

**Alta Planning Commission  
Minutes  
October 19, 2010**

The Alta Planning Commission held a meeting on October 19, 2010, 12:30 pm, at Market Street Grill on 2985 East Cottonwood Parkway (6580 South), Salt Lake City. Planning Commission members in attendance included Skip Branch, Jan Striefel, Jon Nepstad, Roger Bourke, and Rob Voye. Town of Alta staff present included John Guldner and Claire Runge. Town of Alta attorney Kimberly Chytraus was also present. Members of the public present included Allen Orr, Mark Haik, and Jennifer Garner (court recorder). Mike Reberg and Paul Moxley were also in attendance.

**INTRODUCTION AND COMMENTS FROM THE CHAIR.**

Mr. Branch welcomed two guests for today's meeting; Mike Reberg and Paul Moxley.

**REVIEW WITH POSSIBLE ACTION ON THE MINUTES FROM THE APRIL 27, 2010, PLANNING COMMISSION MEETING.**

**Mr. Voye moved to approve the minutes of the April 27, 2010, Planning Commission meeting. The motion was seconded by Ms. Striefel and the motion was carried with all members present voting in the affirmative except for Mr. Bourke. Mr. Bourke abstained from the vote since he was not present at the April 27, 2010 meeting.**

**PRESENTATION OVERVIEW OF HR5009, WILDERNESS AND WATERSHED PROTECTION BILL. MIKE REBERG, CONGRESSMAN JIM MATHESON'S OFFICE.**

Mr. Branch asked Mr. Reberg to give an overview of the Wilderness bill and then respond to questions from the Planning Commission.

Mr. Reberg first acknowledged the great relationship Congressman Matheson has with the Town of Alta. Mr. Reberg noted that the discussion about Wilderness in the Wasatch started right after Congressman Matheson was elected in 2000. Greater movement towards Wilderness started in 2007 with interest from Save Our Canyons and Salt Lake City. In 2007/2008 Salt Lake County was tasked to be a mediator in a stakeholder process to see if the elements to put together a Wilderness Bill were there. There were about a year and a half of stakeholder meetings, and Mr. Reberg felt it was a slow and sometimes frustrating process. By the summer of 2009, the stakeholder group took it as far as they could. Mr. Reberg noted that Congressman Matheson felt there was enough work done that he could take the ball and move it forward by crafting legislation and resolving conflicts. The result of this process was the bill that was introduced in March/April of 2010.

Mr. Reberg presented a map of the proposed Wilderness expansion that included new Wilderness areas and Wilderness/Special Management Areas. Mr. Reberg noted that Special Management areas accommodate heli-skiing in a Wilderness area and were designed to resolve conflict over the heli-skiing issue. The proposed bill would add about 15,000 additional acres of Wilderness and over 10,000 acres of Special Management Area.

From Mr. Reberg's perspective this process was driven mainly by Salt Lake City for long term solutions for watershed protection. There were other reasons as well including the desire to preserve the aesthetics of wilderness and maintaining access for backcountry skiers in Cardiff. Mr. Reberg described this as status-quo legislation that memorializes what is happening now on the ground.

A hearing on the bill was held in June 2010 and the concerns that were brought up in the hearing are currently being worked through. One concern brought up by the United States Forest Service (USFS) is about having water facilities in the wilderness. The Town of Alta also expressed concern over the inclusion of the Flagstaff lands in the Wilderness bill, and Congressman Matheson's office believes those concerns have been addressed.

Mr. Reberg noted that during the process there was also discussion of interconnect, and the Wilderness proposal does not preclude an interconnect. In addition, altering boundaries for avalanche concerns in the lower part of the canyon was also discussed. Mr. Reberg stated that the Wilderness proposal also creates corridors in both Little and Big Cottonwood Canyon for future expansion of transportation.

Mr. Reberg noted that one of the biggest issues was the proposed land exchange with Snowbird. This land exchange would clear up land in White Pine and make it Wilderness. Snowbird would trade that land in White Pine for expansion into Mary Ellen (Utah County).

Mr. Reberg noted this bill will unlikely be part of the lame duck session after the election; however it may be part of a package of omnibus land bills. Mr. Reberg asked for questions.

Mr. Reberg pointed out on the map the parcels that Snowbird would like to exchange in the Flagstaff area. This land would be exchanged for land in Mary Ellen Gulch for potential skiing. Mr. Branch asked about a tram. Mr. Reberg acknowledged that Snowbird would like to connect their existing tram to a saddle on the American Fork Twins.

Mr. Branch asked how avalanche control can take place in the Flagstaff area. Mr. Reberg noted that all options are on the table, including a non-commercial ski lift. A commercial ski lift would be prohibited. Mr. Reberg noted that Mr. Wieringa [Alta Ski Area] had said that a non-commercial ski lift was an acceptable alternative. Mr. Branch asked for more information on the non-commercial lift viewpoint and why ski compaction is a bad idea. Mr. Reberg responded that balance and status quo is needed. Mr. Reberg noted that Snowbird has property it would like to trade with the USFS and it happens to be Flagstaff; this is a transaction between Snowbird and the USFS. Mr. Reberg noted that Flagstaff has been a traditional backcountry access point, this bill would memorialize and secure that dynamic.

Mr. Bourke asked if Alta Ski Area were to let skiers on Flagstaff for free, would that be non-commercial. Mr. Reberg noted that when Flagstaff was first a discussion point for avalanche control, Alta Ski Area said it did not want the lift for commercial expansion, it was for avalanche concerns. Mr. Reberg remarked that the creation of a non-commercial lift was to accommodate a specific desire to preserve backcountry use.

Mr. Voye noted it seems odd that there is a land exchange that would facilitate expansion of one ski resort, in return for the other ski resorts inability to expand. Mr. Reberg responded that Snowbird owns the property and they are looking for the best opportunity.

Mr. Voye asked if the USFS wants the Flagstaff land. Mr. Reberg responded that they are still working on that and that has not been resolved. Mr. Voye asked what would stop the USFS from changing the Special Management Area designation to something else. Mr. Reberg responded that you would have to change the law.

Mr. Nepstad asked about what flexibility and room for analysis there is regarding what type of avalanche control should be used. Mr. Reberg expressed that they are committed to keep the best options moving forward. Mr. Nepstad asked about the mid-canyon issue that prohibits gaz-exes in the Wilderness; would this bill resolve that issue and allow gaz-ex. Mr. Reberg noted that this bill would not fix that, but there was discussion to open the Wilderness Act to accommodate gaz-ex. Mr. Reberg stated that gaz-exes would be accommodated in the Flagstaff area. Mr. Nepstad noted the frustration in dealing with the USFS on the mid-canyon issue and remarked that technology is always being invented, and who knows what will be here 10 years for now. Mr. Reberg noted there is language to allow for gaz-exes or technology that incorporates permanent structures.

Mr. Nepstad asked if parking expansion in relation to Snowbird expansion was talked about during the Wilderness discussion. Mr. Reberg noted that is not a federal issue.

Mr. Bourke asked about the status of the legislation. Mr. Reberg noted that the more radical changes that happen on Election Day, the less likely things will happen. There is ongoing pressure for an omni-bus land package and that is not likely. Mr. Bourke asked what would happen with the bill with a new Congress. Mr. Reberg noted that they would reintroduce the bill and probably have a new hearing. Mr. Reberg stated that it is likely that the committee make up will change, and if Republicans control the House there may be change in what they want to see. Mr. Bourke asked if Congressman Matheson loses his seat, will someone want to champion this. Mr. Reberg responded that he was not sure.

Mr. Voye asked if Snowbird expands what does that do to the backcountry there. Mr. Reberg noted there will certainly be a discussion on how to keep people out of White Pine. Mr. Reberg also remarked that the Flagstaff area was more important to the stakeholders.

**REVIEW OF STATUS OF PATSEY MARLEY LAWSUIT. PAUL MOXLEY.**

Mr. Branch thanked Mr. Moxley for coming to the meeting and asked for Mr. Moxley to walk the Planning Commission through what has been going on since the Planning Commission last made a recommendation on the Patsey Marley Subdivision Application.

Mr. Moxley reviewed the process the Town Council went through before reaching a conclusion on the Patsey Marley Subdivision Application. The Town Council denied the application primarily due to water issues and felt that issue was really in Salt Lake City's hands. The Town

was promptly sued and the Town and Salt Lake City asked for a motion to stay and dismiss. Mr. Moxley noted that the Town has taken a backseat to Salt Lake City in defending this case.

The motion to dismiss was heard the latter part of July, and a ruling that denied the motion was made a few weeks ago. Mr. Moxley believes it is the view of Salt Lake City that a motion for summary judgment may be granted down the line.

The answer to the Estate's complaint is due November 8, 2010. Mr. Moxley remarked that both Salt Lake City and the Town of Alta are interested in expediting the deposition of Mr. Cahill, which is expected to take place in Dec 2010/Jan 2011.

Mr. Moxley noted they are working on filing an answer to the complaint and then parties are required to make disclosures and exchange basic documents. Mr. Moxley expects to have discovery done by December 2011 with a trial date to be set sometime after that.

Mr. Branch asked if the issues have already been decided based on ordinances, what a court can decide. Mr. Moxley remarked that if the Estate had water, the Town would look at the application again and address the other issues. The strategy of the Town is that this is a beef between Salt Lake City and the Estate. Mr. Moxley noted that the first cause of action was stayed for that reason.

Mr. Moxley believes it is hard to explain and visualize the two different water sources without being up here and if we get to a summary judgment motion, we'll invite Judge Kennedy to look at everything. Mr. Moxley expressed that he is not optimistic on summary judgment.

Mr. Moxley clarified summary judgment as part of trial court/case load management. Mr. Moxley noted that Salt Lake City's view, based on the Haik case, Salt Lake City has no legal obligation to provide water. Mr. Moxley believes that as a matter of law, the Salt Lake City and the Town are correct, but the Estate has put together the complaint in a way that sounds inequitable.

Mr. Nepstad asked if it would be a trial by jury. Mr. Moxley answered that the Estate has requested a trial by jury.

Mr. Bourke asked if both parties will depose Mr. Cahill simultaneously. Mr. Moxley responded that whoever notices the depositions has the "right to examination" and other people are allowed to cross examine, all in the same session. Mr. Moxley noted that the deposition will be videotaped.

**DISCUSSION OF PROPOSED LAND USE APPLICATION ORDINANCE.**

It was decided that discussion of the Proposed Land Use Application Ordinance will be postponed until the next meeting.

Ms. Chytraus suggested that we should send out the revised ordinance and compare those changes with the minutes passed today and be ready for a full discussion next time. Ms.

Chytraus noted she would make sure there will be a clean and a redlined version as there were a few structural changes made to streamline the ordinance.

**DATE OF NEXT MEETING.**

November 16, 2010, was suggested as a date for the next meeting of the Alta Planning Commission.

**OTHER BUSINESS PLANNING COMMISSIONERS WISH TO DISCUSS.**

Mr. Branch asked what was left with ordinances. Ms. Chytraus noted that we have to finish the Subdivision Ordinance to incorporate review and approval. It will be modeled after the Land Use Application Ordinance. Ms. Chytraus stated that what is next is up to the Planning Commission. Ms. Chytraus recalled there has been discussion about revisiting underlying zoning ordinances.

Ms. Striefel remarked that if Ms. Degiorgio were here, she would bring up the General Plan and a vision to help guide making ordinances. Mr. Branch agreed. Mr. Guldner suggested to pick a piece or two so it is not so overwhelming.

Mr. Nepstad suggested getting a facilitator to help with the General Plan. Ms. Striefel agreed that would be helpful to have a more directed effort with better focus.

There was discussion on the Base Facilities Zone height requirements. Mr. Voye noted he would like to re-visit the Base Facilities Zone to see if we could increase density without going up. Mr. Guldner recalled the change to the guestroom definition to help increase density.

Mr. Branch remarked he would like to look at the General Plan with a more discerning eye.

**Ms. Striefel moved to adjourn the Planning Commission meeting Mr. Nepstad seconded the motion with all Planning Commission members that were present voting in the affirmative. The motion was carried.**

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These minutes were passed and approved on the sixteenth day of November, 2010.

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Claire E. Runge  
Assistant Town Administrator