

Interlaken Town Council Regular Meeting Minutes
Monday, 5 March 2018, 6:30 PM – 7:30 PM
Town Pump House, 236 Luzern Rd., Midway, UT

1. Call to Order.

Mayor Simpkins called the meeting to order at 6:37pm.

2. Roll Call – Members Present:

Lisa Simpkins, Mayor
Chuck O’Nan, Council Member
Sue O’Nan, Council Member
Greg Harrigan, Council Member
Marge Bowen, Council Member
Bart Smith, Town Clerk

3. Presentations: None.

4. Public Comment: None.

5. Consent Agenda: None.

6. Approval of Agenda or Changes.

Motion: Council Member Sue O’Nan moved to approve the agenda.

Second: Council Member Bowen seconded the motion.

Discussion: no discussion

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

7. Approval of 1/8/18 Council Regular Meeting Minutes

Motion: Council Member Bowen moved to approve the 1/8/18 meeting minutes.

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

Discussion: no discussion

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

8. Approval of 1/30/18 Council Regular Meeting Minutes

Motion: Council Member Harrigan moved to approve the 1/30/18 meeting minutes.

Second: Council Member Bowen seconded the motion.

Discussion: no discussion

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

9. Soper Amateur Radio Tower Application

Mayor Simpkins read into the record a preliminary decision regarding Mr. Soper’s request for reasonable accommodation to construct an amateur radio tower (see attachment). In summary, the statement recommended Mr. Soper’s request to construct a 55-foot tall tower attached to his garage be denied.

Motion: Council Member Chuck O’Nan moved to accept the preliminary denial and have the town clerk prepare a written denial letter by 4/2/18, at the next council meeting.

Second: Council Member Harrigan seconded the motion.

Discussion: no discussion

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

10. Planning Commission Update – Susanna Littel

- **General Plan Update**
The next task force meeting will be held at Bill Goodall’s house on 3/15/18 from 5pm to 6:30 pm. The goal is to have material ready for discussion at the next planning commission meeting on 3/19/18. The outstanding items include environment, sensitive lands, transportation, parks and recreation, and trails. Harrigan voiced concern that we are holding up completion of the general plan that are not germane to Interlaken. Simpkins noted that without a completed general the town cannot apply for some desired grant money. Littlel agreed to have a draft ready for review by the council at the next town council meeting on 4/2/18.
- **Current Building Permit Status**
 - Pablo road cut. No activity. We are waiting on the ROW issue.
 - Howard L115 – project is still on hold.
 - Connor L102 – working on interior details and paint.
 - Frank L218 –4-way inspection was completed.
 - Sheldon L11 – planning to submit plans in April for demo and new construction.
- **Replacement of Planning Commission member.** Currently no responses to the request for applicants. Simpkins offered to volunteer her time in an advisory capacity.

11. Financial Matters – Water Billing

Smith reported that the first batch of water payments was received. Of the 184 lots in town, 69 lots made payments, totaling \$59,654.63. In addition, the 11 meters that had overages exceeding \$200 were re-evaluated for potential inaccuracies. Of these 11 meters, only 4 meters had either negative readings or excessive readings that were not consistent with past consumption. All 4 issues were resolved through a re-read by the water masters. Either there was a leak that contributed to excessive overages, or the meters had been replaced and generated negative readings.

12. Speed Bumps

The council discussed installing additional speed bumps north of the BHR turnoff, on Interlaken Drive. It was noted that BHR may also be interested in placing speed bumps south of their entrance. The town received an estimate of \$2700 for speed bumps that could be removed in the winter for snow plowing. Chuck O’Nan presented an alternate source that provided longer bumps for the same price (Uline 1-800-295-5510). The town should also provide signage for them.

13. Status on Previous Action Items – Council

No updates.

14. Other Business

Simpkins noted that it has been 3 months since a complaint was made to Heber Valley Animal Control over dog noise.

15. Public Comment.

Michael Soper asked why the FY2014 financial report was not posted on the website. Smith responded that he had no knowledge of that report, as it was prepared prior to his assignment as town clerk. Simpkins noted that it may be buried in past records provided by the past mayor.

16. Council Comments.

Sue O’Nan noted that she had submitted all the hours spend on fire suppression to the DNR in compliance with our firewise agreement.

Simpkins updated the council by sending a copy of recent Utah State legislation that affects the town. Of special interest was a change to the Open Meetings Act and legislation that affects policy regarding town officials serving an ordinance violation.

Regarding ordinance violations - Simpkins noted that this bill was the one that precluded us from issuing Ordinance citations as a non-law enforcement officer. The bill has been re-written and that section was deleted and replaced with alternate language. Per the ULCT, it will likely pass the House this session as it is now written. Good news is it includes " a volunteer authorized to issue a citation under" and " any public official of any county or municipality charged with the enforcement of the law;" What it does not clarify is if a "contracted employee or employee " of a municipality can issue one. I will reach out to ULCT and as if they can get a clarification for us in writing.

Link to the full bill here -

http://www.ciclt.net/sn/leg/l_detail2.aspx?ClientCode=ulct&L_State=UT&L_Session=2018&L_ID=1598451

17. Adjournment.

Council Member Harrigan moved to adjourn the meeting. Council Member Sue O’Nan seconded the motion. The motion passed unanimously. The meeting was adjourned at 7:45 PM.

The next Town Council meeting will be held on Monday, April 2nd, at 6:30pm, at the Town Pump House, 236 Luzern Rd.

BACKGROUND

Michael Soper has requested a reasonable accommodation to construct an amateur radio tower that will be attached to his house and rise to a height exceeding the maximum allowed by town ordinance. While his estimations of the final height vary, according to his application materials, the radio tower will rise somewhere between 38 and 55 feet above ground level. Despite these discrepancies, Mr. Soper estimates the tower will rise approximately 20-30 feet above the peak of his roof. The town code provides that antennas may only “extend 5 feet above the specified maximum height limit.” Town Code 11.060.070. The maximum allowable height for all buildings in town is 35 feet. Because Mr. Soper’s proposed tower exceeds these limitations, it is prohibited by the Town Code.

Despite this local prohibition, federal regulations require the town to make a reasonable accommodation and allow “a station antenna structure [to] be erected at heights and dimensions sufficient to accommodate amateur service communications.” 47 C.F.R. 97.15. This regulation prohibits the town from absolutely precluding Mr. Soper from constructing an amateur radio communication tower. Therefore, even though Mr. Soper’s proposed tower is prohibited by local ordinance, federal law requires the town to make a reasonable accommodation to Mr. Soper’s request.

When evaluating a request to reasonably accommodate a radio tower, federal regulations allow the town to regulate the placement, screening, or height of antennas based on health, safety, or aesthetic considerations. PRB-1. However, “those regulations must be crafted to accommodate reasonable amateur radio communications and must represent the minimum practicable regulation to accomplish the local authority’s legitimate purpose.” Although the town must make “a reasonable accommodation,” that does not amount to an absolute preference for Mr. Soper’s desired configuration. Rather, the cornerstone is that a “reasonable accommodation may be made between the two sides.” PRB-1.

MR. SOPER’S REQUEST

With that background, the Town denies Mr. Soper’s request to construct a 55 foot tall tower attached to his garage on the following grounds:

First, Mr. Soper has not provided the Town with all the materials the Town needs to evaluate his application. The Town has requested dimensional drawings showing measured locations and footprints of all structures on his lot. The Town needs this information to evaluate the aesthetic impacts of his proposed tower, but he has not provided the Town with requested information identifying the proposed tower location as it relates to his lot lines, the adjacent homes, and the right of way.

Second, he has not provided the Town with a dimensional drawing showing the height of his roof, the point of attachment of the tower to the house, the location of the tower, and size and location of any equipment that may be attached to the tower. These deficiencies prevent the town from adequately evaluating the aesthetic and safety impacts of his proposed tower.

Third, Mr. Soper has not provided the Town with information demonstrating that the proposed tower is the only way he can accomplish effective radio communications. Despite being asked to provide the Town with reasonable alternative locations, Mr. Soper has refused to provide the Town with alternative locations for the tower. The tower as currently proposed will be attached to the side of his house, rise to at least 20 feet above his roof. The Town has suggested to Mr. Soper that it may be willing to accommodate a tower of his desired configuration if it was located in his backyard, behind his house, away from the street, and in a location where it is unlikely to impact his neighbors both aesthetically and from a safety perspective.

I will direct the town clerk to prepare a written decision detailing the Town's findings of fact and conclusions, which will constitute the Town's final decision. Should Mr. Soper choose to appeal the denial of his request, the time for filing an appeal shall be tolled until Town Council reconvenes and adopts a final written decision.

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