

**MINUTES  
TOWN COUNCIL WORK SESSION  
TUESDAY, JULY 26, 2016  
ALTA COMMUNITY CENTER  
ALTA, UTAH**

1. The Mayor called the meeting to order. All members of the Town Council were present. 00:01:15
2. Discussion on the proposed "Central Wasatch National Conservation and Recreation Area Act".

*The following is an attempt to address concerns with the proposed Central Wasatch Conservation and Recreation Area Act, the "Act", that were raised at the July 14, 2016 Alta Town Council meeting. Chris Cawley prepared a staff report that will be referred to during the course of this work session: a copy of this report is attached to the minutes of this meeting.*

During the course of this meeting the following people were called upon to discuss concerns or questions regarding this "Act"; Laynee Jones and Megan Nelsan from Mountain Accord, Dave Whittekiend, Forest Supervisor from the US Forest Service, Bill Simmons a lobbyist retained by Sandy City ( by phone) and Kelsey from U.S. Representative Chaffetz's office.

1. CWNCRA Map

There were some questions regarding the map that was attached to the Act and whether the municipal boundaries of the Town of Alta could be represented on that map. Megan mentioned that an official map has yet to be prepared but when it does, the municipal boundaries of the Town of Alta will be noted. Ms. Jones commented that they will compile changes to the maps and forward all of them to Representative Chaffetz's office and new ones will be published.

Harris asked what Chris meant by the statement in his report that said "that the USFS can change the map at any time". Dave Whittekiend commented that as things come up such as putting the boundaries of the Town of Alta on the map, the Forest Service can make those changes.

The Mayor asked for the timing on when the Act will be addressed by Congress; is there a goal to get this Act heard by Congress at their next session.

Bill Simmons mentioned that Congress is in session from September 6th through September 30th. Bill stated that Congressman Chaffetz has made a formal request to Congressman Bishop who is the chair of the House Natural Resources committee for a hearing on the bill. The timing on when that hearing will be held is being driven by the Public Lands Initiative (the "PLI"). Congressman Bishop's preference would be for the committee to hear the PLI be first and then take up the Act.

Mr. Simmons is making the recommendation that the committee address the Act first and then the PLI but whether he wins that argument or not depends on where the hearing falls within the time period that Congress is in session.

The Mayor asked if the Act itself will be voted on by Congress before the end of this year. Mr. Simmons felt that if the Act could be heard by the committee early in September, there is a possibility that the Act

could be voted on by the end of the year. Bill indicated that there would be one more session after September before the end of 2016.

2. The Mayor opened the floor to discussion on number two and three of the staff report: Effects on private land within NCRA: Section 6(a) (2) and Effects on Ski Area Special Use Permit Areas – Section 3(d)(3).

The Mayor opined that the NCRA will not apply to private land within the boundary of the NCRA and the issue of accessing utilities to such private properties that are also within the boundary of NCRA will not be affected. Dave mentioned that the intention of the Act is that reasonable access to utilities will be maintained.

The Mayor asked if this legislation will affect the Special Use Permit operation of the Ski Area as it is now. Dave commented that the intention of the Act is that the Ski Areas within the permitted area boundaries will continue to operate as they do now; there is no intention of restricting ski area operations or future improvements that are taking place within those permitted area boundaries. The Alta Ski Area would still need to go through the NEPA process as has been the practice in the past if they proceed with improvements in the future.

Elise asked, with the proposed new layer added over the Alta Ski Area permitted area, would it add anything additional to the current NEPA process. Dave said the intention of this Act is to not add new restrictions or new guidelines to the ski areas. The provisions that apply to the NCRA such as prohibition on roads are specifically not part of the permitted ski area operations.

Harris asked the management plans for the NCRA would affect the Alta Ski Lift permitted area. Dave opined that the management plan is what will implement the direction in the legislation

Dave confirmed that the Alta Ski Area has one shot and option to change its permitted ski area boundary as part of the legislation and to the best of his knowledge the Alta Ski Area has not made a final decision on this matter. The Ski Lift Company would have to still go through the NEPA process if there is a boundary change.

Harris understood that there are two separate moving parts as relates to the aforementioned: one is the land exchange which may or may not happen and the other is a boundary change pursuant to the permitting process which also may or may not occur. Dave confirmed that this was a correct representation.

Elise referred to page 14 where it states that the Secretary may restrict resort skier access beyond the resort area boundary; she asked what that means. Laynee commented that that restriction was requested by the backcountry skier community. Laynee described that on ski areas operating on public lands under USFS special use permits, USFS policy requires that skiers be allowed to access public lands outside of the special use permit area from within the special use permit area.

4. After reading the summary provided by staff on the “Effects of Ski Area Boundaries: Section 6(a)(10), the Mayor opened the floor to questions and comments.

There were no comments or questions on the staff summary report on this section.

5. After reading the summary provided by staff on the “Effects on TOA-USFS relationship: Section 3(c) Section 3(d), the Mayor opened the floor to questions and comments.

Dave stated that if the USFS land in question becomes Alta Ski Lifts private land, then the subject land will be regulated by Town ordinances. If there is USFS land remaining in that area and still in the SUP boundary of the Ski Area then he does not think anything changes as it relates to how it is currently managed.

The Mayor wanted to confirm that the management of the NCRA will be spelled out through the Management Plan (the “Plan”). The Mayor understands the Plan will be written by the USFS with input from local governments and the public. Dave confirmed the Mayor’s understanding.

Dave confirmed that the USFS will take into consideration a wide variety of input etc. when writing the Plan including local plans.

Harris asked if there is an example of a place that went from national forest with an existing forest plan to a NCRA that now has a Plan in place. Dave said that this will be the first NCRA ever created but there have been forests that have become National Monuments where “monument plans” have been created.

Cliff asked if Dave had a conception in his mind of what this Plan will look like and if, for example, it will include regulations that have the force of law or simply goals or suggestions.

Dave opined that the Plan will be similar to the current Forest Plan that is in place for the Wasatch Cache Unita National Forest but for a smaller area; it will have standards and guidelines and will be broken down to specific management areas with specific emphasis on each area. Dave likens the Plan to a zoning document.

Dave also stated that the USFS would be going through the NEPA process when it creates the Plan and could incorporate changes to the current USFS Management and travel plan in the process; any concerns of the Town of Alta or possible changes to existing uses could be addressed during this process.

Harris used the summer road and the current travel plan for that road as an example of something the Town might want to address during this process. Dave agreed that the creation of the Management Plan would be an opportunity to do so.

6. After reading the summary provided by staff on the “Effects on Utilities upgrades: Section 3(d)(3) and Section 6(a)(11)”, the Mayor opened the floor to questions or comments.

The Mayor asked, should the land exchange take place which results in private in-holdings, for example, in the Grizzly Gulch and Flagstaff area, would those private land owners be able to put in a sewer or water line should permission be given to install the same.

Dave felt that the Act would allow the expansion of utility systems into private in-holdings like described by the Mayor.

Rich Mrazik pointed out that the standard is different in as much as existing facilities could be maintained under current guidelines but expansion of facilities would have to be consistent with the Plan. Dave concurred with this assessment.

The Mayor asked how the current Forest Plan addressed the aforementioned situation. Dave said he would have to review that plan before he answered that question.

Elise had a concern that in 50 years there might be other utilities that need to be put in place that are not specifically addressed in the current Act. Elise would like to have something in the Act that addresses the future “unknown” as it relates to utilities. Megan commented that the original language that addressed this concern was more general and they were asked to make it more specific.

Elise thought it should say “what currently exists or which may be necessary in the future”. Laynee referred to page 15 and felt the language addressed Elise’s concerns.

There was general concern that the sewer was not referred to anywhere in the Act. Laynee suggested that in Section 11(a) that the following language be inserted; the word “sewer” and the words “including but not limited to”.

As it relates to creating the Plan, Harris asked what kind of input the Town of Alta would be able to provide in this process. Dave said the highest level of input would be requesting and being granted cooperating agency status. The bar on that is that the Town would be bringing some level of expertise on something that the Forest Service does not possess such as zoning and economics. These people provide input, analyze the different alternatives, and in the end write the management plan. Harris asked for an example of special expertise the Town might have, in Dave’s opinion; Dave offered the example of the economic impact on the Town of the NCRA.

Dave went over the other levels of participation in preparing this Plan.

#### 7. Other Municipalities within special designations - 00:53:12

The Mayor said that we have not found examples of municipalities overlaid by special designations and asked Dave if he knew of any examples.

Dave stated that although the proposed designation in the Act overlays the Town it is very specific that it only applies to federal land; private acres are not included in the proposed NCRA. Dave would have to do more research on whether there are examples of municipalities overlaid by special designations.

#### 8. After reading the summary provided by staff on the “Special Botanical Area and Trail Development: Section 3(a)(4)(c)”, the Mayor opened the floor to comments and questions -00:56:14

Chris commented that he had done some quick research on this matter and reviewed his findings.

The Mayor asked Dave from the Forest Service what affect this proposed designation would have on the operation of the Alta Ski Lift Company.

Dave reviewed his findings.

Elise felt that if this designation went into effect it might attract more people to this area. Dave responded by stating that the Forest Service would review possibilities like this when creating the Plan for a possible botanical area.

The Mayor asked if there would be funding opportunities if a botanical area is created. Dave commented there could be grants available but sees no additional funding for the USFS to manage a botanical area.

Harris asked if a fee could be put in place to access an area like this. Dave said that would be under a separate authority and could be part of the Plan.

The Mayor asked if the Forest Service, through the creation of the Plan, could entertain the idea of creating a fee to access the canyon. Dave commented that the Forest Service currently does not have the authority based on the laws coming out of Congress to create a fee to access the canyon. The only authority the USFS has would be to create a fee for a specific site such as a parking fee for the parking areas in the canyons.

Layne commented that UDOT does not have legislative authority to create a “toll road” in the canyon; there are several laws in place that preclude the ability establish a toll. Laynee went on to explain that currently there is law against putting a toll on a road that accesses public land and it is not clear whether UDOT has toll authority. Laynee mentioned that the fee to exit Millcreek Canyon relates to the fact that the road is a County road and not a state road.

Harris asked if there could be an access fee put on the “summer road” which is owned by the Forest Service. Dave commented that the USFS would have to explore this possibility but agreed it might be feasible.

Elise asked what the Forest Service would gain by establishing a botanical area. Laynee commented that during the Mountain Accord process Joan Degiorgio proposed the designation of this area.

Dave commented that he cannot speak for the administration and whether they do or do not support this designation. The Forest Service role is to advise and participate in the process.

9. After reading the summary provided by staff on the “Mitigation of environmental hazards: Section 7(a)(10), the Mayor opened the floor to discussion – 01:08:22

Dave commented that the Forest Service asked for a report detailing the hazardous materials on the lands and the Forest Service does not want to acquire land that has hazardous materials on them. Dave also opined that the ski areas would probably not want to acquire land with hazardous materials that would require remediation. There is mind waste or over burden on some of the land in question.

Harris asked about the actual language in the bill and what it meant. Rich commented that the “hold harmless” is the key provision in the language; the federal government is not going to take on the burden of the remediation. The private property owner is going to have to enter into some kind of agreement satisfactory to the federal government that it will handle the issues after the exchange occurs.

Rich went on to opine that one cannot expect the federal government to remediate land before transferring the land.

Elise asked about the “cultural” findings on the land in question. Dave commented that there are some cultural resources in the area in question inside the Town of Alta. There is potential that if this land is transferred to the Alta Ski Area there could be a possibility of some negative impacts on those cultural resources and the USFS would have to figure out how to mitigate those impacts.

#### 11. Transportation, avalanche control: Section 6(a)(8), Section 6(a)(9) – 01:13:40

The Mayor commented that when it comes to dealing with transportation, one of the key aspects of this Act is the realignment of the wilderness area near the Tanners area of the canyon. To get that boundary adjusted for a potential transportation improvement in the future is really important.

The Mayor went on to opine that during the process of drafting the legislation there was a lot of discussion on how much the Act should talk about transportation. The Act was not designed to focus on transportation but Mountain Accord was originally fundamentally about transportation.

The Mayor asked Dave about putting GazEx and O’Bellx devices in the Wilderness areas of the canyon. Dave commented that the Forest Service is engaging in that discussion with UDOT separately from the Mountain Accord process. There was input from Laynee on installing these devices in wilderness areas. She suggested that the legislation expressly maintains UDOT’s ability to perform avalanche control work and install avalanche control devices in the NCRA although it precludes the construction of chairlifts on USFS land within the NCRA for such purposes.

Elise expressed her concern about taking away the ability to install a chair lift as a way to conduct avalanche control work in the future in the Town of Alta. Laynee commented that a study is currently being completed to address avalanche control options in the areas located north of the highway in paths that affect the community of Alta.

Harris had questions on the proposed White Pine area of this proposal; are helicopters permitted in this area. Dave confirmed that they would be allowed in this area. Also Harris asked if the proposed special White Pine area starts above the White Pine parking lot. Laynee stated that the proposal was not intended to include the White Pine parking lot.

#### 12. After reading the summary provided by staff on the “Land Exchange Process: Section 7”, the Mayor opened the floor to discussion – 01:23:20.

Harris asked about the land valuation process.

Dave explained that the Forest Service hires appraisers through the regional office who will take into account as many different factors as possible. Dave explained that there are a lot of moving parts during this process and that the appraisers will run through their process on trying to value a piece of land given the current conditions of the land being offered.

The Mayor asked if we are “married” to the current map before the Council today regarding the land exchanges. Dave mentioned the map reflects the initial or current proposal offered up by the ski area; the swap is a ski area proposal. The USFS has not done a completed evaluation of that proposal; the

USFS is working through a feasibility analysis right now. Dave reminded the council that things could change even through the NEPA process and the public involvement process.

Cliff wanted to confirm that the land exchange maps that are accompanying the bill have not had substantive input by the USFS; the maps are solely based on the proposals that have been put forth by the ski areas. Dave confirmed that understanding. Dave continued by saying that this is where the feasibility comes into play; the study will do the initial review of the proposal.

Cliff was concerned that the land exchange map attached to a bill introduced to Congress had not had any analysis by the USFS. Dave assured Cliff that the legislation does state that the land exchange map was preliminary in nature; the USFS is not held to this map.

Harris asked if the USFS was mandated to proceed with a land exchange if the private land owners wish to proceed. Dave explained that they are mandated to proceed with a land exchange but are not mandated on exactly which acres are included. Dave went on to state that it would be subject to results of the feasibility analysis, valuation, and other things like the NEPA and EIS process.

Dave reminded the council that the land exchange is separate from the NCRA process.

Harris asked what the USFS was being required to do under this bill and the land exchange. Rich explained that the legislation does not initiate the proposed ski exchange; the ski areas have to start with a proposal. The actual details of the final exchange will be determined through the feasibility study and the appraisal process; negotiation will take place during this process between the USFS and the ski area. Harris asked if the valuation process was just financial or if other values were included (such as riparian zones and animal habitat). Dave said yes the valuation would be multidimensional. Harris asked if the USFS could exclude specific areas from a swap regardless of the monetary compensation being offered on the grounds that it simply wasn't in the interest of the people of the United States to give up a particular area; Dave agreed that that was in the USFS's ability.

Elise asked how long a land exchange process could take and Dave said it could take years. Dave mentioned that the legislation gives the USFS three years to complete the analysis of the proposed land trade.

The Council was reminded that the land exchanges did show up during Mountain Accord process.

The Mayor said that the language in the Bill states that the Secretary "shall" initiate the process; how does that relate to the dialogue that was written into Mountain Accord more specifically Salt Lake City and water.

Layne explained that those are local issues and how Salt Lake City might handle that matter.

Cliff raised a couple of drafting points in the proposed legislation, more specifically in section 7(b)(4)(d) where the words "work with" appear. Cliff has some concerns about this language.

Cliff went back and pointed out language in 7(b)(3).where it states that " the secretary shall evaluate the non-federal lands and initiate a public engagement process. Pending the public engagement process, the Secretary shall convey to the ski resorts all right, title, and interest of the United States in and to the Federal and, subject to valid existing rights and these will be reiterated in the conveyance." Cliff asked

if the aforementioned process is separate from NEPA and if so, is it defined. Cliff was concerned about the word “pending” which can be very ambiguous and can mean two exact opposites – “contingent upon” and “during.”

Cliff went on to express his concern about both of the aforementioned sections of the legislation and felt that this language does not resolve a conflict but preserves a conflict. Cliff also suggested that going forward that this language could “blow up” in all of our faces.

The Mayor explained that the language in section (d) was negotiated between the Mayor and the Alta Ski Area to make the Ski Area aware that there are other businesses and uses within the base area of the Town of Alta. The language was cut and pasted from Mountain Accord.

Cliff feels that the words “work with” is not legislative language and could not be used to enact a law.

Layne agreed that it was not legislative language and went on to explain that this language was added in an effort to help the Town of Alta and Alta Ski Area to address the Town’s concerns. Laynee went on to opine that if this language is not addressing those concerns, she recommended that the Town of Alta work with the ski area to draft language that will.

Harris asked about the purpose of the public engagement process if there is already a decision that something is going to happen.

Dave referenced section (b) Terms and Conditions where it said that all conveyances shall be subject to NEPA and FLPMA and such terms and conditions as the Secretary may require. Dave explained that NEPA requires a public involvement process. Dave went on to explain that the Town could be a cooperating agency on the drafting of the NEPA document as well as the drafting of the Management Plan.

Cliff went on to ask if two passages in the Bill that are contradictory, which one controls; he feels that we have preserved unresolved conflicts with this language. Cliff asked the meaning of the following “Pending the public engagement process, the Secretary shall convey all right, title and interest...”.

Dave interpreted that sentence to mean that the Secretary will be delegating this process to the USFS and the USFS cannot convey those lands until they have gone through all the processes.

Harris went on to ask if paragraph (3) is subject to paragraph (4) in the section. Dave explained that the land to be acquired is subject to all the processes such as NEPA etc.

Dave assured the Council that legislative staff will “mark- up” the bill and put it into “legislative terms”. Dave thought this process would clean up many of the language questions that have been brought up in this meeting.

The Mayor reiterated that he tried to address all the Town of Alta’s concerns during the drafting of this legislation but there are probably areas in the Bill that might be redundant or need some work.

Kelsey from Representative Chaffetz’s office explained how the Bill goes through the process in the committees and Congress; the submission of this draft of the Bill starts the process.

Dave assured the Council that the USFS advice on this legislation was that it go through all the applicable processes such as NEPA so that we did not have another Snow Basin situation.

Elise suggested that the Council and staff get together with the Alta Ski Area and address the language in section (b) to arrive at some agreement on that language. Kelsey stated that Representative Chaffetz would entertain and review any questions or comments on the language of this Bill.

Layne explained that the "Accord" that was signed last year agreed to five to ten key actions, one of which was to get this land Bill passed by the end of December 2016. In addition to that, the Accord outlined transportation next steps, an environmental dash board and trail plans.

The Mayor opened the floor to public comments.

Roger Bourke asked to what extent does this legislation either precipitate or inhibit a lift up Grizzly Gulch.

Layne opined that the legislation is neutral on this issue.

Todd Collins asked about the language in the bill that stated "the legislation will require Forest Service to disclose any hazardous material..." . Todd asked if that meant that both sides must disclose or just the Forest Service.

Dave explained that the Forest Service would evaluate the forest lands and would expect that proponents of the land exchange would evaluate their lands as well.

The Mayor opined that he did not pull anything out of the discussion today that would warrant a resolution on the part of the Town Council except the language that was brought up by Cliff.

Elise recommended that we address the avalanche study that is currently being done to see if the Town needed to incorporate or propose changes to any language in the legislation related to this matter.

The Mayor suggested that we obtain the avalanche study by the next Town Council meeting and also set up a working group with the Town of Alta and the Alta Ski Area to look at the language in that one section.

Harris also added that the Town Council could weigh in on their support of this legislation and the Town Council could also request cooperating agency status in this resolution as well.

Kelsey stated that is very helpful for Representative Chaffetz during this process to have letters and resolutions of support for the legislation.

Cliff asked if the USFS would be able to join with the Town of Alta in the resolution or is that more outside the Forest Service's mandate. Dave stated it was outside what the Forest Service could do.

The Mayor clarified for staff and legal counsel that the Town Council would like to have a resolution drafted for the August meeting that addressed Sections 7(b)(3) and 7(d)(4)(B) of the legislation, the avalanche study, and the Town's request to be a cooperating agency in the process.

Layne also suggested that the Town Council articulate very concisely what it is that the Town finds unacceptable about the language in the legislation and then suggest language they feel would fix those issues.

The Mayor will have staff and legal counsel draft language addressing the aforementioned areas of concern for the next Council meeting.

**Hearing no further comments, there was a motion by Cliff Curry to adjourn the work session. There was a second by Paul Moxley and the motion as carried.**

Passed and approved this 8th day of September, 2016.

---

Piper Lever, Assistant Town Clerk / S