

**MINUTES
ALTA TOWN COUNCIL WORK SESSION
MONDAY, JULY 13, 2015
9:00 AM
ALTA COMMUNITY CENTER
ALTA, UTAH**

1. The Mayor called the work session to order. The Mayor and Council members Harris Sondak and Elise Morgan were present in the room and Council Members Paul Moxley and Cliff Curry connected to this meeting telephonically..
2. Discussion with possible action regarding the Town of Alta's continued participation in the Mountain Accord Process.

The Mayor stated that since the July 9, 2015 meeting, members of the Town Council have submitted a list of their concerns regarding the final July 9, 2015 draft of the Mountain Accord document some of which have been incorporated into the document before the Council today.

Chris Cawley addressed those concerns as follows:

- Staff addressed the typos in the July 9, 2015 draft document.
- Staff addressed and changed some of the words in the document that would clarify the intent of a section of the document without affecting the substantive direction.
- Clarified some language in the Snowbird land exchange section.

Chris went on to explain that the "Accord" and the Mayor's signature on the document and the document itself do not create a legally binding agreement. Chris opined that the Mountain Accord document does not affect local ordinances or state law: it is not a substitute for state law nor does it create new state law.

The Mayor explained that the Mountain Accord document is non-binding and consensus based document; the documents true value is in political strength and power. The Mayor read section 3.17.4 which further explained this matter.

Harris Sondak read the following into the record:

"I thank the Mayor and the staff for their vigorous efforts on behalf of the town. While this version of the product of Phase 1 of the Mt Accord process is better than previous versions, it remains a deeply flawed document. I think it would be a serious mistake for the Town of Alta town council to endorse The Accord by formal action. In addition, it is unnecessary for the town council to do so for the Mt Accord process to move to Phase 2.

It would be a mistake to endorse The Accord because it does not have clear meaning and is legally unenforceable. To the extent that they are clear, and were they enforceable, The Accord contains several statements that diminish the powers and authority of the Town of Alta and that I therefore find objectionable.

Examples of unclear meaning are statements like Paragraphs 2.4.3 and 2.4.4 that at once recognize the vested rights of the Snowbird resort to build 1100 parking stalls yet desire a reduction in automobile use. Or like Paragraphs 3.4.3 and 3.4.6 that both anticipate a 100-room hotel on land to be acquired by the Alta Ski Lift Company yet recognize that zoning in the Town of Alta currently would not allow such a hotel.

Examples of legally unenforceable statements include Paragraph 3.10.4 that says that transportation options “should” be regionally coordinated; Paragraph 3.10.7 that “recommends” that a NEPA analysis of transportation alternatives address specific questions and Paragraphs 3.13.1 and 3.14.1 that state “intentions” of the signatories and their “support” for planning for various possible future actions.

If The Accord were enforceable there are several provisions that the Town of Alta should vigorously oppose. Paragraph 2.3 attempts to limit the powers of the Town and other government bodies by preempting rights of eminent domain. Paragraph 3.17.3 diminishes the governmental powers of the Town of Alta in any newly incorporated areas. And Paragraph 3.2.1 inaccurately states that federal designation of a National Monument requires action by the U.S. Congress; the President of the United States in fact has that power as well. I have been told that the intent of that paragraph is that any such designation must not proceed by executive order; if the document actually said that, it would be unacceptable as a violation of our oath of office to support the Constitution of the United States, from which flow the powers of the President. (In each of these cases, I have proposed alternative language for the Town of Alta to suggest.)

As I have stated before, I agree with many of the general categories of actions contemplated by the Mt Accord process. I think that a wide variety of transportation options should be studied and the best one developed; I think a land swap could well be a good idea. But in terms of a formal agreement, I am confident Mt Accord could do better.

I do not know why there is a rush to meet a self-imposed deadline and I urge further refinement of the final agreement from Phase 1 of Mt Accord. But if there is to be a final decision issued by the Executive Board of Mt Accord this afternoon, I recommend that the Mayor make his own personal decision about signing The Accord after hearing from the members of the town council and the public this morning. If the Mayor does sign, I request he do so as a member of the Executive Board, a position to which he was invited as Mayor, but that he not sign on behalf of the Town of Alta. I specifically request that we do not proceed to take up any formal action as a council this morning. Doing so is unwise given the confused and unenforceable nature of the document. Doing so is unnecessary given that we have already allocated funds to participate in Phase 2 of the Mt Accord process. And doing so is undesirable because my hope for Alta is to be a model of a mountain resort community that, though near a metropolis, maintains its integrity and independence and a sustainable economic and environmental vitality, but The Accord fails to promote these goals adequately. “

Elise Morgan agrees with much of what Harris has said. Elise believes that the Accord does have a lot of contradictory comments but at the same time she feels it is really important to maintain the Town’s position on the executive board: she does not want Town to lose that role. Elise felt Phase 2 will

probably proceed and there will be transportation alternatives proposed: whatever those will be will have a great effect on the Town. Elise does not want to lose the power and voice on the executive committee. Elise supported the Mayor signing the Mt Accord document and feels that it is really important that the Town stay apart of the Mt. Accord process.

The Mayor opined that he would feel more comfortable moving forward with the signing of this document if he had the endorsement of the Town Council.

Paul Moxley opined that there is a lot of merit in what Harris had to say in his comments. The way Paul views it is that this is more of aspirational document of people working together; in his opinion it has no legal effect. Paul believes that the Town needs to stay involved.

Paul feels the Town needs more information on the tunnel and the transportation modalities. Paul also had a hard time imagining that there would be monies raised through the public coffers to build the tunnel, so he does not feel that we need to take the concept of the tunnel too seriously. Paul has concerns about the tunnel and feels that he would have major impacts on the Alta community.

Paul went on to state that he endorses the Mt. Accord document and feels the Town should move forward and be part of the process.

Cliff Curry stated that he will support the Mayor in his signing of the Mt. Accord document. Cliff had reviewed the document in the short time it was available to the Town Council. Cliff felt there was a lot in the document to disagree with and object to and agrees with a lot of Harris's comments in his statement.

Cliff feels that his comments are adequately reflected on record about the Mt. Accord document. Cliff also feels that there could have been improvement in the process of drafting this document and the presentation of this document.

Cliff also expressed his appreciation to the Mayor, staff and legal counsel for their efforts and time on this matter. Cliff went on to explain the two reasons why he supports the Mayor in his signing of this document: it will allow the study of improvements in transportation in Little Cottonwood Canyon and it preserves the autonomy and authority of the Town of Alta over our local jurisdictional decisions. Cliff agrees with Paul in that this document is an aspirational document.

Cliff went on to point out one the major problem with this document. The document endorses the privatizing of public lands that are currently owned by the public without the adequate definition of the future area and uses of those lands.

Cliff pointed out another major mistake in this document; it continues the idea that some of the commitments set forth in the document are conditioned or dependent upon a tunnel between Little and Big Cottonwood Canyons which Cliff believes will not be built, nor should it be built. Cliff feels it should be a concern of everyone that if we are hinging all of our efforts and all our commitments within this document upon a bad idea that is not going to happen, then what will become of all the efforts when that poor idea is finally addressed.

Cliff went on to express his appreciation of the good faith efforts of the Alta Ski Lift Company and believes that the Ski Lift Company is a good, valuable and sincere part of our community. Many of the efforts of the Alta Ski Lift Company reflect their commitment toward betterment of our community. Cliff went on to express that he only hopes that the Alta Ski Lift Company continues to be operator of the ski area into the future.

Finally, Cliff expressed that his loyalty and commitment is not in any way toward this document or the Accord; his commitment, duty and loyalty is to the best interests of the Alta community.

The Mayor commented that he got involved in the Mt Accord process because he felt that there was a need for transportation improvement in the canyon. Tom feels that the focus on transportation has gotten blurred a bit but transportation is still his number one priority. The Mayor recognized that one of the main issues in the Town is the land exchange and although he sees the benefits of the options that the land exchange can open up in the Town of Alta and the preservation of the land above and surrounding the Town, he still has a concern of the magnitude of the amount of land being proposed in this exchange.

The Mayor went on to express that he plans to move forward with this relying on the fact that the Town of Alta has the ability to shape what we want to see in the future. The Mayor believes that there are a couple of stop gap measures in the Mt. Accord document with regard to how it can benefit the Town if the tunnel and land exchange don't go through.

The Mayor believes overall that this is a positive move for the Town of Alta.

Paul Moxley added that he was comforted by the Town's conversation with the Ombudsman about the land exchange.

The Mayor asked how the Council would like to move forward.

Paul Moxley made a motion that the Town Council support the enforcement of the document, the Mayor's support of it and his participation on the committee. Elise Morgan seconded this motion.

The Mayor opened the floor to discussion on the motion.

The Mayor asked Paul to clarify his motion: did he want the motion reflect that the Town Council supported the Accord and supported the Town's participation in the Accord process and the Mayor's signature on that document.

The Mayor asked if Paul wanted Tom to sign as the Mayor or as just a member of the executive board. Paul said Tom should sign as both the Mayor and as a member of the executive board of Mt Accord.

Cliff Curry offered amendment to Mr. Moxley's motion by stating the following: the Town Council supports our Mayor in signing the Mt. Accord document as a member of the executive committee.

Cliff went on to explain that the motion should not say that the Town Council endorses the contents of the document but that the Town Council supports the Mayor in his role as a member of the executive committee in signing this document.

Paul asked if the Mayor felt this satisfied what he needed at this time to proceed.

The Mayor asked for clarification from Cliff: recommends the Mayor sign as a member of the executive board or as the Mayor of the Town of Alta. Cliff would like him to sign this document as a member of the executive board.

Harris opined that signing it as the Mayor and a member of the executive board makes sense. Signing it on behalf of the Town of Alta does not make sense to Harris. Harris is disappointed that Paul made a motion, having requested that no motion be made today.

John Guldner felt that there is one glitch that we are dancing around. There is a part in the document that says that disagreement shall be disclosed to the executive committee and feels that the Town Council has done a good job of laying out what the Council does and does not support. John felt that if the Mayor voted to endorse this document with the comments brought forth in today's meeting, he could sign it not only as a member of the executive committee but as the Mayor of the Town of Alta

Harris is worried that if we vote to endorse this document, the Town is signing on to good faith efforts to implement what the document says; that is something he would not want to do.

Harris felt that the language that says that disagreement should be expressed to the executive board is vague and has no real binding power because the document says "should" instead of "shall".

Elise Morgan opined that, in a way, there are five levels of voting in the Mountain Accord process three of which Elise remembered; fully support, support with major concerns, support with minor concerns. Elise felt that the Mayor has an option to vote under one of these levels and could state that he supports the Mt. Accord document with the following concerns..

Harris purposely did not state whether he recommended or did not recommend whether the Mayor sign this document and feels that is up to the Mayor's best judgement; Harris stated he had a lot of confidence in the Mayor's judgement and feels the Mayor should do what is best for the Town of Alta.

The signature block on this document states: Mayor, Town of Alta.

Cliff opined that in the context of what he said in this meeting and consistent with what he said he does support the Mayor signing the Mt Accord document.

Harris went on to express that, assuming that this is passed by the executive board, he has a lot of confidence in the Mayor, the present Town Council and the democratic process moving forward in this process.

Elise asked the Mayor to state how he would vote today given those five levels.

Hearing the aforementioned statements from the Council, the Mayor asked that the motions before the Town Council die.

The Mayor suggested that staff, legal counsel and he put together a list of comments or concerns he can put forth when he signs the document. The vote in today's executive committee is a vote to "agree" to sign the Mt Accord document. The Mayor went on to say that he would sign "with minor concerns" and then put forth those concerns at this meeting. The Mayor stated that the prior concerns of the Town that have been discussed in prior public meetings have been passed on to the executive committee of Mt. Accord.

Harris asked for Liz Schulte's legal opinion on the statement on existing municipal jurisdiction found in section 3.17.3 of this document. If the Town Council or the Mayor agrees to that does that contractually substitute for House Bill 251 reauthorization if the legislature were to choose not reauthorize that bill.

Liz Schulte opined that the way that language reads right now, there is some ambiguity as it relates to the words "existing jurisdiction". Liz reviewed those ambiguities with the Town Council. Liz went on to opine that the wording is such that it would that it does not limit the Town's annexation abilities. Liz went on to state that the Accord does not supersede state law and if that bill (#251) is not renewed, than Mt. Accord could not substitute for new legislation; Liz is comfortable with the way it reads now.

The Mayor pointed out that it is unclear whether the final document has the words "existing jurisdiction" in it; those words may be gone.

Harris's advice to the Mayor is to clarify that because he feels that word "existing" is the single most obnoxious word in Mt. the Accord document.

The Mayor would like to have that list of concerns with him today when he attends the Mt. Accord executive meeting.

The Mayor called for another motion on this matter.

Paul Moxley made a motion that the Town Council support the Mayor in signing the Mt. Accord document as Mayor and a member of the executive committee with a statement of Town Council's concerns and his reservations. Elise Morgan seconded this motion.

Hearing no further discussion on the motion, the Mayor called for a vote on the motion. All members of the Town Council voted in favor of the motion and it was carried.

Simply put Paul Moxley said our concerns are the transportation modality, the land swap and the tunnel.

Harris felt that the Mayor should go into the meeting and say he is ready to agree but there is some ambiguity on the word "existing"; does it or does it not actually exist in the draft. Harris would like to see the word "existing" removed from this document.

The Mayor thanked the Council for their support and time on this matter.

There was a motion by Elise Morgan to adjourn the work session of the Town Council. There was a second by Harris Sondak and the motion was carried.

Passed and approved this 13th day of August, 2015

s/Katherine S.W. Black

Town Clerk