MINUTES ALTA TOWN COUNCIL MEETING Wednesday, January 8, 2020, 4:00 PM

Alta Community Center, 10351 E. Highway 210, Alta, Utah

PRESENT:

Mayor Harris Sondak

Council Member Margaret Bourke

Council Member Cliff Curry Council Member Elise Morgan Council Member Sheridan Davis

STAFF PRESENT: John Guldner, Town Administrator

Chris Cawley, Assistant Town Administrator

Piper Lever, Town Clerk Mike Morey, Town Marshal Polly McLean, Town Attorney

Jay Torgersen, UFA

WORK SESSION

DISCUSSION ON ZONING ORDINANCE CHANGES

00:00:03

Mayor Sondak called the meeting to order at 4:00 PM and welcomed those in attendance.

Town Administrator John Guldner stated that there were only three ordinance issues left to resolve for the proposed Upper Albion Basin Protection Overlay Zone. The first item was the definition of non-habitable structures with regards to the required setback from waterways in the Ski Area. Mike Maughan, with the Ski Area, had previously expressed concern about this requirement because under some definitions, concrete pads and picnic tables were considered non-habitable structures. There are some picnic tables close to the creek that wouldn't be allowed under the proposed ordinance. Staff had considered allowing non-habitable structures closer to waterways with the approval of the Salt Lake City Department of Public Utilities and the Salt Lake Valley Health Department.

Another item of discussion involved non-complying and non-conforming structures and lots within the Overlay Zone. The Council was considering allowing 250 square foot additions during renovation, as well as the possibility of allowing teardown and rebuild. Administrator Guldner noted that teardown and rebuild was previously not allowed because of Watershed Regulation #14, which came from the Salt Lake Valley Health Department and Salt Lake City. Town Council was proposing to allow teardown and rebuild if it was approved by the Salt Lake City Department of Public Utilities and the Salt Lake Valley Health Department, and the owner could prove to the Building Official that there would be less immediate and long term impact of construction.with a

rebuild than upgrading the current structure. Councilwoman Bourke and Councilman Curry pointed out that the ordinance should specify how those impacts would be measured and evaluated. Under the existing ordinance, if a home or cabin become uninhabitable, the owner needs to fix the structure within one year or they would lose their non-compliant status. This means that after one year from the start of construction, the structure would need to be brought up to the existing code completely. The Council discussed changing this ordinance to allow one year to submit a plan and gain a building permit, and two years to finish the structure. Council Member Bourke said that even this extended timeframe may not be enough. The building season in Alta is very short, and it may be difficult for owners to complete their renovations in that time. She suggested increasing the timeframe to allow two years to submit a plan and five years to complete construction.

00:04:31

There was a discussion regarding non-complying structures outside of the Albion Basin. The codes state that if an owner tears down the majority of their structure, or more than 50%, the structure would lose its non-complying status and the structure cannot be rebuilt. Town Attorney Polly Samuels said that this language was from the State Code, and it did apply to the entire Town; however, there is more non-conformity in the Albion Basin than the rest of the Town. Administrator Guldner said that the Planning Commission discussed this many times and they determined that properties shouldn't lose their non-conforming status no matter where they are in the Town, as long as it's approved by SL Valley Health Department, SLC Public Utilities, and the TOA Building Official. It didn't make sense to make this more restrictive outside of the Albion Basin.

00:06:47

Mayor Sondak asked how they would track who had used their 250 square feet, since it would only be allowed once for each property. Administrator Guldner said that any addition would need a building permit, and the Town kept those records forever. They also had the option of recording a notice against the property when an addition was done.

00:12:45

Mayor Sondak asked if there was a limit to how often someone could tear down and rebuild their structure. Administrator Guldner said that they hadn't included a limit in the code, but he assumed that people wouldn't take advantage of that very often. They would also need approval from several entities before they could rebuild. When someone chooses to tear down and rebuild, they can only rebuild within the same footprint of the original building, with the additional 250 square feet. If the structure was moved from the original footprint, the structure would have to comply with existing code standards. The intent of the Overlay Protection Zone was to preclude any new construction in that area. However, all of the property owners in the Basin had expressed that it would be less expensive for them to tear down and rebuild than to remodel. They would just have to prove to the Building Official that a rebuild would lessen the immediate and long term impact of construction.

00:19:40

Council Member Bourke asked if this ordinance would allow everyone to do a 250-square-foot addition, even if they had already done an addition before the ordinance was adopted.

Administrator Guldner said that only two cabins had done an expansion in the last several years. Polly McLean said they could add language to the ordinance to start the addition allowance proactively. There was language in the ordinance that prohibited the expansion from going closer to the waterways or into the setback. Council Member Curry said that the ordinance should add language that declares that the addition would be allowed so long as such repairs or alterations do not create a new area of non-conforming use with respect to waterway setback or lot coverage. The Council discussed the increased intensity of use.

The Council again discussed the timeframe allowed for rebuilds without losing non-compliant status. The consensus was to allow two years for plan submittal, and an additional five years for reconstruction.

Attorney McLean and staff agreed to make the changes suggested and bring the proposal back to the Town Council for approval.

The work session was adjourned at 5:00 PM.

REGULAR SESSION

1. CALL THE MEETING TO ORDER

01:07:20

Mayor Sondak called the meeting to order at 5:08 PM and expressed appreciation for those in attendance

2. ACVB UPDATE INCLUDING PRESENTATION OF FINANCIAL STATEMENTS

01:08:05

Sasha Patene first reviewed ACVB marketing attempts from the past season. Marketing included videos, optimization of the booking widget, the Day in the Life series, and social media posts about local businesses. Again, they purchased Ski Utah Weekly Deals. Ms. Patene presented the marketing numbers for December 2019. She then reported on the recent Chamber event, and a grant they received from PRCC to rebuild their website. The financial statements were presented.

3. CITIZEN INPUT

01:25:20

<u>Roger Bourke</u>, a citizen, spoke about the late Doug Bledsoe, including his accomplishments and service to the community. Mr. Bourke also expressed concerns with overnight parking, which was taking away parking from the residents.

4. ALTA SKI AREA UPDATE

There was no Alta Ski Area Update.

5. APPROVAL OF CONSENT AGENDA

- Treasurers Report for December 2019
- Town Council Meeting minutes for December 11, 2019
- Staff Report

01:28:06

Council Member Bourke expressed that she thought the draft of the minutes didn't accurately capture the spirit of the meeting. She asked how it was decided what comments were incorporated into the minutes, and what was not. Some of the edits she suggested were not included in these minutes.

Town Clerk Piper Lever explained that she sends the audio files and supporting documents to the third-party transcriptionist. The transcriptionist sends back a draft, and Ms. Lever goes through that draft while listening to the audio file again. After making some corrections, she sends the minutes to the Council Members for review. The minutes are a condensed version of the comments and actions of the meeting.

Council Member Bourke said that she also read the minutes while listening to the audio. On page six of the minutes, it was referenced the Council Member Curry had not read the resignation letter from Roger Bourke, but it was her understanding that he hadn't even received the letter. During the meeting, his concern was whether or not there had been some sort of pressure put on Roger Bourke for his resignation. That was not reflected in the minutes.

Council Member Curry agreed that this was the intent of his original statement in the meeting.

Council Member Bourke was also concerned that the minutes stated that Mayor Sondak invited the Council Members to nominate candidates for Planning Commission. As she understood, Mayor Sondak welcomed suggestions for candidates. She again expressed concern that some of the comments made were completely disregarded in the minutes.

Ms. Lever said that she didn't intend to disregard comments. Many times the minutes are a condensation of the conversation that happened, and she tried to convey the character of the meeting. She welcomed any changes the Council thought were necessary in these minutes. In the past, it was suggested the Council consider verbatim transcripts of the meeting. If the Council wanted to pursue this option, it would be more expensive, but it was a possibility. Mayor Sondak said that within his experience with other bodies, they do not provide verbatim transcripts. Most bodies preferred a summary of the discussion or even just actions taken, with varying levels of detail. Counsel McLean noted that the audio would always be available, and legally the Town needed to keep those files indefinitely. In her experience, she had never seen any government body ask for full transcripts.

Mayor Sondak asked if any other changes needed to be made to the minutes, or if the Council had any questions about the departmental reports.

Council Member Morgan said that she would prefer not to be on the Mosquito Abatement Board. Council Member Bourke suggested the Assistant Town Administrator Chris Cawley serve on the board because there was an emergency preparedness component to it. Staff confirmed that the board member didn't have to be an elected official.

Mayor Sondak asked Mike Morey to report on the fatality at the Ski Area that week. Mike Morey explained that on Thursday, the UFA and Alta Ski Patrol were called to an incident in the Sunspot area, where a 37-year-old male fell into deep snow and did not survive. The individual was Shawn Brennan. They were still waiting to hear back from the medical examiner.

01:41:51

MOTION: Council Member Davis moved that the Town Council APPROVE the Consent Agenda. Council Member Morgan seconded the motion. The motion carried with unanimous consent of the Council.

6. QUESTIONS REGARDING DEPARTMENTAL REPORTS

01:42:08

Jay Torgersen, UFA, reported that the crew was wrapping up on the rollover in the canyon, which was why they weren't present at the meeting. Call volumes had increased steadily since October, with a total of 16 incidences in the last four months. As a safety reminder, Chief Torgersen asked everyone to keep their hydrants clear of snow.

In response to a question about call volume in the Town of Alta, Chief Torgersen said that there were 108 incidences in 2018, 83 incidences in 2017, and 74 in 2016. There had been an increase in calls over the past few years. The Council requested further information regarding where those calls were taking place, and Chief Torgersen said that he could put together a heat map so they could visualize those locations. He noted that the majority of the calls they responded to in Alta were for medical transport rather than fires.

7. MAYOR'S REPORT

01:51:10

Mayor Sondak also spoke about Doug Bledsoe, who passed away on December 22, 2019. He then reported on the UFA Board meeting of December 17th, which was mostly focused around the budget. He added that he had numerous discussions about UFA costs with numerous elected representatives. There was a CWC meeting on January 6th, and the board agreed to refocus their meetings on transportation. On January 7th, rather than attendthe Little Cottonwood Canyon Road Committee Meeting, the Mayor attended a meeting of the Committee of the whole of the Salt Lake County Council, which focused on the creation of a Community Redevelopment Area (CRA) in the commercial core to gather tax increment funding for a community center. Mayor Sondak wanted to be sure that the proposed rule change didn't negatively affect the Town of Alta which was in the process of putting their own CRA together.

At the request of Mayor Sondak, Town Marshal Mike Morey highlighted the discussions that took place at the Road Meeting. The main topic of conversation was UDOTs policies and their level for implementation.

Mayor Sondak then reported on the temporary dog licenses that were given since the last City Council Meeting, as follows: Jeffery Selikoff from December 12th to January 16th; Paxton Maeder from December 18th to January 16th; Roberta Abbott and Sam Hotaling from December 19th to December 30th; Mariana Abelson from December 20th to December 25th; Richard Abelson from December 20th to December 25th; Case Watson from December 21st to January 1st; Sophie Danforth from December 23rd to January 6th; Jenny Dozier from December 24th to December 26th; and Gregory Davis from December 31st to January 7th.

8. <u>DISCUSSION AND POSSIBLE ACTION TO ADOPT THE AMENDED FY 2020</u> <u>BUDGET - RESOLUTION 2020-R-1</u>

02:15:05

Mayor Sondak introduced the item and asked for a motion.

MOTION: Council Member Morgan moved that the Town Council ADOPT Resolution 2020-R-1 amending the FY 2020 Budget. Council Member Bourke seconded the motion.

Ms. Lever gave a brief overview of the proposed budget amendment. Overall, there would be a budget increase of almost \$18,000 spread over different departments. Some of the increases and decreases were due to revenue that the Town had already received or had already spent. Another reason for the amendment was to identify transportation projects that would use the funds generated by the Fourth Quarter Tax. That increase included the \$5,000 for expanded UTA service payable to the CWC that the Council had previously approved

There was a brief discussion regarding the Fourth Quarter Tax revenue and the repaving project.

02:22:25

Mayor Sondak called the question. The Council Members voted, and the motion carried with unanimous consent of the Council.

9. <u>DISCUSSION AND POSSIBLE ACTION TO AMEND SECTION 3-1-12 OF BUSINESS LICENSE ORDINANCE</u>

02:22:50

Mayor Sondak stated that this item was put on the agenda based on a question from a previous meeting during the New Business Section. Council Member Curry requested that the item be tabled to allow the Council additional time to study the material provided by the Town Attorney.

MOTION: Council Member Curry moved that the Town Council TABLE the discussion to the February 12, 2020 Town Council Meeting. Member Bourke seconded the motion. The motion carried with unanimous consent of the Council.

10. <u>DISCUSSION AND POSSIBLE ACTION REGARDING PLANNING</u> COMMISSION APPOINTMENT

02:24:20

Mayor Sondak introduced Danya Rumore, whom he had appointed to the Planning Commission in an email to the Council members.

Dr. Rumore said that she was the director of the Environmental Dispute Resolution Program at the University of Utah. She had spent a lot of time researching the challenges and opportunities that face small gateway communities, such as the Town of Alta. She was happy to serve the community on the Planning Commission or in some other fashion. Although she was not a resident of Alta, Dr. Rumore spent a lot of time in this canyon and was very familiar with the Town.

00:27:10

Mayor Sondak said that according to State and Town Code, it was the responsibility of the Mayor to appoint new Planning Commissioner, which he had done on Dec 30, and then the Council would advise and consent. In this respect, Mayor Sondak was a Council Member as well as the Mayor.

MOTION: Mayor Sondak moved that the Town Council CONSENT to the appointment of Danya Rumore to a five-year term on the Town of Alta Planning Commission as an at-large member. Council Member Morgan seconded the motion.

Council Member Davis asked Roger Bourke for confirmation that he had willingly resigned from the Planning Commission, since he was present at the meeting. Roger Bourke said that he did not resign his seat. Council Member Davis felt conflicted, given the narrative that they had been told previously.

Mayor Sondak said that Dr. Bourke did resign, and then he wrote to rescind that resignation. Aside from the resignation, Dr. Bourke's term expired at the end of 2019.

Council Member Davis said that according to the laws and ordinances, the Planning Commissioners would keep their seats if a new appointment wasn't made. The Council had not advised and consented to a new appointee yet. Attorney McLean confirmed that members would continue to serve until their successors were appointed. However, in another part of the ordinance, it stated that Planning Commissions will continue to serve until that member elects to step down. The Mayor shall appoint new Planning Commission members to fill vacancies that might arise.

Council Member Curry commented that in his view it was clear that an appointment occurred when it was confirmed by the Town Council. Attorney McLean clarified that the appointment was like a nomination, and the advice and consent of the Council was like the action. Council Member Curry requested court cases that clarify this point. In his view, an appointment was perfected when the Council gave its consent.

Council Member Curry thanked Dr. Rumore for speaking to the Council and being willing to serve. He did not doubt her ability or her qualifications for this position. The issue facing the Council was that there was a standing member of the Planning Commission who had served faithfully in

his position, and who was a resident of the Town of Alta. He was not prepared to push aside this individual who had served the community so diligently.

Mayor Sondak said that the reason he chose not to reappoint Dr. Bourke had nothing to do with his performance on the Planning Commission. In his view, there was a conflict with Commissioner Bourke and Council Member Bourke being a married couple serving on those two bodies. It would be inappropriate for that to continue, and it was putting the Town at some risk.

Council Member Bourke stated that risk comes to the Town only when there is an action before the Planning Commission that is appealed to the Town Council. Unless that takes place, there is no conflict of interest. It is a citizen's First Amendment right to speak to any members of the community, whether they were married to them or unrelated. In the fifty years that the Town had been incorporated, there had only been three appeals from the Planning Commission to the Town Council. Appeals aren't something that happens regularly. To suggest that Dr. Bourke's letter to the Council somehow demonstrated impropriety or illegal conduct was something she found deeply hurtful. As an attorney, Council Member Bourke held confidence firmly. She did not share information that she wasn't supposed to share. Dr. Bourke also had a background in which he held high security clearances. The most troubling part of this process for Council Member Bourke was the suggestion that inappropriate conversations would take place at some point in the future. Alta is a small community, which naturally creates many conflicts of interest, but the conflicts can be dealt with by disclosing the conflict publicly or recusing oneself from the decision at hand.

Mayor Sondak said that he had not intended to hurt Council Member Bourke, and for that he apologized. He felt that he was doing the right thing as Mayor by appointing a new Planning Commission Member. The Council could vote as they saw fit.

Attorney McLean stated that beyond the personal level, the other issue to consider is the appearance to the public of having that relationship. Mr. Curry stated that there lots of conflicts in a small town. If the motion to appoint the Planning Commission fails, it was Counsel's interpretation that the seat would remain empty until the Mayor appointed someone else and the Council consented to that appointment. Council Member Curry requested court examples to support that interpretation.

Council Member Bourke noted that section 10-4-3 of the code, stated that the Mayor shall appoint a new Planning Commission member to fill vacancies that might arise, which suggests that this new appointee serve regardless of whether there was consent from the Council or not. She didn't see how they could say that the mayor's act of appointment was sufficient to meet what the rest of the code provision was calling for. To read the various provisions of the Code together, a new member joins the Planning Commission not on mayoral appointment, but following the advise and consent of the Council. Council Member Curry agreed.

Attorney McLean said that there were conflicts within this section, and she suggested revisiting the section later for revision. It was concerning that the Council could potentially try to take away the Mayor's ability to appoint. Council Member Davis argued that the opposite was also concerning. It would be undemocratic for the Mayor to be able to appoint without the advice and consent of the Council. Attorney McLean said that the Council's options were to vote on someone

the Mayor appointed or leave the seat open. Council member Davis said that any advice that suggested that the mayoral power is able to circumvent the Council's consent is deeply troubling. Attorney McLean stated that she is representing the Alta Town Council with respect to State and local Code and is giving her legal opinion.

Council Member Morgan said that the Council could spend hours talking about this issue, and she wasn't sure they could reach a consensus. She suggested that they vote on the motion on the table and discuss what needs to be done after that.

Council Member Curry thought that one of the next steps should be to put an action item on the next agenda for the Council to make a resolution on whether the interpretation of our ordinance allowed Roger Bourke to remain on the Planning Commission or not.

02:47:35

Mayor Sondak called the question. Council Member Morgan and Mayor Sondak voted aye, Council Members Curry, Davis, and Bourke voted nay. Mayor Sondak asked Council Member Bourke if she was voting, and she answered in the affirmative. The motion failed.

Dr. Rumore informed the Council that her program at the University of Utah could be a great resource for the Council to use, as they focused on small communities. She was more than willing to help with the issue at hand. Mayor Sondak thanked Dr. Rumore for her attendance and her willingness to serve.

11. <u>DISCUSSION REGARDING UFA FEES</u>

02:49:00

Mayor Sondak said that he had briefed the Council individually on this topic prior to the meeting. He was encouraged by the County not to include this discussion on the December agenda, but after meeting with UFA and the County, he felt that it was now timely to have this discussion. The UFA Budget Committee meeting will take place in mid-April, and the Council should discuss their concerns before then. The primary concern was whether the UFA would agree to take on the shortfall between Alta's contribution and their expenses according to their accounting.

02:50:45

Council Member Bourke wondered if it would be appropriate for the Council to get the Town's budget committee involved, based on the complexity of the issue and the number of intergovernmental agencies involved. There were a lot of moving parts to this discussion, and she felt that there needed to be a work session devoted to this issue. She also requested additional information from the UFA about the number of calls to Alta, and where those calls were located. She asked if it were possible to seek funds from other entities to help pay this cost.

02:52:45

Council Member Morgan thought there may still be some room to work with the County because they were still working through things as well. It sounded like the County's hands were tied in some ways.

Mayor Sondak said that he had invited the County Mayor and Deputy Mayor to attend their December meeting, but they expressed that this would be premature. They were interested in hearing the Town Council's reaction to the statement that Alta had been underpaying for fire service for a long time, and they needed to be treated the same as other entities that are part of UFA.

Council Member Curry said that they need a much deeper and broader analysis of what all the citizens of Salt Lake County pay for fire service. The Council needs more facts in order to present their case to Salt Lake County as to what is fair. Council Member Curry said that what UFA was suggesting would blow a 25% hole in the Town's budget. The only avenue for the Town of Alta was for the Council to work with the County. He asserted that this is not a legal or bookkeeping problem; this is a political problem. Alta had been charged a lower fee because of the assistance they gave to UFA in other ways. Council Member Curry encouraged communication and collaboration to continue the political partnership we have had for years.

Mayor Sondak stated that the County had declined to come to an Alta Town Council meeting, so far. Council Member Curry suggested that the Council go to one of the County meetings to discuss their concerns. The meetings were public, with a public comment period, but Council Member Curry wanted to be placed on the agenda. There was nothing more important facing the Town right now.

Council Member Morgan asked if Mayor Sondak sensed that the County was willing to work with the Council to find new ways to fund the expense without forcing the Town to be part of the Mountainous Planning District. Mayor Sondak stated that being part of the District could be an avenue for a long-term contribution, at this point. Under that circumstance, they would redefine their Recreation Area to include the Town of Alta. But so far, the discussion has been that of a problem to be solved. Mayor Sondak is trying to work alongside the County Mayor to try to enlist her help in getting to an acceptable position.

The Mayor noted that if Alta joined the UFSA, it wouldn't affect the Town budget, but it would move the fire protection cost burden to the property owners through their property tax. Attorney McLean got the impression that the County wanted to help, but this was a big issue for them as well. The Fire Chief and his board have come up with a formula that basically divides up the cost of a station based on the number of calls, which really hurts Alta.

03:06:48

The Council discussed the Mountainous Planning District, which was set to sunset on June 1, 2021. At that point, the District would have to be renewed. Currently, the Town of Alta is prohibited from joining the Mountainous Planning District by two statutes. When Mayor Sondak brought this up with the County, they said that they would simply get the State to change the statutes. Attorney McLean said that UFA was putting a lot of weight on the fact that there was a letter from the DA's office saying that they couldn't use funds from the County's General Fund to pay for municipal services.

There was a discussion about Alta joining the Recreation Area, but not giving up our local zoning. This would likely not be acceptable to the County because it would allow two municipalities in the Area to be treated differently. Brighton has already given up their zoning authority.

Council Member Curry reiterated that he would like to see data from the County about how much each or the average citizen pays for fire protection. The Mayor offered to forward any request for specific data to the UFA or SLCo. Council Member Curry asked for information to help the Council define what is fair for residents to pay for fire protection. 03:19:20

Jay Torgersen didn't have any advice to offer the Council, as he was in operations rather than administration. He felt for their situation and hoped that they could work it out with the County. Fire services were expensive to provide.

03:20:30

Council Member Morgan didn't dispute the fairness of the formula created by UFA. She was concerned that the calls from the actual residents of Alta was a very small number. Most of the calls came from the Alta Ski Area and other recreational areas in the canyon. She understood that a lot of other small recreational towns were experiencing the same issue. She agreed with Council Member Curry that they needed more data. Part of her concern was that Salt Lake County was willing to help, but only if Alta did something in return, and she wasn't sure they wanted to go down that road.

The Council again discussed the best way to discuss their concerns with the County.

03:27:30

Council Member Curry said that at some point they would probably need to conduct another analysis on the potential of being subject to the Mountainous Planning District. They needed to unpack whether that was truly coming from the County Mayor and the County Council. Attorney McLean explained that the ordinance was not drafted as an overlay, it would give complete planning control to the District. Council Member Curry felt that the best option was for Alta to be in the Recreation Area without being put into the Mountainous Planning District.

12. DISCUSSION REGARDING COMMUNITY CENTER RFP

03:40:00

Assistant Town Administrator Chris Cawley briefly summarized the work staff had done on planning the Community Center over the years. The Town currently had a formal feasibility study from 2003, which contemplated the expansion and renovation of the Town building. They also had an informal massing study that assumed a similar facility program for a new building in 2008. In 2015, the Town obtained land from the Federal Government for the existing Town buildings and a 1.7 acre parcel west of the buildings. The Town had changed since those studies were done, so staff recommended a new feasibility study be conducted. Council Members Curry and Morgan expressed their support in moving forward with a new study.

13. NEW BUSINESS

There was none.

14. MOTION TO ADJOURN

MOTION: Council Member Davis moved to ADJOURN at 7:45 PM. Council Member Bourke seconded the motion. The motion carried with unanimous consent of the Council.

APPROVED by Alta Town Council on February 12, 2020

Piper Lever, Town Clerk