illuminance approximately equal to 1/10 footcandle.
<i>Mounting height</i>	The height of the photometric center of a luminaire above grade level.
<i>New lighting</i>	Lighting for areas not previously illuminated; newly installed lighting of any type except for replacement lighting or lighting repairs.
<i>Object</i>	A permanent structure located on a site. Objects may include statues or artwork, garages or canopies, outbuildings, etc.
<i>Object Height</i>	The highest point of an entity, but shall not include antennas or similar structures.
<i>Ornamental lighting</i>	Lighting that does not impact the function and safety of an area but is purely decorative, or used to illuminate architecture and/or landscaping, and installed for aesthetic effect.

<i>Ornamental Street Lighting</i>	<p>A luminaire intended for illuminating streets that serves a decorative function in addition to providing optics that effectively deliver street lighting. It has a historical period appearance or decorative appearance, and has the following design characteristics:</p> <ul style="list-style-type: none"> · designed to mount on a pole using an arm, pendant, or vertical tenon; · opaque or translucent top and/or sides; · an optical aperture that is either open or enclosed with a flat, sag or drop lens; · mounted in a fixed position; and · with its photometric output measured using Type C photometry per IESNA LM-75-01.
<i>Outdoor Lighting</i>	<p>Lighting equipment installed within the property line and outside the building envelopes, whether attached to poles, building structures, the earth, or any other location; and any associated lighting control equipment.</p>
<i>Partly shielded luminaire</i>	<p>A luminaire with opaque top and translucent or perforated sides, designed to emit most light downward.</p>
<i>Pedestrian Hardscape</i>	<p>Stone, brick, concrete, asphalt or other similar finished surfaces intended primarily for walking, such as sidewalks and pathways.</p>
<i>Photoelectric Switch</i>	<p>A control device employing a photocell or photodiode to detect daylight and automatically switch lights off when sufficient daylight is available.</p>
<i>Property line</i>	<p>The edges of the legally-defined extent of privately owned property.</p>

<i>Relative photometry</i>	Photometric measurements made of the lamp plus luminaire, and adjusted to allow for light loss due to reflection or absorption within the luminaire. Reference standard: IES LM-63.
<i>Repair(s)</i>	The reconstruction or renewal of any part of an existing luminaire for the purpose of its on-going operation, other than relamping or replacement of components including capacitor, ballast or photocell. Note that retrofitting a luminaire with new lamp and/or ballast technology is not considered a repair and for the purposes of this ordinance the luminaire shall be treated as if new. "Repair" does not include normal relamping or replacement of components including capacitor, ballast or photocell.
<i>Replacement Lighting</i>	Lighting installed specifically to replace existing lighting that is sufficiently broken to be beyond repair.
<i>Sales area</i>	Uncovered area used for sales of retail goods and materials, including but not limited to automobiles, boats, tractors and other farm equipment, building supplies, and gardening and nursery products.
<i>Seasonal lighting</i>	Temporary lighting installed and operated in connection with holidays or traditions.
<i>Shielded Directional Luminaire</i>	A luminaire that includes an adjustable mounting device allowing aiming in any direction and contains a shield, louver, or baffle to reduce direct view of the lamp.
<i>Sign</i>	Advertising, directional or other outdoor promotional display of art, words and/or pictures.

<i>Sky Glow</i>	The brightening of the nighttime sky that results from scattering and reflection of artificial light by moisture and dust particles in the atmosphere. Skyglow is caused by light directed or reflected upwards or sideways and reduces one's ability to view the night sky.
<i>Temporary lighting</i>	Lighting installed and operated for periods not to exceed 60 days, completely removed and not operated again for at least 30 days.
<i>Third Party</i>	A party contracted to provide lighting, such as a utility company.
<i>Time Switch</i>	An automatic lighting control device that switches lights according to time of day.
<i>Translucent</i>	Allowing light to pass through, diffusing it so that objects beyond cannot be seen clearly (not transparent or clear).
<i>Unshielded Luminaire</i>	A luminaire capable of emitting light in any direction including downwards.
<i>Uplight</i>	For an exterior luminaire, flux radiated in the hemisphere at or above the horizontal plane.
<i>Vertical Illuminance</i>	Illuminance measured or calculated in a plane perpendicular to the site boundary or property line.

- END -

Town Council Regular Meeting January 8, 2018

[Agenda Item 18](#) – Mayor’s Items for Discussion

Mayor Items for discussion -

ULTC - Legislative Policy Committee (remote access) can have up to 3 members from Town.

Work Sessions for 2018

- Utah Local Government Trust - Review Risk Assessment for planning
- Review of Ordinances - Updates/changes
- Create Capitol Improvement plan
- Fiscal Plan/Municipal Plan
- General Plan
- Review of rolls and responsibilities

Future Items

- Look into 3 year rolling budget (? Is it an option contact Kerri Nakamura, ULCT Financial Oversight Consultant)
 - Cedar Hills - HAM Tower
 - State Park / Interlaken Trail Head - Garbage dumpster (open to public) (Tracy)
- FFSEL - Contact Troy (Wasatch Fire).

Town Council Regular Meeting January 8, 2018

[Agenda Item 20](#) – Open Action Items from 11/6/17 Council Meeting

- Provide emergency Calling Post info and email list to Simpkins, Harrigan, and Sue O’Nan. . In progress.
- Develop a strategy for door-to-door emergency neighborhood action, signage strategy and other emergency measures and present to the TC. In progress.
- Reimburse \$240 to Ed Little for Mac’s annual tablet service contract. Not necessary- will reimburse for certification meeting expenses.
- Contact Frank to notify them of damage to bank below property and lack of dumpster on site. In progress- in spring.
- Contact Hawkins regarding road right of way infringement and lighting ordinance and the dangerous road condition caused by his steep retaining wall. Neuner noted that Hawkins has installed a large outdoor fire pit. It appears that it is in compliance with Wasatch County code. It may exceed our 10 sq ft size limit. Simpkins spoke with him about installing a guard rail and he agreed to do it. We should follow up with him in January.
- Draft a new sign for the dumpsters with Spanish instructions. Follow up on no parking and speed limit signs with Sue O’Nan. In progress.

Sue O’Nan

- Send Smith the text for the no parking signs. **Done.**

Chuck O’Nan

- Contact TopJob regarding sloppy shoulder work and seek solution. **Done.**
- Talk to CRC signage and get quotes for sign installation. In progress – Chuck will meet with them this Friday.

Jim McCasland

- Supply the town with a minimum of 16 gallons of T-chlor, enough for 2 system flushes. **Done.**

Greg Harrigan

- Speak with Michael Henke regarding Town Planner role. **Done.**

Bill Goodall/PC

- Send all PC materials to the Town Council. No response.

17. Other Business

Simpkins reported an update on the BHR settlement. Our attorney is in negotiations with the BHR attorney, and just sent a response to the BHR offer.

18. Public Comment. None.

19. Council Comments. None.

20. Action Items from this Meeting plus Additional Open Items:

Lisa

- Meet with Wasatch County Sheriff’s office contact for radio communication. **New item.**
- Meeting with state ombudsman and our attorney regarding ROW. **In progress.**
- Meet with interlocal group to discuss the FFSL Cooperative agreement, and report to the council. **In progress.**

Bart

- Obtain GIS map files from Summit Engr. **New item.**
- Order 5 copies of the ULCT handbook. **New item.**

- Put together a list of open PC issues from meeting minutes and emails related to land use code revisions. **New item.**
- Follow up contact with the Howards regarding the lack of a portapotty and dumpster. **In progress.**
- Provide emergency Calling Post info and email list to Simpkins, Harrigan, and Sue O’Nan. . In progress.
- Develop a strategy for door-to-door emergency neighborhood action, signage strategy and other emergency measures and present to the TC. In progress.
- Contact Frank to notify them of damage to bank below property and lack of dumpster on site. In progress- in spring.

Elizabeth

- Set up a meeting between the PC, the council, and the gp task force. **New item.**

Sue O’Nan

- Contact the Utah State Tax Commission regarding reinstatement of our tax revenue. **New item.**

Chuck O’Nan

- Meet with CRC and go over sign placments. **Scheduled.**

21. Adjournment.

Council Member Greg Harrigan moved to adjourn the meeting. Council Member Sue O’Nan seconded the motion. The motion passed unanimously. The meeting was adjourned at 9:33 PM.

The next Town Council meeting will be held on Monday, December 11th, at 7:00pm, at the Town Pump House, 236 Luzern Rd.