

John Guldner

From: John Guldner
Sent: Friday, March 22, 2019 11:13 AM
To: Chris Cawley
Subject: FW: Ordinance Package Cumulative Redline (current ordinances compared to proposed revisions) 10.31.18 12.19.18(002).docx

From: Mike Maughan <mikem@alta.com>
Sent: Friday, March 22, 2019 10:42 AM
To: John Guldner <jguldner@townofalta.com>
Subject: FW: Ordinance Package Cumulative Redline (current ordinances compared to proposed revisions) 10.31.18 12.19.18(002).docx

From: Mike Maughan
Sent: Tuesday, March 19, 2019 12:58 PM
To: 'John Guldner' <jguldner@townofalta.com>
Cc: 'Harris Sondak' <hsondak@townofalta.com>
Subject: RE: Ordinance Package Cumulative Redline (current ordinances compared to proposed revisions) 10.31.18 12.19.18(002).docx

John,

Thanks for sending me the cumulative redline copy of the Ordinance Package.

I have reviewed the proposed changes and have the following questions/concerns.....

Page 2 – Building Definition -

Any way to exclude the operator shacks associated with top and bottom terminals from the buildings definition? i.e. the current lift shack at the bottom on Supreme is within the Albion Basin overlay zone and within the 100 feet of the stream. – We usually replace lift shacks when lifts are replaced and/or upgraded and wouldn't want to be limited in options.

Page 7 (C) – What determines if a structure is occupied or not?

Does it mean someone can stay the night there or is there for a certain number of hours during a day, etc? I think SLCPUD does not consider lift shacks, patrol shacks, etc as occupied structures? What does the Town of Alta consider an occupied structure to be? Seem like it should be defined in the ordinances somewhere?

Page 9 – Structures

By this definition all infrastructure associated with a ski lift is a structure, as well as, snowmaking guns, avalanche control equipment (avalanchers, obelix, etc). Don't have concerns about them being defined as structures as long as there are not unintended consequences in latter regulations that refer to structures. Should consideration be given treating ski area infrastructure differently.

Page 9 – Use

For our purposes all our infrastructure is for ski area operations and support. Would the use of Watson Shelter be considered ski area operations and support or is its use defined as a restaurant.

Page 9 – Waterways

What does contain water during at least part of the year mean (a day, a week, a month, 6 months, all of the above)? – does this include spring melt out and run off? – the mountainous terrain within the Town of Alta is riddled with waterways that meet this definition ranging from inches to feet across. Many structures in the Town of Alta have waterways under this definition adjacent to them. Seem like this is a little broad and some definition of size should be included. I don't understand the distinction between drainage channels are erosion channels and how they are to be treated. Most waterways are erosion channels or started as erosion channels.

Page 15 – Prohibited Uses

Does this clause prevent cabin owners from renting their cabins out for use by third parties i.e. via Airbnb?
What is the zoning of the Shrontz Estate?

Page 16 (2) – can we change rope tow hills or ski runs?

Page 17 G – Stream regulations

Current definition of structures makes ski lift infrastructure, snowmaking equipment, avalanche control equipment, patrol shacks, etc non-conforming. This doesn't work for us. How can this be adjusted to not cause issues with the ski area infrastructure that at times will be within 100 feet of a waterway?

Page 19 – Mechanical Screening of rooftop elements

We currently have antennas, weather equipment, etc mounted on sides of buildings within the ski area (Gun mount, dispatch, patrol shacks, lift shacks – Is there a way to exempt these buildings from this requirement?

Page 22 – Maximum Lot Coverage – can we change rope tow hills to ski runs

Page 27 – permitted uses – Can we add public transit center to approved uses

Page 29 – Maximum Lot Coverage – can we change rope tow hills to ski runs

Page 33 – Yard to be Unobstructed - should there be something in here that prohibits fence post that could be a hazard to skiers in the winter – Evan Johnson issue!

Page 33 – 10-7-11 exceptions to height - are antennas for communications exempt?

Page 37 – change the use and intensity of non-conforming structures -
may need to be able to change lift capacity ie double to triple, avalanche control device capacity, snowmaking capacity, under current structure definition

What is the definition of change in intensity? Doesn't seem to be defined in the ordinance

Using structure instead of buildings in Chapter 8 are problematic when it comes to the structures need within the ski area. How do we make the language work for the purposes intended and not have unintended or unforeseen consequences to ski area operations, maintenance and improvements?

That's it for now. Look forward to you insight.

John Guldner

From: Chris Cawley
Sent: Thursday, April 4, 2019 8:27 AM
To: Sandra Phillips
Cc: John Guldner; Piper Lever
Subject: RE: Uniform zoning ordinance of the Town of Alta

Thanks for sending your comments. I'm copying John Guldner and Piper Lever so we can include them in comments we'll provide to the town council.

From: Sandra Phillips <Sandra.Phillips@imail.org>
Sent: Wednesday, April 3, 2019 10:21 PM
To: Chris Cawley <ccawley@townofalta.com>
Subject: Uniform zoning ordinance of the Town of Alta

Hi Mr. Cawley,

Thanks for taking our comments to the Town of Alta -Town Council regarding the new proposed zoning ordinances set forth by the Alta planning commission.

This letter is from Sandra and John Phillips - cabin owners in the Albion basin area of Alta. We have some comments on the Uniform Zoning Ordinance - Town of Alta.

We have grave concerns about the Albion Basin overlay zone. We feel that the **whole** area that is accessed by the summer road is considered to be the Albion Basin. To separate the north area from the south basin and to encumber more restrictions to the residences in the south Albion basin overlay zone is not right. If the goal is protection of water and natural areas, then all the forest/recreation zones in the town of Alta should be treated the same. We feel there is a fiduciary responsibility of the town to treat all residents the same- not to have different rules for different residents.

We oppose the inability to make our cabin larger if it is repaired or remodeled. Having 2 sets of rules for one area and not the other is not fair or justified.

We oppose not being able to rebuild a cabin on the same footprint. As you know- cabins in the Albion Basin take quite a beating in the winter. Over time there can be so much damage that they may need to be rebuilt. Many of these cabins are quite old and may require a full remodel or replacement. To not allow this isn't supportive of the Albion Basin **residents** of the Town of Alta.

We are very much in favor of sewer hookup to the town of Alta sewer. We have always had concerns about sewage trucks in the canyon and the potential for a catastrophic accident one day. As residents of Alta, we feel we have a right to access this. The sewer extends at least to Alf's restaurant so an extension to the cabins is not a long way. If your goal is protection of this area, then basic sewage disposal should be a priority for the town of Alta.

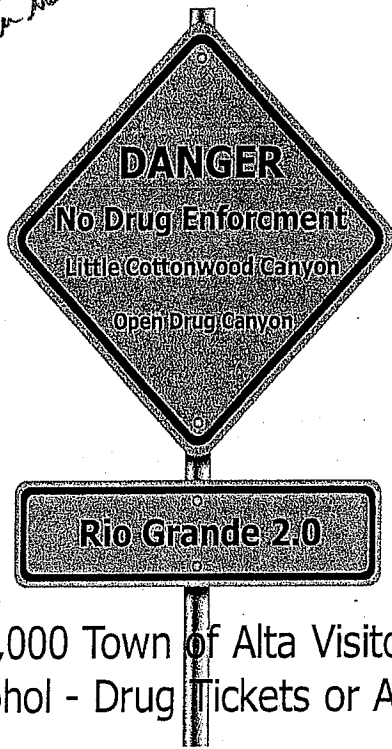
We feel a more comprehensive way to protect the Albion basin will really need to address the significant pressures on Alta and the Albion Basin. The trouble is not a problem of 21 cabins, but it is bigger problem of public pressure and the significant impacts that they bring. Additionally encumbering the cabin owners in the Albion basin overlay zone, taxpaying residents of the town of Alta, should be reconsidered and not put forward.

Thanks for considering our comments.

Sandra and John Phillips

Sandra A. Phillips, M.D.
Sunnyside Pediatrics
24 South 1100 East Suite 301
Salt Lake City, Utah 84102
801-595-8899
fax 801-363-6407
www.sunnysidepeds.com

Wed 3.22.19
PM
in mail



Kevin Tolton M.D.
Calls For A Drug-Free
Town of Alta, Utah.
Click Here.

All Utah
law enforcement
should be
drug tested.

500,000 Town of Alta Visitors -
0 Alcohol - Drug Tickets or Arrests

March 19, 2019
email
Town of Alta
PO Box 8016
Alta, Utah 84092
801-742-3522

US Certified Mail No. 7018 1830 0000 3189 3006 and

Re: Objection into the inclusion of our property in the proposed zoning map amendment creating the "Albion Basin Protection Overlay Zone" aka the Public Coveting of Private Property to unjustly enrich the Hoteliers and commercial enterprises in the fake Town of Alta, Utah ordinance.

Town of Alta: Thank you for the laugh when I read the joke (ABOPZ Notice.)

"When plunder becomes a way of life for a group of men in a society, over the course of time they create for themselves a legal system that authorizes it and a moral code that glorifies it. 'Frederic Bastiat

We have claims in the following recorded building lots* in the Town of Alta which will be adversely impacted by the proposed Albion Basin Protection Overlay Zone . You've cut our road access, cut our water access, denied a snowmobile decal to drive the winter road, refused to build snow bridges like Deer Valley's 50 snow bridges to protect private property rights, re-zoned the property thru a confiscatory web of regulations with no basis in science, health, welfare, or public safety. We want our properties excluded from the Albion Basin Overlay Zone (a confiscatory regulation by a poor town).

*1-Albion Basin Lot 14 9510 South Supreme Road, Alta, UT 84092
2-Albion Basin Lot 15 9560 S Supreme Road Alta, UT 84092

3-Cecret Lake lot 16 11091 E Secret Road Alta, UT 84092
4-Cecret Lake lot 111011 E Secret Road Alta, UT 84092
5-Cecret Lake Lot 9 11031 E Secret Road Alta, UT 84092
6-Cecret Lake lot 19 11060 E Secret Road Alta, UT 84092
7-Albion Alps lot 205 Subdivision Lot 9841 S Homestake Alta, UT 84092
8-Albion Alps lot 7 9710 S Homestake Road Alta, Utah 84092
9-9445 S Campground Road, Alta, Utah 84092

The Town of Alta has and is abusing its municipal powers to discriminate and target selected town property owners to wrongfully enrich a few. Millions of dollars, and thousands of hours have been wasted on anti-private property lawsuits (economic violence) against small Alta land owners like Kevin Tolton, Mark Haik, Paul Haik, Marvin Melville, Judith Maach, widow Pearl Raty and others instead of sound and just solutions like engineered solutions improving the environment from buildings, land trades or density credits in lieu of building permits.

A glaring example of Alta's abuse is Alta Ordinance 95-0-2 B "*... Members of the planning commission shall not be residents of the Town, own real property within the Town, or have any financial interest whatsoever in any property or business within the Town.*" speaks to the injustice in Alta. Never has a municipality in Utah or perhaps the United States had such a corrupt ordinance approved by a Town Council. Moreover, the town has been the subject of allegations of voter fraud, allegations of non-residents voting and filling elected town office seats. An Alta resident removed a non-resident from the town council by court action. This type of town behavior is an outlier and a symptom of a larger problem of abuse of power and lack of respect for the rule of law and private property rights. All of this contention, sour belly, and drama was and is unnecessary if all land owners were treated equally and as kindly as Alta tourists and hotel customers.

The Town of Alta has no water treatment plant, uses no surface water sources, but uses underground water from a mine with known EPA antimony issues. The Town of Alta has no hydrology, science, health, welfare and public safety basis for this proposed sham Albion Basin Protection Overlay.

The town could and should drill a well, but refuses to do so. If a land owners seeks to drill a well, the town objects. Further, the town requires water to obtain a building permit while at the same time obstructing compliance to the towns water ordinance through protests and lawsuits. This is no just.

Salt Lake County's FCOZ overlay has a 50 feet set back which was been defeated, because it had no basis in hydrology or science. Perhaps, the Town of Alta should require gold plated water and sewer lines. This proposed new overlay is a scam and fraud upon the Public cooked up by non-residents of the Town of Alta.

Since the dawn of time, with engineered solutions, buildings have been and can be built over, on, and in water sources with no impact to water quality. House boats sit in culinary water sources.

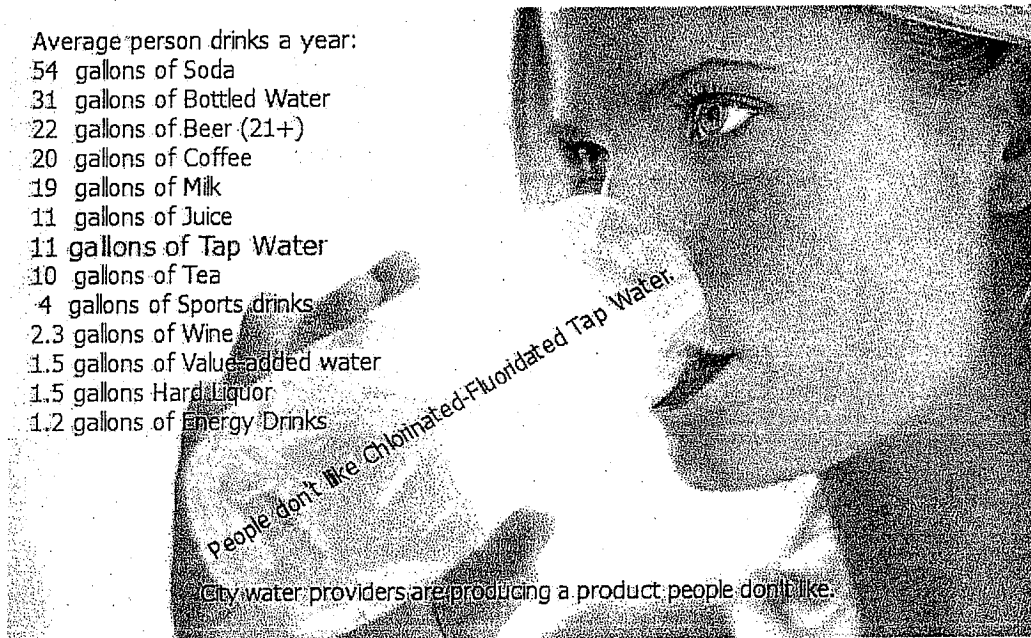
One notes Snowpines expansion from 19 rooms to 58 with their \$50 million 72,000 square foot hotel, the Shronz subdivision, new 12' water lines, and a 160 acre new commercial core in the watershed. One notes new hot tubs for the Snowpine, but a hot tub denial for an Albion Basin cabin owner. One notes Little Cottonwood Canyon being an open drug canyon apparently to garner customers and commerce at the expense of health, welfare and public safety. One notes the anti-dog ordinance with no basis in

science, because the 17,000 acre Little Cottonwood Watershed is mixed, blended, and co-mingled with the 528,000 Provo River watershed prior to treatment at the Metropolitan Water District of Salt Lake & Sandy on Danish Road in Sandy. Sandy City's latest water contamination incident shows that water treatment chemicals are far worse than building in the canyon.

With as little as 11 gallons of tap water drunk on average per year, reverse osmosis (RO) water taps would be far more effective to protect public health than water course set backs. Which has less impact and is more effective, taking a person's right to build a house on their private property or require a \$100 RO water tap in a house? **Is the town really seeking to protect public health, or hotel wealth?**

Average person drinks a year:

- 54 gallons of Soda
- 31 gallons of Bottled Water
- 22 gallons of Beer (21+)
- 20 gallons of Coffee
- 19 gallons of Milk
- 11 gallons of Juice
- 11 gallons of Tap Water
- 10 gallons of Tea
- 4 gallons of Sports drinks
- 2.3 gallons of Wine
- 1.5 gallons of Value-added water
- 1.5 gallons Hard Liquor
- 1.2 gallons of Energy Drinks



There was no science to support the town's current 50' set back from water way rule let along the new 100' set back. Why not make it 2 mile set back?

Show us your science for the old overlay 50' set back rule and the new 100' set back rule overlay. You can't. Protecting our beautiful land for hotel customers and bikers enjoyment is an abuse of power.

Thou shall not steal. Thou shall no covet (Exodus 20:17). Our laws are based in Jeedo Christian commandments and justice. Public coveting using regulations to steal is unjust and immoral. Public coveting is illegal. Taking private property for a public purpose without the payment of just compensation is illegal, so why does Alta condone this lawbreaking?

Poverty and greed are among the reasons to steal. That Alta is a poor town is no excuse for abuse of power and overreach to take by regulation.

No where in the law does it say it's ok spin a web of confiscatory regulations cutting water lines, cutting road access, down zoning, using watershed muscle, and armed police to take private property the public covets no matter how beautiful it is.

Have you considered treating people like you'd like to be treated? Have you considered treating Alta land owners like the \$780 a day Snowpine Waguu beef eating guests or the \$480 a day TV free Alta

Lodge guests?

Let's take your house for public housing by some phony regulation. Let's take your unused money gathering dust in the bank for some good cause by some contrived regulation. Let's take your right to have a dog. How is it ok for thousands of bikers to ride through and thrash water courses over and over for leisure, but a cabin can't sit quietly by a water course? If the cabin were designed like a bike, would it be ok then? The town's ordinances are nonsense and the town knows it.

It's an inconvenient fact that development in the canyons has improved water quality. And adding impervious surfaces to the canyon has improved water quality.

If Alta really cared about the watershed, it would enforce drug laws, because Fentanyl metabolite is being excreted by urination into the canyons. Fentanyl is deadly.

Alta is ok with hundreds of tons of salt dumped within 25 feet of water courses to support commercial town enterprises, but against a rock like building within 100 feet of the same water course. This makes no sense. Why hasn't the town extended sewer and water lines into the Albion Basin to protect the watershed from fire and fecal matter? The town always has money for lawsuits, but no money for sewer and water lines. Why is that?

The watershed muscle and water monopoly scheme to take private property without the payment of just compensation is a failed scheme, so some have cooked up the usual phony Chinese regulations to take by regulation for their elitist use of the canyons. When you raised your children, you tell them, "If you want something, you pay for it." "Don't cheat." Who says Hotel hot beds are better than Cabin cold beds? **Cui bono?** Town employees who like hotel hot beds to fund their do nothing jobs cabin cold beds. Bikers who pay nothing to use the canyon like confiscatory ordinances to protect their freeloading canyon ways. It's barbaric to weaponize water and cut a water line to drive owners off their private property. This "protection overlay" is a ordinance in search of a non-existent problem.

If the objective of the proposed overlay is to protect water quality, then this is a failure, because there are better and more effective solutions. If the objective is to satisfy Public Coveting of others' private property, then there are better and more effective solutions. The proposed so-called overlay is a trite, hackneyed, and failed water tortured ordinance to protect the Hotel walletshed, and elitist freeloading canyon users.

Watershed muscle, Hotelshed muscle or the Kindnessshed muscle? Which one will Alta choose to exercise this time?

Thank you for your consideration,

JLC
327 N 200 E #2
American Fork, Utah 84003
801-369-3400
utah15@gmail.com



Is there any other city or town of Utah's 245 cities and towns where all residents and land owners were cut off from being Planning Commission members ever in Utah's history?

STATE OF UTAH

TOWN OF ALTA

ORDINANCE NO. 95- 0-2

AN ORDINANCE REPEALING ORDINANCE NO. 90-0-2 AND ESTABLISHING THE COMPOSITION OF THE PLANNING COMMISSION, NUMBER AND TERMS OF ITS MEMBERS, MODE OF APPOINTMENT, AND PROCEDURES FOR FILLING VACANCIES AND REMOVAL FROM OFFICE AND OTHER MATTERS RELATING TO THE ORGANIZATION OF THE PLANNING COMMISSION

WHEREAS, Section 10-9-201, Utah Code Ann., allows each municipality in the State the opportunity of creating a planning commission and requires that an Ordinance be passed defining the number and terms of its members; the mode of appointment; the procedures for filling vacancies and removal from office; and other details relating to the organization and procedures of the planning commission; and

WHEREAS, the Town Council of the Town of Alta wishes to increase the current number of planning commission members from five to seven.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL AS FOLLOWS:

SECTION I. REPEALER AND ENACTMENT.

Ordinance Number 90-0-2 is hereby repealed and the following adopted in its place:

TITLE 12-000. PLANNING AND ZONING

CHAPTER 12-100. PLANNING.

PART 12-110. ADMINISTRATION.

12-111. PLANNING COMMISSION COMPOSITION

A. The Planning Commission of the Town shall be composed of seven members. The term of each member shall be five years and shall be staggered. However, each member shall serve until a successor is confirmed. The terms shall be organized so that not more than three members shall expire at the end of any given year. Terms shall expire on the last day of the calendar year. A member may be re-appointed to the commission. The mayor of the Town shall serve as an ex-officio member of the commission.

B. Planning commission members shall be appointed by the Mayor subject to the approval of the Town Council. Members of the planning commission shall not be residents of the Town, own real property within the Town, or have any other financial interest whatsoever in any property or business within the Town. Five of the members of the planning commission shall be qualified individuals within the following disciplines: law; architecture; planning, environment and business.

C. Vacancies shall be filled by appointment by the Mayor subject to approval of the Town Council. Members of the planning commission shall be removed only upon majority vote of the Town Council for good cause. If requested by the member whose removal is sought, a public hearing shall be held prior to any vote to remove said member. Members appointed to fill vacancies shall serve the remaining term of the member replaced.

D. The Town Council shall establish, by resolution, per diem compensation for planning commission

CR23-001574

members, if any, based on reasonable expenses and on meetings actually attended.

12-113. ORGANIZATION.

A. The planning commission shall elect a chairperson from its members who shall serve for the duration of his or her term, unless he or she resigns or is removed for cause by a majority vote of the planning commission.

B. The planning commission shall adopt policies and procedures for the conduct of its meetings, the processing of applications, and for any other purposes considered necessary for the functioning of the planning commission. Prior to their adoption, the planning commission shall forward said proposed policies to the Town Council which shall approve or disapprove said policies and procedures.

C. Official acts and recommendations of the planning commission shall be made public and shall be forwarded to the Town Council, along with minutes of meetings showing how members voted. Concurring and dissenting opinions may be included.

D. Four members of the planning commission shall constitute a quorum.

12-114. DUTIES AND POWERS.

The planning commission shall have all of the powers and duties explicitly or implicitly granted to planning commissions by Utah state law.

SECTION 2. SEVERABILITY.

If any section or part of the above Ordinance is found to be unlawful by a Court of competent jurisdiction, it is the intent of the Town Council that all other sections remain in full force.

SECTION 3. EFFECTIVE DATE.

This Ordinance shall become effective on ~~March 1, 1995.~~ ^{upon posting. KSWB}

APPROVED on the 9th day of February, 1995.

By:

William H. Levitt
MAYOR WILLIAM H. LEVITT

ATTEST:
Kate Black
KATE BLACK, TOWN CLERK

[SEAL]

Why does Salt Lake City's Watershed Management Muscle¹ Control Alta,Utah, too?

How could a property owner get a fair shake in Alta, Utah? Give me a break. Is the answer under Secret Lake, in Devil's Castle, behind Hell's Gate, in Mineral Basin?

J. Maack reviewed Alta's Voter Poll Books and alleges voter fraud and Alta's Mayor Tom Pollard lives in Sandy.² Where does Alta's Mayor sleep and go to church? In Alta or in Sandy?



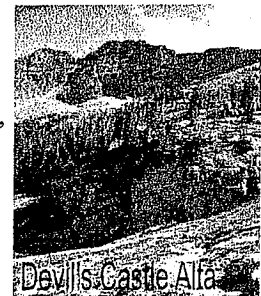
If you need money to put down irate non-resident property owners who are not allowed to speak at a Alta Council meeting³ and try to get water Alta, then call for "defense funds" from Friends of Alta.

"At a July 12, 2007 meeting of the Alta Town Council, Ms. Black said words to the effect she submits a request to Friends of Alta and it pays the Town of Alta.⁴ SLC Public Utility Director Jeff Niermeyer is an Advisory Committee member of Friends of Alta. Laura McIndoe (former Alta admin. assist.) now works for SLC Public Utilities, and is on the SLC Public Utility Advisory Committee. Friends of Alta buys land in the canyon and sells to SLC Public Utility.⁵ Mimi Leavitt is president of FOA. Bill Leavitt was Alta's Mayor (1971-2005).

State of Utah, Town of Alta Ordinance No. 95-0-2(B): "Planning commission members shall be appointed by the Mayor subject to the approval of the Town Council. Members of the planning commission shall not be residents of the Town, own real property within the Town, or have any other financial interest whatsoever in any property or business in the Town."⁶ Would SLC allow Alta to control SLC's Planning Commission?

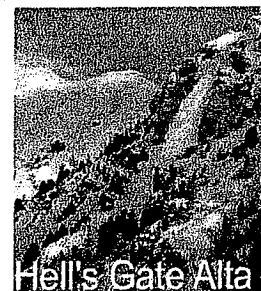
Current Alta Utah Planning Commission members:

- Alan (Skip) Branch (Board Member of Rocky's High Road for Human Rights/Education Project, Director Friends of Alta) 1477 East 7200 South Salt Lake City, Utah
- John Nepstad 848 Terrace Hills Drive Salt Lake City, Utah
- Joan Degiorgio 618 West Capitol Street Salt Lake City, Utah
- Lee Kapalowski Board Member Water District Salt Lake & Sandy, water lawyer
- Prescott Muir 171 Pierpont Ave Salt Lake City, Utah
- Jan Striefel (Member SLC Public Utility Advisory Committee, Sec/treasure Lower Millcreek Irrigation Co.) 1449 East 1700 South Salt Lake City, Utah
- Rob Voyer 8290 Etienne Way Sandy, Utah

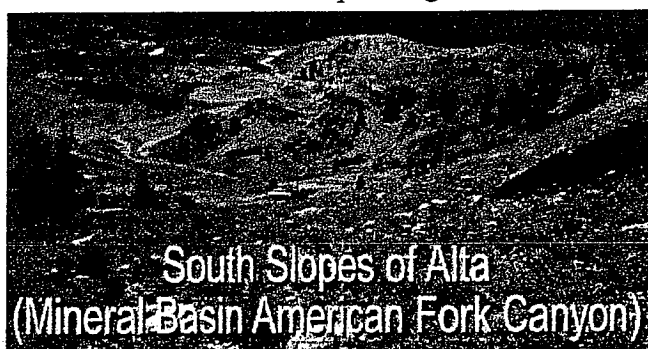


Current Alta Utah Board of Adjustments members:

- Marcus Dippo (son-in-law Bill and Mimi Leavitt) 2810 E 4135 S SLC
- Paul Huber (Deep Powder House Alta Lodge)
- Lee Kapalowski Board Member Water District Salt Lake & Sandy, water lawyer
- Diane Stahly 9021 South Blackjack Road Sandy, Utah 84092



Thousands of picnickers and hikers pay SLC water dept for permits to trample watershed.⁷ Thousands of skiers indirectly pay SLC water dept for snow making water to overload watershed for leisure and recreation, but property owners are muscled and booted out by SLC's water muscle.⁸ If Alta were to join Metropolitan Water District of Salt Lake & Sandy, Alta would have continue to deny water to owners of recorded lots in Alta.⁹ There is no water for the undesirable "cold bed" canyon land owners, but water a plenty for non-resident picnickers, hikers, bikers, skiers, moose, and "hot bed"¹⁰ lodgers. Q: Why can't a Utahan have equal access to use Utah's water? A: When a public employee decrees your land Public Property, then uses water "muscle" to unjustly devalue and take that private property for 10 cents on the dollar for the so-called public good.



1 Utahwater.net Page 30 thumbnail 97
2 Utahwater.net Page 33 thumbnail 15
3 Utahwater.net Page 33 thumbnail 12
4 Utahwater.net Page 33 thumbnail 5
5 Utahwater.net Page 30 thumbnail 71
6 Utahwater.net Page 33 thumbnail 16
7 Utahwater.net Page 33 thumbnail 17
8 Utahwater.net Page 33 thumbnail 8
9 Utahwater.net Page 33 thumbnail 11
10 Utahwater.net Page 33 thumbnail 18

"Salt Lake City's watershed management muscle to deny them [recorded lot owners in Alta] water"

AUG 31 1993

FILE

LEROY W. HOOTON, JR.
DIRECTOR

SALT LAKE CITY CORPORATION

DEEDEE CORRADINI
MAYOR

DEPARTMENT OF PUBLIC UTILITIES
Water Supply & Waterworks
Water Reclamation & Stormwater

Memorandum

TO: Brian Hatch, Deputy to the Mayor
FROM: LeRoy W. Hooton, Jr. *LW*
DATE: August 30, 1993
SUBJECT: Little Cottonwood Water Company

Introduction

In order to protect the Albion Basin in Little Cottonwood Canyon, it was decided that Salt Lake City would acquire the water contracts between lot owners in the Albion Basin and the Little Cottonwood Water Company and/or gain control of the company and dissolve it.

Background

The Little Cottonwood Water company was formed in 1911 and stock issued to various ditch companies and individuals using water from Little Cottonwood Creek including four companies which have exchange agreements with Salt Lake City. Their primary water right of 3.03 cfs was acquired by saving water in Little Cottonwood Creek by constructing the cutoff ditch just below what is now the Metropolitan Water District of Salt Lake City's Little Cottonwood Water Treatment Plant. They also have water rights in Red Pine and White Pine Lakes and Geeret Lake located in Little Cottonwood Canyon. Salt Lake City has exchange agreements with many of the stockholders in the Company and manages/owns the water in the lakes as well as their rights in the creek through exchange agreements. By virtue of the exchange contracts the City has liability for the actions of the Little Cottonwood Water Company but no control over their actions.

The Company entered into various water sales contracts between 1945 and 1981, and of particular concern were the contracts for lots in the Albion Basin. The contracts are for less than the 400 gpd required to develop a lot. When this area was annexed into Alta City, there was pressure for Alta to provide them culinary water as the Little Cottonwood Company contracts were inadequate. Salt

"Salt Lake City's watershed management muscle to deny them [recorded lot owners in Alta] water"

Lake City promised Mayor Levitt that it would gain control of the Albion Basin contracts in order to protect the area from development by using Salt Lake City's watershed management muscle to deny them water. Also, the City would not fold under pressure to increase the volume under the contracts, whereas the Little Cottonwood Water Company would. ←

During the latter part of 1992, the Company became uncooperative and aggressive in its attitude toward the City, led primary by Tony Rezack, President of the Cahoon Maxfield Irrigation Company, who along with the three other irrigation companies holding rights in Little Cottonwood Creek, initiated a law suit against Salt Lake City entitled Cahoon Maxfield Irrigation Co. et al vs Salt Lake City. Judge Rigtrup dismissed the law suit.

In accordance with the exchange contracts with the Richards Ditch, Walker Ditch and Little Cottonwood Tanner Ditch Companies their stock in the Little Cottonwood Water Company was transferred to Salt Lake City in the 1930s. This spring I requested the Company secretary to transfer the stock certificates into the name of Salt Lake City, thus eliminating eligibility of the exchange companies' members to sit on the Board of Directors. With this action, Salt Lake City and Sandy City control the company.

Action

Salt Lake City and Sandy City are moving forward to dissolve the company. The strategy is to meet with the individual irrigation companies to inform them of our intent, hold a board meeting, elect new officers consisting of Sand City and Salt Lake City members, and set forth a plan to dissolve the corporation. We hope to do this in such a way that the City's and Companies' relationship is not damaged too severely, but meet our goal of eliminating the company.

cc. Roger Black

4 April 2019

Alta Town Commission,

I attended the March 26th Planning Commission meeting at Alta which sought input from the public on code changes with particular impact to residents of the alcove of Albion Basin. Most of those who spoke at the meeting were residents and property owners in Albion Basin and none of those owners spoke in favor of the new ideas. Residents spoke of their love of Albion Basin and their vigilance in maintaining and improving their properties, their struggles in regards to dealing with more and more visitors, and their legacy of caretaking which benefits others besides themselves. In all there was an atmosphere of distaste for metastasizing regulation, decades of neglect and right tromping. One resident passed out his thoughts, "Over the last 40 years since I have owned the place I have seen a constant erosion of my rights as a homeowner. If it isn't right of way, than it's water. Now this! I strongly protest any more of my rights to a primary residence taken away."

I offered comment with the others but after the input session was closed I don't think there was any consideration of the ideas presented. I did not hear the commission discuss my ideas. At the appointed point in the agenda they went straight to a vote to forward the code to the city commission. Wow! That is really a quick way to process public comment!

My comments about the proposed code:

Comment #1

The code is doubling the distance of structures from the streams based on rationale from a study paper (vintage ~1993). I counter with the observation that the canyon and Albion Basin have both recovered equally well from mining earthwork; this demonstrates resiliency of vegetation to the rigors of mining earthwork in the whole of the upper Little Cottonwood Canyon. All you have to do to prove this fact is to view photographs of the area from the end of the mining era (1940s) and compare them to the present scene; almost total recovery and much of that without intentional re-vegetation. Hence, I oppose the doubling of structural offsets.

Comment #2

Put the basin waterways that are effected by the 100' offset on the proposed new map so that the properties effected are known up front. The stream is very short and that won't be hard to do. As per the 'erosion channel' definition almost any channel could be ruled a 'waterway' which qualifies for a 100' setback because someone could find a 'the presence of hydrophilic plants or other evidence'. Vague; this sentence would be a generous gift to any bureaucracy interested in taking property and development rights.

Comment #3a

Until such time as sewer is installed residents will utilize holding tanks. In that regard:

The proposed code will require not just a local alarm for high level of a septic holding tank (easy to do) it will require that the alarm be sent to the Town of Alta (difficult). This sounds like the authority won't be happy unless there is a dedicated calling device and a cell tower subscription... this is very expensive and is also in an area with marginal cell service. Why not just require an audible alarm? Call it out in the code so we know that no bureaucrat can force otherwise. Rest assured, people in the area will quite naturally investigate a loud buzzing sound.

Comment 3b:

The code requires a septic holding tank level alarm to be equipped with an automatic water shut-off feature 'to the building'. This sounds like the code will be interpreted so as to require a valve buried below frost level on the outside of the building. Imagine having to maintain an automated valve in that location! How about changing the wording to something like this: 'Disposal system shall be equipped with an automatic water shut-off feature.' Thus allowing it to be located inside the structure.

I encourage a reduction in the quantity of municipal code and do not recommend adoption of this revision without cutting out the 100' waterway offset and reworking the holding tank regulations.

Albion Basin property owners are entitled to pursue development of their property regardless of the Towns' opinion about the viability of new building proposals and/or the General Plans' ambition to suppress development and acquire as yet undeveloped private properties. The General Plan says the Town opposes extension of sewer lines to the Albion Basin yet in light of the development that will certainly come shouldn't that position be abandoned in order to enhance protection for the canyon's culinary waters. Sandy City and the County have interests in water quality, and so perhaps it is time for joint development of sewer to the basin picking up the effluent of all the cabins leading up to the basin and the within basin itself.

The doubling of structure setbacks from waterways represent a taking of private property, private property development rights and opportunities. New regulations for holding tanks will add installation costs and add substantial operating costs as well as regulatory burden.


The Town should rise to the occasion and prioritize sewer and culinary water service to Albion Basin as a required accomplishment before allowing any lesser attentions such as the grooming of common land use code. I encourage you to fiercely pursue these two things in behalf of and in long overdue exchange for the taxes on basin properties.

Thank you for serving the city of Alta,

Fred Hayes

Albion Basin Property Owner

Bear River City, Utah



RECEIVED APR 05 2019

Since I have purchased my 4 lots in the Albion Basin Subdivision I have consistently attended both TOAPC & TOA Council meetings on a very regular basis. I have as well used the GRAMA act to request both TOA Council & TOAPC minutes and a large variety of other documents from the TOA and their jurisdictional partners to understand the requirements to build a home.

Contemporaneous with the Albion Basin annexation into the TOA the TOA negotiated an amendment to the 1976 water contract which allowed the TOA to serve municipal water pursuant to the 1976 contract to the newly annexed Albion Basin. I came across this agreement while reading minutes in the Salt Lake City Recorder's Office and subsequently made a request to TOA and Ms. Black-Clerk produced a copy of the agreement executed by Mayor Leavitt & notarized by Ms. Black. A review of the TOA minutes disclose the TOA Council voting to approve the agreement & authorized Mayor Leavitt to execute the agreement, a legislative act. Why this circumstance has never been mentioned in the staff analysis of the 1976 contract is unclear and or produced in one or more civil suits is unclear. It was never produced to me despite numerous request for information regards water in the TOA.

I have also recovered the Court Record in the Cahoon Maxfield v. SLC case as well as the corresponding hearing records from the Utah Division of Water Rights which case resulted in Mssrs. Kapalowski/Veasey-Parsons Behle Latimer, representing both the TOA & Service Area #3 (Snowbird) before the State Engineer, to put in place the requisite change applications to legally divert municipal water & use municipal water in the TOA. Mssrs. Kapalowski/Veasey-Parsons Behle Latimer were not representing Salt Lake City, they represented the municipality of Town of Alta (57-10013). This is the same 3rd Dist Ct case & UDWR hearings which resulted in the Salt Lake City change application to serve municipal water to the Albion Basin Subdivision (57-10015). This case resulted from the fact that Salt Lake City Public Utilities had failed to file the necessary change applications for all of their so called surplus water contracts, seven of which are in LCC and the remainder divided among BCC, Millcreek, Parleys & Emmigration. The records from Cahoon Maxfield 3rd Dist case & the change application hearing record at the UDWR covers all of these contracts. Mr. Guldner was present and introduced by Mr. Veasey at the UDWR hearings. The result of the settlement of the Cahoon Maxfield case & the resulting Change Applications before the UDWR is that SLCPU hired the former Head of Appropriations-UDWR, Mr. Green to apprise SLCPU regards the amount of water required to serve the SLCPU surplus contracts in the change applications. Mr. Green was instructed by SLCPU that all the contracts were going to be served. Mr. Green determined the amount of water should be 400.02 gallons per day, the required amount for indoor culinary use, this amount was used for all the contracts, in all five canyons. The change application filed for the TOA was for 500 acre feet for municipal water service in the TOA and snowmaking & the Albion Basin Subdivision's change application was for municipal water service for 30 single family lots, each with 400.02 gallons

M.C. Haik-Comments on Town Alta Planning Commission Proposed Title 10-Land Use Regulations

per day. An anomaly of the Cahoon Maxfield case is that there were no change applications filed for the surplus contracts for Albion Alps Subdivision or the properties in the Cecret Lake vicinity each of which have surplus contracts similar to the others. This circumstance was brought to the attention of the State Engineer in 2015 with a complaint to the UDWR Enforcement Officer and resulted in former Mayor Pollard & then SLCPU employee Ms. Breifer being tasked with identifying the parties diverting the water, the source of the water being diverted, the amount used and the location of the infrastructure. Failure to disclose water diversions and uses to the State Engineer is illegal. After an initial letter seeking information from property owners and SLCPU meetings with the area 57 UDWR Engineer this investigation came to a standstill and remains unresolved. The status of the investigation has not been reported on by the TOA staff nor elected officials. This circumstance should be resolved since it has been 4 years since it was brought to light. The TOA & TOAPC must know what the municipal assets are, and the quantities, to enable sound future planning and the existing uncertainties render the present efforts moot. All diversions of culinary water, public or private, large or small, municipal or community carry with them a surrounding source protection zone. It is absolutely imperative that the municipal authorities know the location of the diversions, the location the water is diverted to, the amount diverted, and the purpose for which it is placed into use. The municipal authorities in the TOA & TOAPC have failed to follow through with their jurisdictional partners to apprise themselves and take appropriate steps to remedy the deficiencies. Prior to remaking the Land Use & Zoning Regulations the TOA & TOAPC must be able to quantify their municipal water assets and apprise the community regards the extent of their assets to responsibly plan for the future.

In the course of my research regards requirements to build on my property I reviewed the communications from Mr. Guldner which contained some requirements to build and directed my attention to an address list of various jurisdiction partners but failed to cited all the local TOA ordinances to be compiled with to file an appropriate application. I retained a lawyer expert in land use zoning & building ordinances to apprise me of what was required for a building application in the TOA. After an exhaustive review by counsel of the TOA ordinances & records at the TOA offices he produced a list of TOA ordinances and requirements to make an application to build a home in the Albion Basin Subdivision. I pursued the requirements outlined by counsel and submitted an application to build two houses. The applications were submitted and the TOA building official responded by letter that the TOA would issue the building permits if I successfully obtained a permit for a new septic system from Salt Lake Valley Health Dept. The fact that I have submitted two applications which fulfilled all TOA requirements to build should have been reported at both TOAPC & TOA Council, to my knowledge staff has not reported on these applications to either body publicly. The result of my counsel's exhaustive review was that it disclosed Ms. Black-TOA Clerk had the ordinances in disparate files with no coherent numbering system in place such that they could be presented to those making inquiries regards requisite build requirements. Ms. Black then advocated for the TOA Council to

M.C. Haik-Comments on Town Alta Planning Commission Proposed Title 10-Land Use Regulations

inventory, catalogue & renumber the TOA Ordinances and the TOA hired an outside contractor to accomplish this task which resulted in the present numbering system.

Subsequent to my analysis of the TOA building requirements I retained a an engineer who has successfully obtained septic permits for clients all over Salt Lake County and specifically in all of the east side canyons and was a former Salt Lake Valley Health Board member. My properties passed all the required soils & other tests required by Salt Lake Valley Health. I also recovered records from Salt Lake County Planning & Zoning to review other successful septic permits in the canyons. I found that once the germane tests had been successfully completed the last thing that occurred was SLCPU provided a letter which states that water is available. I made a GRAMA request to Salt Lake County Planning and Zoning and found that hundreds of these letters were routinely issued by SLCPU to build new homes, for extensive remodels and repairs, or for replacement of failed septic systems in the last quarter century. Salt Lake County routinely required parties upgrading, remodeling, building new and making extensive repairs to their properties to upgrade the old septic system to a fully contained system; in each case a letter from SLCPU was issued stating water was available regardless of the terms of any surplus water contracts. These approval letters included leaseholds on federal property which in order to renew their lease had to upgrade the old septic system to fully contained. The number of properties was extensive and Salt Lake County Planning & Zoning provided the data in an Excel Spreadsheet. Subsequent to my engineer providing successful test results and responding to all the SLVHD questions the only thing that remained was a one page letter from SLCPU, which letter SLCPU Director-Niermeyer refused to provide. An otherwise routine administrative act, a letter which hundreds of others received upon successful completion of septic system tests was denied to me. Director Niermeyer did send a letter to the TOA & copied to SLVHD which stated that there was a water contract but the amount was insufficient. The letter made no mention of the change application (57-10015) filed by SLCPU at the UDWR decades prior, purportedly based on said contract, which application was approved for 400 gallons per day by the UDWR-Engineer for the Albion Basin Subdivision and is the basis for providing water to others in the Albion Basin Subdivision. This resulted in an appeal of this decision which has been winding it's way through the judicial system and remains pending today. I would also point out that Director-Niermeyer has conflicting sworn statements regarding the same contract. In one sworn statement Director-Niermeyer maintains that the contract has no force & effect & is not capable of being performed and in a second sworn statement several years later the same contract has force & effect but an insufficient quantity of water. Essentially a quantum contract, which exists in two completely different states at the same time, enforceable between the parties & unenforceable between the parties. I would note that this circumstance is evident in other surplus contracts in the TOA.

M.C. Haik-Comments on Town Alta Planning Commission Proposed Title 10-Land Use Regulations

The 1976 contract has specific terms and conditions which interpretations vary depending on to whom and when the analysis is given:

[1] regards quantity-265000 gpd if 1975 contract terminated. First sentence of Shrontz Settlement Agreement say 1975 contract shall be performed, leaving a balance under 1976 contract of 115000 gpd.

[2] 1976 contract says water may be provided in the 1976 TOA boundaries, which if true includes the properties in Cecret Lake.

[3] TOA staff omitted/failed to disclose that TOA & SLCPU had agreed to amend geographic limitation, but neither party disclosed to anyone and only came to light as a result of my review of Salt Lake City minute records.

[4] 1976 contract says no irrigation yet numerous parties including former Mayor Pollard admit that they used water to irrigate.

[5] Mr. Kapalowski specifically represented to the Board of Water Resources that the TOA could legally divert 500 acre feet, pursuant to an approved change application, based on the 1976 contract this value is larger then 265,000/115,000 gpd.

[6] The staff routinely contends that the amount is 265000 gpd which is less than 500 acre feet cited by Mr. Kapalowski as amount the TOA is legally entitled to divert.

The foregoing are a few examples of the same contract having meaning and no meaning at the same time, despite very simple plain language. There are additional anomalies in various surplus contracts I will not recite. The result is one contract appears to have multiple values and multiple meanings. I am not going to characterize the circumstances, actions or inactions, or conflicting statements of various elected officials, jurisdictional partners, staff of TOA & jurisdictional partners, counsel for TOA & jurisdictional partners which have over time led to the situation the TOA finds itself today; except to say that none of the foregoing cited parties can stand in public and cite where water can be diverted, used and in what amounts in the TOA. The fact is the analysis provided by the TOA long term staff does not even remotely pass the sniff test and legal counsel with a fiduciary obligation to the municipality has not been heard from. The TOA Council and TOAPC must seek substantive analysis & representations from the Counsel that represented the municipality of the Town of Alta in the change application (57-10013) for the municipal water supply, that party is Mssrs. Kapalowski/Veasey-Parsons Behle Latimer. Mr. Kapalowski was a member of both the old TOAPC which was merely appointed advisors to the Mayor of the TOA and a member of the TOAPC subsequent TOAPC conforming the TOAPC to the LUDMA act which their prior counsel Thompson had failed to do. Mr. Kapalowski silently recused himself from any deliberations regards the proposed Shrontz subdivision, he did not disclose his recusal to the TOAPC Chair or other members, the Mayor of Alta who appointed him or the staff. The only account of his recusal come in a sworn deposition

M.C. Haik-Comments on Town Alta Planning Commission Proposed Title 10-Land Use Regulations

by Mr. Sullivan in the Shrontz case. Why Mr. Kapalowski-Town of Alta Special Counsel for Water had to silently recuse himself from TOAPC deliberations should be disclosed at a minimum to his employers the TOA Council, but more appropriately to the public as well. Prior to any additional land use legislation or amendments the municipality of the Town of Alta must be able to quantify and disclose publicly how much water may be used where and by whom to the property owners, business owners, inhabitants & visitors to appropriately plan for the health welfare & safety and future viability of the community.

The properties in the proposed Albion Basin Protection Overlay Zone currently have four basic circumstances:

[1] Albion Basin Subdivision-Has surplus contract and change application for requisite culinary water amounts and water system fully approved & on file at SLVHD and UDWR. 57-10015.

[2] Albion Alps-Has surplus water contract but no change application, water diversion & use is not disclosed to UDWR.

[3] Cecret Lake-Has surplus water contract, but no change application, water diversion & use is not disclosed to UDWR, but is included in the original bounds of 1976 contract yet denied water by TOA.

[4] All of the property is within the municipality of the Town of Alta covered by the change application 57-10013 which provides for municipal use in the Town of Alta.

Until such time as the municipal authorities & their jurisdictional partners can disclose to the community the germane state of affairs the various authorities are not appropriately situated or informed to make land use or new zoning policies. The Town of Alta is definitely in need of both land use and zoning changes to maintain the community for the future but the process over the last decades has lacked transparency and frequently lacked participation by those most affected due to lack of rapport between the governed & the government as evidenced by lack of participation in the public process, recently much discussed by former TOA Councilman Moxley and others.

I would advocate the following course for the TOA Council's future deliberations regarding land use and planning and zoning:

[1] Remand the current proposed changes to the TOAPC and request that the TOAPC review in detail my applications to build to gain a substantive understanding of what the law presently requires and make a further review of their proposed land use changes once apprised.

M.C. Haik-Comments on Town Alta Planning Commission Proposed Title 10-Land Use Regulations

[2] Request written opinion from Mssrs. Kapalowski/Veasey-Parsons Behle Latimer or their successors regards the present status of all surplus water contracts, and all the change applications filed in the TOA by their jurisdictional partner SLCPU of record at the UDWR.

[3] Request written report from SCLPU regards the present status of all surplus water contracts and all the change applications in the TOA filed by their jurisdictional partner and of record at the UDWR to present to the public.

[4] Read the transcripts and listen to the audio from the hearings before the UDWR for the change applications for 57-10013 which clearly state in the first person the intentions for the use of water in the TOA by applicant SLCPU's counsel Mr. Novak & former Director SLCPU Hooten, in addition to TOA Counsel Mssrs. Kapalowski/Veasey-Parsons Behle Latimer.

[5] Review all of the original color TOA Zoning maps which I recovered from Salt Lake County Planning & Zoning and have digitally and have previously proffered to both the Mayor of Alta and the TOAPC Chair, which in my lengthy experience in attendance at public meetings in Alta have never been shown publicly.

[6] Conduct interviews with the long time owners of Albion Basin properties regards their recollections of what transpired during the annexation, including Page, Knowlton, Charlier, Gates, Jones, Miles, White, Gibbs, Nebbeker, Wetzal, Fisher, Melville, Pruitt; both to gain insight of their experience and cultivate a rapport so that they & their successors will substantively participate the public process from which they have become estranged.

[7] Appoint Mark C. Haik to the TOAPC.

Mark C. Haik