

**Minutes of the Interlaken Town Council**  
**Wednesday, 15 August 2016, 6:30 PM**  
**Town Pump House**

**1. Call to Order:**

Mayor Simpkins called the meeting to order at 6:35pm.

**2. Roll Call - Members Present:**

Lisa Simpkins, Mayor  
Greg Harrigan, Council Member  
Sue O’Nan, Council Member

Scott Neuner, Council Member, was absent

Also in attendance were Town Clerk Bart Smith, and three Interlaken residents: Rich Miller, Bob Marshall, and Greg Cropper.

**3. Presentations:** None.

**4. Public Comment:**

Rich Miller mentioned that the Interlaken Estates website domain has expired. It was decided not to renew it and not to redirect it. Harrigan suggested we make it known in the next newsletter that no one should use that web domain for emails, etc.

**5. Consent Agenda:** None.

**6. Approval of Agenda or Changes:**

Clerk Smith did not complete the 7/03/16 special meeting minutes and asked that the approval for those minutes be removed from the agenda.

**Motion:** Council Member Harrigan moved to approve the agenda as ammended.

**Second:** Council Member O’Nan seconded the motion.

**Discussion:** no discussion

**Vote:** The motion was approved with the Council Members unanimously voting Aye.

**7. Approval of 06/29/16 Council Meeting minutes:**

**Motion:** Council Member O’Nan moved to approve the 6/29/16 Regular Council Meeting minutes.

**Second:** Council Member Harrigan seconded the motion.

**Discussion:** no discussion

**Vote:** The motion was approved with the Council Members unanimously voting Aye.

**8. Appointment of Planning Commission and Discussion of Responsibilities:**

Mayor Simpkins introduced Bob Marshall and Greg Cropper who have volunteered to join the Interlaken Planning Commission. Bill Goodall has also volunteered but was not able to attend the meeting. The Commission consists of 3 members and up to 2 alternates. Harrigan volunteered to remain on the commission as an alternate.

Cropper described his background as an attorney in land use issues and also his concern for the community, both of which make him a good candidate. Marshall spoke about his

history in the Town, moving here first in 1989, and living here both part time and full time. He currently lives in Town part time. Smith suggested that the commission get onto Epic Engineering's sharefile server so they can review plans online. Harrigan pointed out that Epic is responsible for a detailed plan review in their role as Town Planner. The commission offers a second level of review that may focus on specific town concerns. There is currently one permit under review at Epic - the Connor project. Simpkins will send all commission contact info to Ryan Taylor at Epic. Cropper pointed out that an important role of the commission is to review and recommend changes to the land use codes. Harrigan mentioned the challenges of steep slopes in our town as an area that needs review in the code. Smith pointed out that there are job descriptions for the planning commission and the appeal authority in Title 2, Municipal Government.

Rich Miller discussed his experience as an appeal authority for Park City for 7 years as a member of a 5 person board. There are 5 criteria in Utah State law that have to be met in order to grant a variance. His sense was that the side setbacks and front setbacks along the road will be an issue to be appealed in Interlaken. Right now we have approximately 50 lots to be developed, and those are the hardest lots to build on. The lot owner applies for a permit through the planning department (Epic). If Epic or the planning commission finds that the plans do not meet code, the owner must either change the plans or apply for a variance. They would need to prove in their appeal that they meet the 5 criteria for a successful variance. The Appeal Authority hears that appeal and is able to grant the variance for when the project does not conform to code. The Appeal Authority cannot revise the code - that is the domain of the Town Council. Miller's goal as the Appeal Authority would be to keep the town out of litigation and to appease all parties who may be affected by the variance. The Appeal Authority has the right to add conditions to the variance to satisfy concerns posed by the council or the public.

In summary, the Town Council would rule on everything that meets code, and the Appeal Authority may grant a variance, but has to listen to the recommendations of the planning commission, neighbors, etc. The 5 criteria are the most important thing. If the variance is not granted, the owner retains the right to go to District Court. Miller mentioned also that you have to be really careful about setting precedent. Once you say yes to one person, then you're opening the door to others. You have to be very careful how you word the variance, making sure it is very specific to the lot in question. The process starts with Epic's plan review. If the plans don't meet code, Epic tells them to change the plans or apply for a variance, and that they must meet the 5 required criteria to be granted a variance. The Appeal Authority then rules on the variance. If the applicant or the Council disagrees with the decision of the Appeal Authority, they can take the case to District Court.

Cropper mentioned that the State Ombudsman office may be of value for our appeals process, and a way to stay out of District Court. The Ombudsman's office was established by Utah law to provide legal guidance in public vs. private disputes. The office will issue a well-researched opinion for a public vs. private dispute, for a minimal fee (\$50). If a party disagrees with the Ombudsman's opinion and decides to go to District Court, and they lose, they pay all the attorney's fees for that case.

Mayor Simpkins and Council Member O'Nan both stated their resignation from the Planning Commission.

Simpkins recommended to the Council that Bill Goodall, Greg Cropper, Robert Marshall be appointed to the Planning Commission and that Greg Harrigan remain on the

Commission as an alternate.

**Motion:** Council Member O’Nan moved to approve the appointment to the Planning Commission of Goodall, Marshall, and Cropper and Harrigan as an alternate.

**Second:** Council Member Harrigan seconded the motion.

**Discussion:** no discussion

**Vote:** The motion was approved with the Council Members unanimously voting Aye.

#### **9. Appointment of Land Use Appeal Authority:**

**Motion:** Mayor Simpkins moved to appoint Rich Miller as Interlaken Land Use Appeal Authority.

**Second:** Council Member Harrigan seconded the motion.

**Discussion:** no discussion

**Vote:** The motion was approved with the Council Members unanimously voting Aye

#### **10. Open Town Council Seat:**

No candidates have stepped forward to fill the vacant council seat. The current council members haven’t found any interested candidates. Chuck O’Nan is willing to serve in the absence of other volunteers.

**Motion:** Council Member Harrigan moved to appoint Chuck O’Nan to fill the vacant Council Seat until the next election in the fall of 2017.

**Second:** Mayor Simpkins seconded the motion.

**Discussion:** Chuck is married to Sue O’Nan. It was discussed whether this would present a problem. The group agreed it would not present a problem.

**Vote:** The motion was approved with the Council Members unanimously voting Aye

#### **11. Chipper Day and Summer Road Maintenance:**

O’Nan reported that the fire department is out fighting fires and not presently available to come out and chip. Simpkins suggested we get bids for future work in the town, including snow removal as well as road maintenance and chipping. If we take bids for snow removal, we need to publish a notice in the paper. Super Dave has not been responsive to our calls. It’s possible the fire department could do fall chipping, but it may be as late as November. O’Nan will follow up to see if we can find someone to complete the chipping. Simpkins will follow up getting bids for road weed abatement and snow removal.

Simpkins mentioned the pile of debris created in front of the Howard house. Howard needs to remove it.

#### **12. Animal Control Officer:**

Simpkins has not been able to contact Mike Davis from Wasatch County Animal control to find out what they charge for their service. It was discussed whether our town enforcement officer could handle animal control. At the prior meeting it was decided that the County Sheriff would be called for dog bites and other egregious offenses and that our enforcement officer would handle public nuisances like barking dogs, stray dogs, etc.

#### **13. Town Enforcement Officer and Fine Schedule:**

O’Nan mentioned that Promontory uses off-duty officers for enforcement. They can wear their uniform but are not allowed to drive their official vehicles. She also found out that a radar gun is required in order to enforce speed limits. Promontory issues a citation to the

homeowner. If a contractor is cited, the bill goes to the property owner. That is written into their HOA ordinances. If a citation is not paid, the fee is added onto their HOA dues. It wasn't clear that we could add a citation to our annual assessment. Cropper suggested that we may have to prosecute them through the County Attorney's office.

Council Member Neuner sent out a job description for enforcement officer. Simpkins asked that the council review the job description over the weekend and make any recommendations by Monday. Or if not possible, then by the next meeting in September.

#### **14. Burgi Hill Ranches Update:**

Jeff Stockman reviewed the documents related to maintenance expenses owed to Interlaken by Burgi Hill Ranches for Interlaken Drive. Based on these documents and using the 5.38% maintenance share specified in the Freedom Agreement, Jeff's calculation showed that BHR owes the Town \$27,916. This is significantly less than former Mayor Headley's estimate of \$75K to \$80K. Cropper will look at the Freedom Agreement and walk through the calculation with Jeff to see if this number is accurate. Simpkin's calculations showed that our average annual maintenance cost starting in 2007 was \$60,851 including snow removal. The group agreed that these numbers don't reflect actual costs. Our next step is to check the numbers.

#### **15. Russ Watts Water Line Stop Work Order:**

Simpkins noticed blue stake marks on Interlaken Drive in preparation for a water line to be put in for Russ Watt's new development in Midway. The water line cuts through an Interlaken lot. The builder got permission from the Interlaken lot owner to dig across their property, but never filed an application with the town. Simpkins pointed out to them that they need to file an application with the Town because they were planning on digging within the Town boundaries. In addition, Cropper pointed out to the Midway City Attorney that they were also in conflict with the Freedom Agreement. This agreement states that Interlaken does not own Interlaken Drive but has easement rights. However neither Burgi Hill Ranches nor Interlaken can grant easement rights to another party, in this case Midway City.

Simpkins was told that they were not going to cut into the road, and that they would wait 2 weeks before digging to clear up these two issues. Instead, they began digging sooner than they promised. Cropper got attorney Tim Bywater to issue a stop work order and the digging stopped. They face \$1000 per day fines for every day they are not in compliance and every day is a violation. They currently have not restored the property and are in violation. Simpkins told Watts how to proceed with the permit application process to remedy the situation. Cropper mentioned that we will force them to follow the appropriate steps, setting a precedent. In addition, we would like them to pay our attorney fees. The Edelweiss road has been damaged by heavy equipment as well. They are claiming that they didn't know they were in violation, but they were told by both Simpkins and Cropper about the correct procedure.

Cropper stated that years ago, Burgi Hill Ranches approached an Interlaken resident to grant them a quit claim for a swath of land for use in future utility services. Cropper pointed out that this is a voidable conveyance as it is a massive violation of the subdivision map act. These are all things we can clean up when they file an application. Our Town boundary goes outside of the Interlaken Estates, as approved by the Lt. Governor's office, across Interlaken Drive and part way up the hill. The Lt. Governor's office wanted Interlaken to meet up with Burgi Hill Ranches, not leaving a gap between

Interlaken and Midway City boundaries. The Town has jurisdiction over this land.

**16. New Town Attorney Options:**

Cropper noted that the land use team from Williams and Hunt is moving over to Snow Christensen. Jody Burnett is part of this team along with Tim Bywater. Jody is considered an expert in land use law. Tim Bywater, who is one of his associates, was the land use attorney for West Valley. Tim Bywater's rates are far less than Jody's and would be a good choice for our Town Attorney. We have retained him for the Russ Watts issue. We will need a contract in order to appoint him as Town Attorney. This should be prepared for the next Council meeting.

**17. Midco Tank Cleaning – Report of Results:**

According to Mac, our water master, the tank inspection was a success. The tank was cleaned of sediment, but no repairs were necessary.

**18. Town Water Usage:**

Mac reported excessive water usage this summer. Harrigan asked if we could match total meter usage for individuals with the pump meter readings. That way we could determine if there is a leak in our lines. John Dunty, a new Town resident, suggested an easy way to find a leak based on his experience in the water department for Salt Lake City. Mac thought this wasn't necessary. Simpkins mentioned the possibility of hiring Epic to help Mac with management of our water system. There was some discussion regarding hiring a new assistant water master to help Mac. Harrigan recommended Mason as a candidate.

**19. Financial Matters: 2016 Assessment Status – Town Clerk**

Clerk Smith reported that all residents have paid their assessments in full, except Linette Hatch, who owes \$1437 to date. O'Nan spoke with her and recommended that she contact Clerk Smith. She did contact Smith but failed to honor her promise to pay the balance within a week. The next step in enforcing our commitment to collect all assessments would be to shut her water off. Harrigan mentioned that this would be a safety concern as we are in the middle of a very dry summer, elevating the risk of fire. It was decided that we should require her to pay her balance in full by November 15 or else her water would be shut off.

Simpkins mentioned that Jeff Stockman had questions for Clerk Smith regarding the budget and she told him to contact him.

**20. Public Comment:** None.

**21. Council Comments:**

Simpkins requested that the Planning Commission or the Council put together a franchise agreement for utility companies (Heber Light, Century Link, etc). She'll work with the attorney and Epic to put this together. The next Council meeting is September 12, 2016.

**22. Adjournment:**

Council Member Harrigan moved to adjourn the meeting. Council Member O'Nan seconded the motion. The motion passed unanimously.

The meeting was adjourned at 8:02 PM.