

**MINUTES  
ALTA TOWN COUNCIL MEETING  
THURSDAY, JULY 13, 2017  
10:00 AM  
ALTA COMMUNITY CENTER  
ALTA, UTAH**

1. The Mayor called the meeting to order at 10:00 am. All members of the Town Council were present.
2. **PUBLIC HEARING:** To receive comments on the proposed vacation of Powder Ridge Drive, Alta, Utah.

The Mayor turned the meeting over to John Guldner who gave a brief history of the issue before the council.

John explained that when Mr. Richardson proposed to make changes to the Powder Ridge PUD six years ago he became to believe that the Powder Ridge Drive was a public road. In John's opinion the Town never thought it was a municipal road and never proactively accepted the road. Subsequent to this interaction with Mr. Richardson, the Powder Ridge homeowners association requested that this issue be "cleaned up".

Legal counsel recommended the Town of Alta follow Utah Code that spells out the procedure when vacating a public road. That section of the code required a petition be filed by those that want the road vacated. In this case the homeowners in the Powder Ridge PUD filed a petition. Everyone property in the PUD signed the petition except for the Alta Ski Lift Company and Tom Richardson. The first step after receiving the petition was to hold a public hearing which was being held today. As to the public notice that was sent out The Town of Alta received two additional responses from property owners.

**There was a motion by Paul Moxley to open the public hearing on this matter. There was a second by Elise Morgan and the motion was carried.**

The Mayor opened the floor to comments by the public on this matter.

Larry Moore, an attorney representing the Alta Ski Lift Company (the "resort") addressed the Town Council. Mr. Moore stated that the resort uses, albeit infrequent, the Powder Ridge Drive, for example when their regular access is blocked. Mr. Moore went on to opine that there is a necessity that the Ski Lift have the continued ability to use Powder Ridge Drive in some form. Mr. Moore recognizes that there might be ambiguities about this road as it relates to whether it is public or private; it should be analyzed both ways. If it is a public road, then the resort should have the same right as any other member of the public. If it is public and then vacated by the Town of Alta, this creates the potential to impair the right of the resort to use that road. In addition after speaking with the Town's attorney, Mr. Moore opined that it is not clear to him that title to the road, if vacated by the Town, could end up being owned by the Powder Ridge homeowners association (HOA).

Mr. Moore opined that if the road was vacated, it could end up being owned by owners vested in property on both side of the road or it could go back to the owner that originally signed the plat. It appears to Mr. Moore that the HOA does not own all the property on both sides of the road; not common area As a result, Mr. Moore does not feel ownership could fall into the hands of the HOA if the road was vacated.

Assuming the road is public, Mr. Moore asked the Town legal counsel if there is a possibility of declaring it surplus and then selling it to the HOA for a nominal sum which would result in a deed to the HOA. The deed would be subject to limited non-exclusive access rights that resort uses. Mr. Moore went on to opine that if the road is private there could be prescriptive rights afforded to those that have been using it for over 20 years. Mr. Moore also believes there are pedestrian uses that should be preserved as well.

Mr. Moore expressed that the resort wants to be cooperative and does not care who owns the road. It would like to preserve its limited ability to use the road when it needs to use it.

Mr. Moxley felt that there were many complicated legal issues regarding this matter asked and asked if there was title insurance on the road which indicate the HOA owned the road. .

Mr. Moore would be surprised if the HOA could get a policy that would show the HOA vested in the road. Mr. Moore opined that the HOA would have to have ownership of land on both sides of the road but it appears that is not the case – there is private ownership in places along the road.

Mr. Moxley's next concern was the prescriptive easement to the public because the road has been used by skiers, hikers and walkers – he wants those rights to be preserved.

Mark Haik commented that he has worked on many road vacations in the state and routinely cities and town in this situation obtain a title report. This report would detail all those that abut the roadway and would also look at the whole picture to decide what interests are involved in this matter. The report would also include the ownership of the road. In Mr. Haik opinion the abutters generally split the right of way as it exists.

Harris Sondak asked if a title report was definitive or an opinion. Rich Mrazik opined that a title report would provide additional information as to the abutters of the roadway but it would not change the legal analysis of what happens after the vacation. Rich explained that when the Town of Alta vacates the road, the abutting landowners' ownership rights extend to the middle of the road, creating a patch work of owners of the road. The owners can turn around and agree with each other to create an easement that operates a lot like the former right of way. Then if the resort, in this case, feels like they have prescriptive right of way that was established before the plat was recorded in March of 1985 they could bring a quiet title action.. If the town would like to play match maker, help the relevant parties come to the table and come to agreement in a plan before vacating the public right of way, the town can do that. In the meantime Rich believes the town would have to be comfortable with the legal ambiguity. If there is a legal argument to be made that there is public right of way, the Town would have the duty to maintain that right of way.

Paul's concern is whether the Town would increase its legal liability and incur legal expenses defending whatever action the Town takes. Rich commented that as long as the Town does the vacation by the book, the Town would not incur any legal liability.

Cliff asked if the statutory vacation procedure provides for the avenue of preserving a public easement.

Rich opined that it protects existing private easements and does not talk about reserving new private easements.

Elise asked about the legal implications of a delay in working through this process. Rich explained that the Town would have the duty to maintain the right of way.

After reading the petitions and corresponding letter from the home owners, it appears that the homeowners are under the impression that they will take ownership of the Powder Ridge Drive. Also Harris felt that the homeowners did not have impression that road would become a public pathway. Rich concurred with that assessment.

Mr. Moore asked Rich if he felt it were feasible for the Town to declare whatever interest it had in the road “surplus”, proceed to sell it for a nominal sum to the HOA and reserve the public pedestrian easement and a non-exclusive easement for the resort. Rich was not sure if that process described by Mr. Moore was legal – there is a very specific statutory procedure in place to vacate a public right of way.

Cliff asked if it is possible to do both: take Mr. Moore’s path in conjunction with following the statutory procedure. Rich recommended that a discussion take place among all interested parties regarding their intent and possible easement agreements.

Following up on Elise’s questions, Harris asked about alternative ways for the Town to fund the maintenance of that road if the town is required to complete that maintenance. Rich says the Town has a duty to complete that process correctly and how we fund that is up to the Town Council.

Rich commented that ultimately the Town would want to look at vacating the road subject to satisfactory agreement among all members of the HOA, the Alta Ski Lift Company and Mr. Richardson.

Karen Travis commented that the Gibbs’ family owned all the land involved in the petition. Ms. Travis commented that that road had been in place since the mining days. The public had access to that road and it had railroad tracks from the mining days.

Maura Olivos commented that the Town should try to maintain public access on this road.

Mike Morey expressed that in addition to the maintenance issues on the road, there would also be law enforcement issues, liability in traffic accidents, the question of an appropriate speed limit, and the possibility of allowing overnight parking.

**Hearing no further comments on this matter the Mayor called for a motion to close the public hearing. Harris Sondak made a motion to close the public hearing. There was a second by Paul Moxley and the motion was carried.**

### 3. Mayor Report – 00:30:24

The Mayor reported on the following matters:

- The summer road opened on June 30th; the booth is staffed and the summer shuttle started running on July 1st.
- The monthly UFA meeting.
- The Town’s participation in the wildland mitigation process – Chris Cawley and Rand Andrus from UFA explained this program in more detail.
- The conference of Mayor’s meeting.

- Update on the Alta Justice Court and the process of picking a new Judge for the court.
- There will be no primary in the Town and general election will be on November 7th.
- The annual Little Cottonwood Clean-up Day was a great success.
- The Central Wasatch Commission (CWC).

The CWC has new life and received state approval at the end of June. The Mayor initially wanted to use the budgeted funds for this project (\$15,000) before the end of the Town's fiscal year which was June 30, 2017. In the fall and early winter the Council had given approval to release those funds as long as all the participating agencies and governmental agencies had signed and funded the agreement – the Mayor understood that everyone signed the agreement except for the City of Draper. The Mayor reached out to the Mayor of Draper who stated that his city plans on staying involved in the CWC.

After careful consideration the Mayor decided it was better to remove the \$15,000 expenditure in the 16/17 fiscal year. The Mayor also commented that he was not sure if all the conditions related to the signing of the agreement has been fully met.

Harris, after explaining his understanding of this transaction, asked about the Town's underlying contingencies for the Town's participation according to the contract. Harris also asked about the contingencies for authorization of the disbursement of the funds by the Mayor.

Harris pointed out that Draper is mentioned in the agreement as a participant and failed to execute the agreement. Harris asked if about the legal implications of failing to execute the agreement rather than executing the agreement then pulling out of the agreement after following the procedure in the agreement.

Rich opined that if the town heard that Draper did not sign the agreement and was not going to be involved in the process then the Town could reconsider whether or not it wants to participate with everyone except for Draper.

There was discussion about whether the Town Council gave the Mayor discretion on funding the Interlocal agreement.

Harris made it clear that he was not questioning the participation in the interlocal agreement but was concerned about spending tax payers' money according to appropriate accounting principles. He was also concerned whether the agreement was signed according to what the council agreed to and whether in fact the conditions for spending Alta's money to fund the agreement had in fact been met

There was further discussion on this particular matter and it was recommended that the Council look at the new factual situation with the CWC, decide how a seat at interested party's advisory group furthers the Town's interests and whether \$15,000 is a reasonable price to pay for a seat at that table. The Mayor felt that the Council could review this situation at the next council meeting after the CWC has met in July.

The Mayor went on to comment that he is a bit disturbed that the Town of Alta is not a member of the CWC. That being said, the Mayor opined that the commission is an advisory body to UDOT and

there is stakeholder group that will be making recommendations to the commission. The Mayor has been given encouragement that the Town of Alta will have a significant seat on that stakeholders group whether it is to sit as chair or vice chair of the group. The Mayor felt that is critical for the Town of Alta to be involved in the process going forward.

The Mayor also commented on the issue surrounding Mountain Accord and whether that organization complied with the open and public meetings act.

- Hold harmless agreements – John explained that UDOT plans on putting avalanche control devices on the north side of the road in some of the starting zones near Cardiff and Hellgate. Some of these devices will be placed on private land owned by Snowbird. UDOT is working with Snowbird to obtain hold harmless agreements from property owners whose property is in the potential slide paths. e. . The agreements would be between Snowbird, UDOT and the property owners-- the Town does not own any building in the slide paths being discussed so will not be part of those agreements.
- The Mosquito Abatement District will be in the town spraying for mosquitos.
- The next meeting of the Town Council is August 10, 2017.

#### 4. Treasurer's Report – 01:14:40

Marc Dippo read the monthly report.

**Hearing no comments or questions, there was a motion by Elise Morgan to approve the report as read. There was a second by Cliff Curry and the motion was carried.**

#### 5. Departmental Reports 01:18:10

Town Administrator's Report – John Guldner updated the Council on the Snowpine building project. The Snowpine paid their building permit fees as reported in the treasurer's report. The Snowpine is estimating that the project will take 18 months to complete.

Harris asked how long the fence would be in place, whether snow removal in this area had been addressed and if the fence blocking the fire hydrant should be removed. John will address the fence in front of the hydrant and will look into how long the fence around the entire project will be in place. The Town of Alta will also work with the contractor on snow removal and access.

John reported that Aliza Whalen, the Town's intern, is currently working with Syringa to address high speed internet access for residences in the Town of Alta. Staff will keep the council up to date on this matter.

Assistant Town Administrator's Report: Chris Cawley updated the council on the updating of the Salt Lake County Wasatch Canyons Master Plan. The Town of Alta has been in contact with the Salt Lake county staff person and with Logan Simpson Design who is the consultant on the project. The Town has placed a copy the 1989 Canyons Master Plan on its website. The project is projected to take 18 months to complete and the Town will be involved in the process.

Chris also updated the council on the Town's Active Transportation Implementation Project. After deliberating with the consultant and staff, the Town decided to earmark \$4,000 more in matching funds

to this project. This will provide the Town with a more robust package of 20% design plans. The first \$10,000 has been disbursed to WFRC (16/17 fiscal year budget item) – the additional \$4,000 will be disbursed at a later time in the 17/18 fiscal year.

Rand Andrus gave a brief update on UFA matters.

Town Marshal's Report: Mike Morey reported that Kevin Payne assisted with a rescue on the Big Cottonwood side of the ridgeline.

The Marshal was involved in a high profile tactical operation at Snowbird – it was resolved without incident.

Speed bumps have been placed on the road in town and Mike also reminded people that fireworks are banned in Little Cottonwood Canyon including the town.

#### 6. Town Council Minutes – June 15, 2017 – 01:34:18

Kate Black noted that all corrections and edits submitted by council members have been incorporated into the final draft of the minutes.

**There was a motion by Harris Sondak to approve the minutes as corrected and edited. There was a second by Elise Morgan and the motion was carried.**

#### 7. Citizens Climate Lobby presentation – 1:35:00

Tom Moyer and Lauren Barros, volunteers from the Citizens Climate Lobby were introduced by the Mayor.

Tom and Lauren requested the Town of Alta to lend its voice on climate change. In the absence of leadership on the federal level, Tom stated that states and municipalities are stepping up to recommend action for the United States to take. Tom went on to say that the Citizens Climate Lobby was working with federal legislators to implement a revenue neutral fee on carbon-based fuels sufficient to keep a mean global temperature rise within two degrees Celsius.

Tom went over the various municipalities and entities in our region that had given endorsements to this matter and asked the Council for a comparable resolution in support of this concept.

Elise commented that she had read the resolutions from the other entities and is interested in the Town of Alta drafting some resolution addressing this matter.

Harris felt that the Town of Alta has a lot of standing to say something about climate change because we are a ski area town. So asking for all the relevant authorizes to do something to address carbon emissions and climate change makes a lot of sense to Harris. Harris did not think the Town had expertise to endorse specific mechanisms for doing that, including a carbon fee and tax rebate, but felt that we should support reducing carbon emissions.

Harris also felt this was a great opportunity for the Town of Alta to think about how it can contribute to moving in the right direction- what can the town, its residents and visitors do to reduce their carbon footprint.

The Mayor noted that the Town has been a bit lax on policies related to this issue and agreed that the Town should come out as a community and make a statement. The Mayor would like to see the Town come up with language addressing this matter and present the same in a future council meeting.

The Mayor thanked Tom and Lauren for the time.

8. Ordinance 2017-O-2 – An ordinance vacating Powder Ridge Drive in the Powder Ridge Planned Unit Development, Alta, Utah – 01:42:15

The Mayor recommended tabling this matter at this time. The Mayor would like to move forward with trying to get all parties' concerns agreed to in a manner that was proper and legal.

9. New Business – 01:45:55

The Mayor would like to address a procedure that groups or individuals can follow when requesting resolutions and or proclamations from the Town of Alta.

Chris explained the procedure that Park City follows.

Cliff suggested that the Town Council have a work session to address the requests that are before the council but recommended that we do as much as we can in advance of the session. Cliff suggested that the Mayor appoint sub committees to address each issue. Those committees could present a recommendation or two alternates if there are different opinions from committee members.

The Mayor felt that requests such as the one from the "Gun Violence Awareness Day" should be presented to the Council at least two months in advance of that "day".

Paul felt it would be helpful to survey how other communities handle issues such as this.

Maura went over the procedure that the Alta Ski Lifts follows when groups and individuals approach them for support on issues such as this.

Elise recommended that we hold a work session prior to the next council meeting to address the questions and issues raised in this discussion.

Cliff and Harris volunteered to address the issues of climate change and make recommendation to the council at a work session.

Harris agreed that the Town should come up with text for such a resolution on this matter. Harris also felt that the Council should have a conversation with staff to provide them with guidelines on their expectations when groups and individuals wish to approach the council on matters such as these.

The Council agreed to meet in a work session on Thursday, August 3, 2017 at 4:00 PM.

10. Citizen Input – 01:58:58

Mark Haik commented on the following matters:

- The Town should install a loop system for its water system
- The UDOT audit of the C Road funds and a report by staff on the same
- The vacation of the road in the Powder Ridge PUD – review all plats in the Town related to private roads in the Town.
- The Central Wasatch Commission and the WFRC funded project – the Town should review the UDOT assets in the Town of Alta.

Creighton Hart commented that the community, related to the climate change issue, should come up with a 20/20 plan – renewable energy issues should also be addressed. Mr. Hart suggested installing an underground water storage unit to address fire mitigation. Creighton asked if the community could address the deterioration of the Landes Jumping Hill - it has been around for over 70 years.

Mr. Haik added that Ms. Travis's remarks related to the road infrastructure near the Powder Ridge PUD are outlined in numerous mineral surveys.

Maura Olivos updated the council on the RPT grant and the signs that were purchased using those funds – the signs are in place. Maura also addressed the fire risk assessment on Alta ski Lift property that was completed with the help of the Forest Service.

Maura requested that the Town provide additional help with parking on busy weekends in the lower parking lot. Maura stated that there was a lot of work to be done on Town of Alta restoration day but very few people turned out to help with the work.

The Alta Ski Lifts had a great turn out for their area cleanup day and two people for their weed pull. The Discrete Race will be held this Saturday and the Ski Lifts are expecting over 400 people. Maura continued by reviewing upcoming events this summer.

11. Motion to Adjourn – 02:11:36

**Hearing no further business before the Town council there was a motion by Paul Moxley to adjourn the meeting. There was a second by Elise Morgan and the motion as carried.**

Passed and approved this 10 day of August, 2017

s/Katherine S.W. Black, Town Clerk