

ALTA TOWN COUNCIL MEETING  
PUBLIC HEARING - PROPOSED PATSEY MARLEY  
HILL SUBDIVISION

WEDNESDAY, SEPTEMBER 30, 2009

3:00 P.M. - OUR LADY OF THE SNOWS

10185 EAST HWY 210, ALTA, UTAH

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PRESENT WERE:

Councilmen:

Mayor Tom Pollard  
Paul Moxley  
Steven Gilman  
Dave Richards  
Cliff Curry

Town Staff:

Kate Black  
Claire Runge  
Piper Lever

Town Counsel:

Kimberly Chytraus  
Katie Lewis

For Patsey Marley Hill Subdivision:

Alan Sullivan  
Herbert Livsey  
Charles Livsey  
Fred Duberow  
Craig Call

Public - Name:

Onno Wiering  
Karen Travis  
M.C. Haik  
Frank Perkins  
Jen Clancey  
Julie Willis  
Alex Schmidt  
Kurt Simpson

Affiliation:

Alta Ski Area  
Alta resident  
Canyon Services  
Friends of Alta  
Alta citizen  
Save Our Canyons  
Alta fan

<u>Public - Name:</u>	<u>Affiliation</u>
Jennifer Ketsor	Save Our Canyons
Sara Richards	ACE
Erik Erlingsson	Alta citizen
Ellen Rossi	Alta resident
John Beelor	PMH
Skip Holloway	FOA
Hailey Griffin	Alta citizen, FOA, Alta Lodge
Rosemary Winters	Salt Lake Tribune
Bob Pruitt	Alta citizen
Gary Jordan	Alta homeowner
Bill Hoge	
Ryan Branaggan	
Diane Bledsoe	Alta citizen
Doug Bledsoe	Alta citizen
Kristiana Perleberg	Alta citizen
Roger Bourke	Alta citizen
George Fett	Alta resident
Marcus Dippo	Alta Lodge
Sara Shaw	Alta resident
Rick & JoAnne Rutgers	Alta residents
Jen Mojo	U of U CAP
Erin Bragg	U of U & Alta athlete
Meaghan McKasy	U of U student
Sam Wolfe	Alta employee
Bill Binger	Alta Ski Patrol
Neff Walker	Businessman
Ben Allen	Hell Gate Condominiums
Bobbi Tolman	Hell Gate Condominiums
Sara Evans	Town of Alta
Katie Alrenson	Albion Grill
Stacy Petersen	Goldminer's Daughter
Rebecca Palmer	Deseret News
Pat Shea	FOA
Dave Weissbard	Alta employee
Julie Cooke	Alta employee
Chris Page	Alta resident
Merebea Danforth	Alta resident

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P R O C E E D I N G S

CALL TO ORDER

1  
2  
3           MAYOR POLLARD: I'll call the meeting to  
4 order. This is a special meeting of the Alta Town  
5 Council. The main purpose of this meeting today is a  
6 public hearing regarding the proposed Patsey Marley  
7 Hills Subdivision.

8           One thing that I do want to say about  
9 this, this meeting is being recorded and the  
10 recording text produced by this recording will be the  
11 official minutes of this meeting and they will be  
12 available. They will not be -- because of the length  
13 of the minutes, they will not be posted on our  
14 website and they can be received, but actually there  
15 will be a copy fee on that. So those will be the  
16 official minutes of today's meeting.

17           And as we move forward here and as we look  
18 at the first day of winter here, which followed the  
19 last day of summer immediately, it all brings us to  
20 why we are here in the first place, which is our  
21 love -- and a lot of people -- for skiing and the  
22 beauty that the mountains of the Wasatch bring to us.  
23 So I guess we can look forward to a good winter after  
24 today's events.

25           How we want to get started here is that

1 before we got to this day today, last Friday I wrote  
2 a letter to the Estate and their counsel. And what I  
3 want to do is outline a few of the points that were  
4 made in that letter, and first is that we  
5 understand -- and I do understand because I received  
6 one -- that the Estate delivered a letter to every  
7 post office box holder in the town which referenced a  
8 website, which was patseymarley.org, and I'm a sure a  
9 lot of you received that letter.

10 The letter and the website contain  
11 information that is different from the  
12 representations that the Estate made at the Town  
13 Council's work session on September 3rd. We asked  
14 that the Estate be prepared to address the  
15 discrepancies between the public statements it has  
16 made and the claims on the website, particularly  
17 whether or not it's continuing to seek the Town's and  
18 Salt Lake City's permission to use the Town's water  
19 system for delivery of culinary water and water for  
20 fire suppression to the property.

21 Also, we asked the estate to provide any  
22 updated information regarding compliance of the  
23 application with the Town's ordinance and state law  
24 in their presentation today at the meeting. In  
25 particular, at the September 3rd work session, the

1 Estate stated that the time period needed to come  
2 into compliance with the state law and the Town's  
3 ordinance is indefinite. We asked the Estate to  
4 outline the steps needed for compliance and the  
5 estimated time period to complete each step. We also  
6 asked the Estate to include information regarding the  
7 Estate's meetings with, or permit applications to,  
8 outside agencies having jurisdiction over the  
9 project. Finally, we repeated to the Estate that the  
10 Town has not required the Estate to invest any money  
11 or resources on this project as part of either the  
12 vesting or the approval process. Also, the Town has  
13 not given any approvals or promises of approval upon  
14 which the Estate may have relied on in making any  
15 investments of money or resources.

16 Approval of the application by the Town  
17 Council is contingent on compliance with applicable  
18 state law and Town ordinances and not on the Estate's  
19 investment in time and money. The Town recognizes  
20 the development within the Town's municipal  
21 boundaries may be a complicated process and may  
22 require advanced planning. However, any investment  
23 of resources by the Estate has always been the  
24 Estate's choice and was not required by the Town.

25 With that, I will now turn the time over

1 to the staff for a presentation and report that they  
2 have for us before we get into the presentation by  
3 the Estate.

4  
5 **TOWN STAFF PRESENTATION/REPORT**

6 MS. RUNGE: As you guys know, the Town  
7 Council, John sent a letter to you all on September  
8 25, which was last Friday, clarifying some factual  
9 issues raised by the Estate in a series of letters  
10 dated August 11th and August 12th to the Town Council  
11 and comments made by the Estate September 3rd at the  
12 work session. This letter will be available in its  
13 entirety on the Town's website, but we wanted to  
14 provide a brief outline of the points John made in  
15 his letter to you guys.

16 The Estate's August 11th letter states  
17 that the subdivision complies with all the Town's  
18 zoning ordinances and with the Town's 2005 general  
19 plan. This is inaccurate. The general plan states  
20 that the removal of trees and other vegetation should  
21 be carefully considered because trees are one of the  
22 Town's major assets and protection of existing  
23 inventory is essential. Proposed Lot 2 would require  
24 the Mayor's approval to remove mature trees in order  
25 to be a buildable lot. The Estate's alternate plan

1 for proposed Lot 2 would protect the mature trees but  
2 would require a variance to build on a slope over 30  
3 percent, but the circumstances for that variance do  
4 not meet the requirements for the Estate to obtain a  
5 variance. Without the Mayor's approval to remove  
6 mature vegetation, Lot 2 is not a viable lot and does  
7 not comply with the general plan.

8 The general plan takes issue with  
9 emergency access and fire suppression that mirror the  
10 UFA's requirements. The Estate has not provided the  
11 UFA with sufficient information to receive its  
12 approval and there is no water available to the site.  
13 So there is currently no water source for fire  
14 suppression. These items are not in compliance with  
15 the general plan.

16 The general plan states that the Town's  
17 water and sewer systems are generally of adequate  
18 size and arrangement to meet current and anticipated  
19 needs consistent with the land use policies of this  
20 plan. No further extensions of either system are  
21 recommended.

22 The Town's water supply is through a  
23 contract with Salt Lake City, which prohibits any  
24 extension of water service to property outside of the  
25 1976 contract boundaries. The proposed subdivision

1 is outside the Town's 1976 contract boundaries. The  
2 Estate has asked to use the Town's water pipes to  
3 convey water to the proposed subdivision. This is  
4 not consistent with the general plan or the Town's  
5 contract with Salt Lake City, and Salt Lake City has  
6 denied the Estate's request to connect to the Town's  
7 water system or wheel water through the Town's water  
8 system.

9 The general plan states that residential  
10 development, whether commercial or private, should  
11 not be allowed in areas not adequately serviced by  
12 public water and sewer systems as determined by the  
13 Salt Lake City Department of Public Utilities Water  
14 Division and the Salt Lake Valley Health Department.  
15 The Estate's current proposal to serve the  
16 subdivision through a private water system is not  
17 consistent with the general plan. Salt Lake Valley  
18 Health Department also denied the Estate's request  
19 for approval of the proposed subdivision.

20 John's letter also noted that the  
21 application is not in compliance with the Town's  
22 zoning ordinances. Since these issues of  
23 noncompliance were discussed at length at the  
24 September 3rd work session, I'm not going to  
25 elaborate on many of those points from John's

1 letters. However, I will note that the issues of  
2 noncompliance include net developable acreage,  
3 especially as it relates to natural waterways, lack  
4 of culinary water, and inadequate ingress and egress  
5 to required parking places. In addition, the  
6 application does not comply with Town Ordinance  
7 2002-0-4, requiring outside agency approvals. The  
8 Estate has not obtained many of these approvals,  
9 including approvals from Salt Lake City, Salt Lake  
10 Valley Health Department, and the UFA.

11           The Estate's August 11th letter states  
12 that the application was submitted in July 2007 and  
13 correctly states that after several months of delay,  
14 occasioned by the Town's refusal to acknowledge that  
15 the Estate's application was vested, the Town enacted  
16 Ordinance 2007-0-2, which imposed a moratorium on new  
17 subdivision approvals. The Estate had no choice but  
18 to file a lawsuit.

19           There was no delay on the Town's part and  
20 there were extensive discussions between the Estate  
21 and the Town arising from the Town's belief that the  
22 application as submitted was not complete. Also, the  
23 Town decided to enact a moratorium for reasons  
24 unrelated to the application and the moratorium was  
25 never intended to apply to the application. Prior to

1 filing the lawsuit, the Estate was assured that the  
2 moratorium did not apply to the application and a  
3 lawsuit was not necessary to confirm that fact.

4 The Estate's August 11th letter states  
5 that the Town staff has imposed new requirements  
6 throughout the review process. This is incorrect.  
7 The application is being considered under the laws in  
8 effect as of July 2007. Beginning in 2008 of June  
9 the Estate and the Planning Commission were provided  
10 with checklists outlining the requirements under  
11 state law and Town ordinances. There have not been  
12 any new requirements imposed on the Estate.

13 The Estate is responsible for making sure  
14 that its application complies with the ordinances and  
15 the Town has gone well beyond what is typical to make  
16 sure the Estate knows and understands these legal  
17 requirements.

18 The August 11th letter states that the  
19 principal outstanding issue has been the transmission  
20 of culinary water to the proposed subdivision. The  
21 letter presents the Estate's revised version of the  
22 history of negotiations between the Town and John  
23 Kayhill, preceding owner of the property. The Estate  
24 letter references a supposed guarantee made by the  
25 Town to deliver water to Kayhill's property but does

1 not address the fact that the Town's water is  
2 delivered under a contract with Salt Lake City, and  
3 Salt Lake City has specifically prohibited the Town  
4 from delivering water to the Estate's property. In  
5 fact, Jody Shrontz signed a letter from Salt Lake  
6 City in 2002 which specifically stated that she  
7 acknowledged and understood that she had no right to  
8 hook on and receive water from the Alta Town culinary  
9 water system.

10                   The Estate's August 11th letter claims the  
11 Estate was trying to resolve new requirements  
12 relating to natural waterways imposed by the Town  
13 staff just a few days before the Planning  
14 Commission's vote. The Town building official  
15 presented an updated determination of natural  
16 waterways just prior to the July 2009 Planning  
17 Commission meeting, but this was not new information  
18 for the Estate. The Estate's engineer from StanTec  
19 had walked the property with the building official  
20 the week before his report was delivered and helped  
21 the building official identify natural waterways.  
22 Also, the building official made a very similar  
23 determination the preceding November and the updated  
24 determination in July of 2009 was, in fact, more  
25 favorable to the Estate, not less favorable.

1           The application as submitted in July of  
2 2009 showed many of the same natural waterways as  
3 highlighted by the building official's reports, but  
4 did not provide for the appropriate setbacks as  
5 required by Town ordinance. Also, the Town has  
6 information submitted by Jody Shrontz approximately  
7 eight to nine years ago that reflects similar  
8 information about the natural waterways. The Estate  
9 had plenty of time to incorporate the natural  
10 waterways into the application but did not.

11           As discussed by the Mayor today, any funds  
12 expended by the Estate have been at the Estate's  
13 initiative and the Town never directed the Estate to  
14 expend funds on any aspect of the application. Also,  
15 the Town has not provided any approval or any promise  
16 of an approval upon which the Estate could rely on in  
17 its expenditure of funds.

18           The Estate's August 12th letter claims  
19 that in the July Planning Commission meeting,  
20 Mr. Guldner advised the commissioners that denial of  
21 the application at that stage would have no adverse  
22 consequences to the applicant and that the applicant  
23 could file the application again tomorrow. Any  
24 statement by John was made in the context of the  
25 Planning Commissioners asking what would happen if

1 the application was denied. It is correct to say  
2 that the Estate can file another application. The  
3 Estate seems to misunderstand the effect of a vested  
4 application. In the settlement agreement, the Town  
5 agreed that the application would be vested, which  
6 means that the Town would consider it under the  
7 ordinances in effect at the time of submittal.  
8 However, the application is not entitled to approval  
9 unless it complies with all applicable laws and  
10 ordinances regardless of when it vests, and there has  
11 never been any kind of approval or assertion or  
12 guarantee that the application would be approved  
13 under these laws.

14           When it was considering recommending the  
15 enactment of a subdivision application ordinance, the  
16 Planning Commission discussed the numerous obstacles  
17 and challenges to developing within the Town that are  
18 not faced by other jurisdictions, and as such, the  
19 ordinance is tailored towards meeting those  
20 challenges. Also, the approvals required under the  
21 new ordinance are the same approvals that have always  
22 been required of an applicant prior to consideration  
23 by the Planning Commission, and the Estate was  
24 advised of these requirements prior to and following  
25 its submission of the application. The Estate may

1 not like the approvals that are required prior to  
2 vesting under the new ordinance, but the rules of  
3 subdividing property in the Town have not changed and  
4 are consistent with what has always been required.

5           The Estate sued the Town to be vested and  
6 had the application forwarded to the Planning  
7 Commission but then didn't want the Planning  
8 Commission to do anything with the application  
9 because the Estate knew the application was not  
10 entitled to approval. The Estate is now seeking the  
11 same indefinite stay of decision-making by the Town  
12 Council, and Alan Sullivan told the Town Council at  
13 the September 3rd work session that getting the  
14 approvals the Estate needs to be compliant with state  
15 law and Town ordinances may take an indefinite amount  
16 of time. There is nothing in state law or Town  
17 ordinances that require a municipality to hold open  
18 an application indefinitely when the applicant cannot  
19 comply with the law and ordinances.

20           In the September 3rd work session, Alan  
21 Sullivan and Charles Livsey suggested wheeling or  
22 looping water through the Town's water system for  
23 fire suppression in the Town. Mr. Sullivan and  
24 Mr. Livsey stated that looping would help the Town  
25 provide better fire suppression services to residents

1 of the Town and suggested if the Town did not agree  
2 to support the looping, which is in direct violation  
3 with the Town's water contract with Salt Lake City,  
4 residents of the Town, other than the residents of  
5 the proposed subdivision, would have inferior and  
6 unsafe fire suppression.

7           The Town is always open to seeking better  
8 fire safety and fire suppression methods to benefit  
9 the Town's residents, but this statement by the  
10 Estate's representatives appears to be an inducement  
11 to encourage the Town to violate its water contract  
12 with Salt Lake City and also violate Salt Lake City's  
13 requirement that water from the Town's water system  
14 may not be delivered beyond the 1976 Town boundaries.  
15 The Town should not be bullied into violating  
16 longstanding agreements and regulations with Salt  
17 Lake City.

18           That is my brief summary.

19           MAYOR POLLARD: Thank you. That letter,  
20 along with the letter that I had sent to the Estate  
21 before this meeting, will be part of the official  
22 record of today.

23           So with that, we would now move to the  
24 presentation by the Estate on the project. And I  
25 guess you are wanting us to move to the back so you

1 can --

2 MR. SULLIVAN: No, not right away.  
3 Would it be okay if I spoke from here?

4 MAYOR POLLARD: Yeah, great.

5

6 **PRESENTATION OF PROPOSED PATSEY MARLEY HILL**

7 **SUBDIVISION: THE ESTATE OF JOANNE SHRONTZ**

8 MR. SULLIVAN: Members of the Council and  
9 Mayor, I wanted to thank you for the opportunity to  
10 make a presentation here today. And I'll say  
11 something that we've said in correspondence before to  
12 the members of the Town Council and that is that we  
13 know you are volunteers and we know you are public  
14 servants and we intend to make the most efficient use  
15 of our time. I made a commitment last time that we  
16 would take 30 or 40 minutes to make this presentation  
17 and we designed the presentation to be as efficient  
18 as possible and for that reason some of it is going  
19 to be in writing and some of it will be oral but  
20 we'll try to cover all the bases.

21 I've provided to each of you -- well, let  
22 me just introduce who our team members are; you know  
23 many of them. Charles Livsey will be assisting in  
24 the presentation today. He is a representative of  
25 the Estate. Craig Call is a land use lawyer. He is

1 in the back and he will be making a portion of our  
2 presentation today. And Fred Duberow is an engineer  
3 with Stantec and he will be making a portion of the  
4 presentation today. So that is our team.

5 And one of the things that we have  
6 presented to you today is a binder, and I think I've  
7 provided each one of you with a binder that -- and I  
8 want to explain what it is. We've given copies of  
9 the binders to Ms. Chytraus and Ms. Black and we have  
10 a couple of other copies, and many of the -- all of  
11 the maps and charts that we have in the binders  
12 are -- we have in a computerized form that we can put  
13 up on the screen for the members and for the benefit  
14 of the public. There is some written material in  
15 there that we don't have in computerized form.

16 But let me just tell you what the binder  
17 is. It is intended to address the most important  
18 issues before you, and the most important issues are  
19 the delivery of water, the quantity of water, the  
20 quality of water, setback issues relating to natural  
21 waterways, fire and safety issues, the design of a  
22 privately-owned water delivery system, and then the  
23 approval process for that water delivery system  
24 before the State Drinking Water Division and before  
25 the United States Forest Service. The second purpose

1 of the binder is to respond to some of the questions  
2 that have been asked and all of the points that were  
3 made in Mr. Guldner's September 25th letter.

4           If you will look at the binder at the  
5 first tab, you will see a letter from me to each of  
6 you. That is our brief response to each of the  
7 points that were just summarized in Mr. Guldner's  
8 letter. And I'm not going to take the time to go  
9 through my letter now to respond to Mr. Guldner's  
10 letter, but what we've done is to try to summarize  
11 our response. And you will see that the references  
12 to the topic headings in my letter to you of today's  
13 date, tab one, reflect topic headings and numbers in  
14 Mr. Guldner's letter so you can switch back and forth  
15 as you read through them, and you will see what our  
16 response to Mr. Guldner's arguments are. We wanted  
17 to respond to that because he states his version of  
18 the facts, and some of them are at variance with our  
19 version of the facts, and he makes some legal  
20 arguments and some arguments based upon his  
21 interpretation of the ordinances and we respond with  
22 ours. So we wanted you to have that. The letter  
23 that we presented to you also makes references to  
24 tabs that appear later in the binder and that has  
25 documentation for the points that we are making, so

1 you will be able to follow it that way.

2           The second item in the binder is a series  
3 of plans for the Estate's 10-lot subdivision  
4 proposal. And those plans, which we're going to go  
5 through in just a minute in a little bit of detail,  
6 have site plans, grading plans, utility plans, and  
7 what we call everything plans, which means all of the  
8 above, included on the same map so you can see how  
9 they all interrelate.

10           And Tab 3, Mr. Livsey will make a  
11 presentation on that so that you can become oriented  
12 with those charts. The third tab is the Estate's  
13 seven-lot plan. And it has -- for the seven-lot  
14 alternative, it has the same site plan, grading  
15 plans, utility plans, and all of the above type  
16 plans. And you will remember that we prepared and  
17 submitted to the Planning Commission a seven-lot plan  
18 in response to the second of the reports of the Town  
19 building official that showed more extensive setbacks  
20 for natural waterways. And so that seven-lot plan  
21 really depends upon your decision with respect to the  
22 natural waterways issue.

23           The fourth tab, which we don't really  
24 intend to make a presentation on because we think  
25 it's self-explanatory, is our position on fire and

1 safety issues. And it's a letter that I sent on the  
2 22nd of September to Mayor Pollard for him to  
3 consider and the Town to consider before forwarding  
4 the letter with their comments, or the Town's  
5 comments, to the United Fire Authority. And this was  
6 submitted at the request of UFA following a meeting  
7 earlier in September when we were asked to submit in  
8 writing a proposal that we made to resolve the access  
9 issues and so on that related to UFA's interpretation  
10 of the uniform fire code. And that is what that is.  
11 We think it's self-explanatory. We have not received  
12 a response back. We assume it's still in the process  
13 and there will be further action on that as time goes  
14 on, but we think it's self-explanatory, at least as  
15 things stand now.

16           The fifth tab has to do with natural  
17 waterways. And what we have here is a copy of my  
18 letter to the Town Council that was preliminary to  
19 the -- through the project on natural waterways that  
20 occurred a week or so ago and I think you have all  
21 seen that. But then what we have also got is the  
22 2008 building official report and delineation of the  
23 setback and that is in map form and the 2009 -- the  
24 July 2009 delineation that represents an expansion of  
25 the number and the breadth of setbacks for natural

1 waterways, and Mr. Call is going to discuss that.  
2 We've also provided you with an aerial photo of the  
3 2009 delineation to orient you on the ground, if you  
4 need it.

5           The sixth tab we have given you is really  
6 intended to address questions that have been raised  
7 by Mr. Guldner and others about the history of  
8 communications between the Estate, the Estate's  
9 predecessor, Mr. Kayhill, Salt Lake, and the Town of  
10 Alta from the mid-1970s on as they relate to a water  
11 delivery system. And we don't intend to take time to  
12 deal with that now, but what we've given you is my  
13 letter to Jeff Niedermyer of Salt Lake City back in  
14 December of 2008, which was our effort to give our  
15 best interpretation of those events from the  
16 mid-1970s on to support our legal position. That  
17 legal position is really not before the Town right  
18 now. The Town doesn't have to make a decision on  
19 that, but there has been enough said about what we  
20 have said and our interpretation of history and our  
21 revision of history that we just wanted to set the  
22 record straight with what our position is.

23           Attached to that letter are the documents  
24 upon which our position is based so that you can see  
25 the agreements, you can see the letters that went

1 back and forth between the Town and Kayhill and so  
2 on, so you will have the benefit of our thinking on  
3 all of that. And the back of the portion of tab six  
4 is a historical timeline that will kind of boil down  
5 the timeline from the mid-1970s to the present time  
6 on that series of issues.

7           Tab 7 is on water quality and that has  
8 test results on water quality for the Quincy Mine,  
9 which will be the source of water that goes through  
10 the private water system that will be delivered to  
11 the Patsey Marley Hill Subdivision. And those water  
12 quality tests go, I think, between the 1970s to 2007  
13 when our application was initially filed.

14           And then Tab 8 has water quantity issues,  
15 and Mr. Duberow will speak a little bit about that.  
16 But it has test results going, again, back a couple  
17 of decades, and then it has an engineering opinion  
18 that is very recent from Mr. Duberow regarding water  
19 quantity and then a chart on water quantity. And the  
20 point of all of that is to show you that the quantity  
21 of water available to the Estate from the Quincy Mine  
22 water source is more than ample to provide water  
23 service to the project.

24           Tab 9 is the private water system. It has  
25 engineering drawings of what we propose to be the

1 private water system and a chart on fire suppression  
2 capacity, should a system be interconnected with the  
3 Town's water system and the benefits that we believe  
4 that would accrue to the Town on those circumstances.

5 We have included all of this information  
6 so that you have the benefit of our thinking on this,  
7 and I will tell you that this has taken -- there are  
8 many moving parts on this and maybe Mr. Livsey or  
9 Mr. Duberow can tell you that we need to get Forest  
10 Service consultation on this and their approval on  
11 this. We need to go through Drinking Water but we've  
12 also had to go through Alta Ski Lifts to provide us  
13 with their best judgment about the optimum route for  
14 the private water system, and this is reflective of  
15 what we understand to be their perspective on that.

16 Then finally, Tab 10 is the administrative  
17 process for water system approval. You will remember  
18 that there are two significant levels of approval on  
19 this. One is the Forest Service, one is the State  
20 Drinking Water Division, and we provide you with our  
21 application, our correspondence with those folks, and  
22 we also provide you with a timeline and a sequence of  
23 events that would relate to each one of those  
24 approval processes. And at the end of our  
25 presentation, Mr. Livsey is going to explain to us

1 his understanding of what the sequence will be and  
2 how long it might take.

3 So that is the binder that we have. And  
4 before we begin our presentation of those, I would  
5 like to address just four questions that have been  
6 asked by Mayor Pollard and members of the Council  
7 because I don't want them to get lost. I want you to  
8 be sure that they are addressed.

9 The first question was a question that was  
10 asked by Mr. Gilman last time, and it was -- it had  
11 to do with our application as it was filed a year and  
12 a half ago or so. And the question was whether we  
13 were required at that time, as part of our  
14 application, to have outside agency approvals in  
15 place as of the time of the filing of the  
16 application. I want to make it clear that our  
17 position is no; the answer is no. There is a  
18 difference, in our view, between a completed  
19 application for vesting purposes and having all  
20 approvals necessary for final action on the  
21 application. The ordinances of the Town as of the  
22 time that our application was filed did not prescribe  
23 the contents of the application. And, in fact, the  
24 Town ordinances did not have an ordinance that did  
25 so. There was no ordinance that addressed the

1 content of an application. Ordinance number 2002-0-4  
2 was really an ordinance that prescribed what had to  
3 happen before a subdivision application was submitted  
4 for action by the Planning Commission. And before  
5 the Planning Commission could take action on an  
6 application, then those outside approvals had to be  
7 provided.

8           The reality is that it is impossible, we  
9 believe, and it is impractical for a developer to  
10 obtain all of the necessary outside approvals before  
11 filing an application. Some agencies will not  
12 provide approval to a hypothetical project as to  
13 which there is no preliminary approval by the --

14           MR. GILMAN: What are those agencies?

15           MR. SULLIVAN: Well, some of them are --  
16 we'll explain this as we go forward. But, for  
17 example, we need your decision on natural waterways  
18 before we know if this is a seven-lot subdivision or  
19 a ten-lot subdivision, and before we have that  
20 information, we cannot finally design the sewer  
21 project, the sewer system, and cannot get the  
22 county's approval on that. And that is the sort of  
23 give and take that needs to go forward after an  
24 application is filed and before we can get final  
25 approval from the outside agencies. So that is the

1 type of thing we are talking about.

2 A variety of issues really need to be  
3 resolved during the land use review process before  
4 outside approvals can be obtained.

5 MR. GILMAN: Well, under the new -- if you  
6 were under the new ordinances, you would be required  
7 to get all these applications and land use permits  
8 and all your other ducks in a row a lot farther than  
9 you are under the old one; is that what I assume? Is  
10 that your objection to the new land use ordinance?

11 MR. SULLIVAN: That is one of our  
12 objections to the new ordinance.

13 MR. GILMAN: Do you feel like the new  
14 ordinances are going to be impossible to comply with?

15 MR. SULLIVAN: I think in a complicated  
16 project they will be impossible to comply with.

17 MR. GILMAN: Do you think they would be  
18 impossible to comply with?

19 MR. SULLIVAN: We think it would be, yes,  
20 and we also think they are unfair.

21 MR. GILMAN: Why are they unfair?

22 MR. SULLIVAN: We think it's unfair to  
23 require the developer to spend significant funds in  
24 obtaining outside agency approvals if the zoning  
25 ordinances can be changed at any time during that

1 process.

2 MR. GILMAN: Well, they cannot be changed  
3 once the application is vested, whether it's vested  
4 in 2007 or, you know, August 3, 2010.

5 MR. SULLIVAN: Right. But the problem  
6 with the ordinance is that it requires advance  
7 approval by outside agencies before the application  
8 is filed as part of the application and the problem  
9 is, you have to spend -- for a project like this, you  
10 have to spend hundreds of thousands of dollars in  
11 order to get those outside agency approvals. And you  
12 do that under the new ordinance without having the  
13 ability to vest your application. So during that  
14 period of time, you have no assurance that the zoning  
15 laws required for subdivision approval will not  
16 change.

17 MAYOR POLLARD: You know, I think we're  
18 getting a little off track. We're talking about  
19 whether the current ordinance versus the ordinances  
20 that we are looking at this -- this issue before  
21 those. And these are good questions. One thing I  
22 want to say is, if we can -- if we can hold questions  
23 until after they have made their presentation so that  
24 we can let them get through their presentation.

25 MR. GILMAN: Okay.

1                   MR. SULLIVAN: Thank you, Mayor. The  
2 second question that I wanted to deal with, and I'm  
3 trying to go through these briefly, is a question  
4 Mr. Moxley asked last time. It's what the  
5 consequence would be -- it's a related question to  
6 Mr. Gilman's question -- what the consequence to the  
7 applicant would be and to the project would be, if  
8 the application is denied now. Why can't we just  
9 return when we have all outside agency approvals?  
10 And we believe that there are two reasons why we  
11 can't and there are two problems on this issue.  
12 There is a legal problem and there is a practical  
13 problem.

14                   The legal problem is that once we've  
15 submitted an application that is deemed to be vested  
16 as we have, we have the right to proceed through the  
17 land use review process, and if we act with  
18 reasonable diligence -- and that phrase "reasonable  
19 diligence" comes from a Utah Supreme Court case that  
20 we've cited -- a decision that rejects our  
21 application before we have completed the development  
22 is premature and subject to challenge.

23                   The bottom line on the legal issue for us  
24 is that we have the right, we believe, to take a  
25 reasonable period of time to do the work. And what

1 is reasonable will be based upon the circumstances.  
2 And what we are dealing here with is a complicated  
3 situation with many moving parts, and I can assure  
4 you that we have been acting with reasonable  
5 diligence and that is part of what we are hoping to  
6 show you today.

7           The practical problem is one that I  
8 alluded to a moment ago. It's impossible to get some  
9 agency approvals until we get direction from the Town  
10 on important issues during the land use review  
11 process. Natural waterways, we need direction on  
12 that. Avalanche areas, we need direction on that.  
13 We have our view, we have submitted something. We  
14 need your view. Soil stability, that is another area  
15 where we have to submit something, we have to get  
16 your feedback, but we cannot go forward with final  
17 agency approvals from outside agencies in the absence  
18 of that information.

19           Another practical problem is that any  
20 developer would be reluctant to spend substantial  
21 sums on a development if the zoning laws or the  
22 subdivision requirements could be changed at any time  
23 and that all that had to occur before vesting.

24           So the third issue that I wanted to  
25 address, and this is the question that the Mayor's

1 letter from last Friday asked in the first instance,  
2 and it is, do we intend to build a private water  
3 system or do we want to connect to the Town's system.  
4 Is there a discrepancy between our position at the  
5 September 3rd work session and our position we take  
6 on the website? We don't think there is a  
7 discrepancy, but let me explain our position so it's  
8 clear.

9           We think that the best solution for the  
10 Town and the project would be for there to be an  
11 interconnection between the project and the Town's  
12 system and the Quincy water source. There are many  
13 advantages to that and we've discussed some of those  
14 in the past. And we will continue to try to persuade  
15 the Town and to continue to try to persuade Salt Lake  
16 to agree with us. We don't intend to bully anybody.  
17 We don't have the capacity to bully anybody. We have  
18 made it very clear that for an interconnection to  
19 work, we need the consent and agreement of both the  
20 Town and Salt Lake City. And we think that would be  
21 the best solution, but so far, neither the Town nor  
22 Salt Lake has been willing to give that consent. So  
23 our only alternative is to build a completely private  
24 water system, and we intend to present you with  
25 information on that today, including a complete

1 design of that water system. So we are proceeding  
2 with the private water system. We intend to proceed  
3 with the regulatory process to get it approved, but  
4 we think a better solution would be an  
5 interconnection with the Town water system. We think  
6 once a private water system is built, we think it  
7 would be great if there could be an interconnection  
8 between the Quincy water source and the Town's water  
9 system for a variety of reasons.

10           The fourth and final question I wanted to  
11 address is how long will approval of a private water  
12 system take. I have mentioned that there are two  
13 significant levels of approval: Forest Service, a  
14 self-use permit needs to be obtained, and the State  
15 Division of Drinking Water needs to approve. And  
16 under Tab 9 or 10, we have provided the steps and a  
17 timeframe and Mr. Livsey is going to discuss, and  
18 we've been working with Alta Ski Lifts to arrive at a  
19 preferred route and a preferred site. And that was  
20 really a requisite before could actually design the  
21 system. We've designed a system now and we'll have a  
22 presentation on that from Mr. Duberow.

23           So those are the responses that I have to  
24 the questions and now I'll ask Mr. Livsey to talk  
25 about the site plans and the lots.

1           MR. LIVSEY: If you would like to turn  
2 around and look at the screen, if not you've got maps  
3 in your binders -- whatever your preference is. I've  
4 got a little laser pointer and I'll try to point  
5 things out as we go.

6           Craig, will you go to the ten-lot that  
7 shows slope, et cetera. It should be the fourth in a  
8 series. This is the Patsey Marley Hill Subdivision.  
9 For members of the general public, I'll give you a  
10 quick overview. I apologize to the Town Council, who  
11 has seen this repetitively.

12           There are ten lots in this subdivision.  
13 It's approximately 26 acres that is physically  
14 divided into three parts. We've got lots one and two  
15 down in this lower section, three and four in the  
16 center, and then five, six, seven, eight, nine, and  
17 ten across the top. The brown on this map are slopes  
18 over 30 percent, which are not buildable and,  
19 therefore, have been excluded in the calculation of  
20 net developable acres, as well as you can see these  
21 kind of yellow bands come down through here. Those  
22 are jurisdictional wetlands pursuant to the Army  
23 Corps. There are some down here as well.

24           One thing to point out in the interest of  
25 time, Lot 2, after our walk-through last week has

1       been redesigned. You will notice that this new  
2       driveway drops down. It basically cuts down through  
3       the path that we walked where a fewer number of trees  
4       are subject to removal, as well as you will notice  
5       the building pad has been redesigned. It's a little  
6       bit of a funky shape. With this configuration of the  
7       building pad, we believe that no trees will be  
8       displaced by this building pad.

9                       Craig, if you will jump forward one more  
10       slide.

11                      One of the things to note is this  
12       driveway. Yeah, this is the grading. So the  
13       driveway through this area has been designed in this  
14       plat to provide for a small bridge over this area  
15       right here. If UFA is willing, the Unified Fire is  
16       willing, we can take this to a seven percent grade,  
17       and when we get to the seven percent grade -- and  
18       I've got this section showing two different  
19       alternatives, one at ten percent, one at 12 percent  
20       just so you can get a feel of how it will look.

21                      While we're here, I'm ready to skip to the  
22       seven-lot. Does the Town Council have any questions  
23       or things I can point out or clarify?

24                      Craig, can you advance to the seven-lot,  
25       please?

1           The seven-lot has been redesigned a little  
2 bit lately, and you have those maps in your binders.  
3 The seven-lot as it's presented -- you will have to  
4 close that out and pull up the other piece there.

5           As presented, the seven-lot has all of the  
6 natural waterways outlined. It will be -- slide one,  
7 Craig, on that.

8           It shows all of the natural waterways as  
9 delineated in the 2009 Town delineation. Notice the  
10 difference between the seven and the ten. Because of  
11 the natural waterways, the net developable acreage  
12 for the entire project is reduced to approximately  
13 eight net buildable acres, and because of the way the  
14 road transects the property, that leaves seven lots.

15           On Lot Number 1, this entire thing becomes  
16 Lot Number 1. We have two alternative pads. This is  
17 1A. It looks teeny. It's actually 3,000 square  
18 feet, the little triangle is, so that would be a  
19 3,000 square-foot building pad. No variance would be  
20 required for this building pad and no trees would be  
21 removed as a result of this lot.

22           Now, we've also shown Option B over here,  
23 which is the redesigned driveway and lot  
24 configuration there. The only real difference other  
25 than the total number of lots to point out again is

1 this driveway. You can see that at 12 percent slope,  
2 it comes back through the jurisdictional wetlands and  
3 required a bridge. UFA willing -- I'm sorry. The 10  
4 percent slope makes it come back. The 12 percent  
5 slope, which is a little bit steeper, allows us to  
6 come in and access these lots a little bit  
7 differently but not affect the wetlands at all and  
8 avoid the natural waterways, to the extent they are  
9 determined to be natural waterways.

10 In a nutshell, those are the main changes  
11 that we have made to this as a result of our meeting  
12 last week. Are there any questions of the Town  
13 Council before we move on? This would probably be an  
14 easy place to address them.

15 MR. SULLIVAN: Why don't you just indicate  
16 that the site plans all show utilities and grading  
17 plans --

18 MR. LIVSEY: Yeah, great. In your  
19 packets, you will see there are one of four here.  
20 There are four separate outlines. This is the site  
21 plan. There is a grading plan, which shows the  
22 actual grades of each of the driveways, as well as  
23 where the utilities will be placed. A general rule,  
24 the utilities are in the driveways that lead to the  
25 homes except for a few limited circumstances where it

1 made more sense to come directly off of the utility  
2 and into the building pad.

3 Any questions on this? If not, Craig Call  
4 will address the natural waterways.

5 MR. CALL: Thank you. Again, in the  
6 interest of time and knowing there are quite a few  
7 who may want to have the opportunity to address the  
8 Council, let me point out the issue. The Councilmen  
9 in particular have heard quite a bit about this, and  
10 three members of the Council spent a couple of hours  
11 with us up on the hill the other day. They certainly  
12 don't need to hear all of this again.

13 The issue with natural waterways is that  
14 the zoning ordinance provides that in this particular  
15 zone, the one-acre forest protection zone, the houses  
16 must and can only be built on areas that are  
17 separated from natural amenities, and also the amount  
18 of acres that can be used is based on the definition  
19 of some natural features, one of which is a natural  
20 waterway. And what the ordinance says is that a  
21 natural waterway is along a stream, creek, gully, or  
22 wash, and it is natural, obviously, it's a drainage  
23 channel and that it has a high waterline so that  
24 distance can be measured from the waterway. There is  
25 a disagreement between the Estate and the folks that

1 we have worked with dealing with these issues and the  
2 building official that comes down to the Council for  
3 the Council to address and consider.

4 We have been out there in the field. I  
5 personally was out there during the storm when the  
6 building official was there with Stantec and looked  
7 at these issues. Some of the areas where the  
8 waterways are defined in this drawing -- the flow of  
9 water even during those major events is enough that  
10 you can put it into a two- or three-inch pipe.  
11 Others are clearly more -- flow more than that, but  
12 none of them is what you would normally consider a  
13 stream or a creek. But, again, that is a larger  
14 issue that the Council can get more into without  
15 taking the entire time of the group.

16 The one thing I would like to mention is,  
17 there is an unfortunate aspect of the zoning  
18 ordinance and that is that this operates like a  
19 switch. It either is or isn't. If it isn't, then  
20 basically it's entitled to no protection at all. If  
21 it is, then you have these 100-foot wide swaths on  
22 both sides of an area where water flows a couple  
23 inches wide. And so the question is, if the goal of  
24 the developer is to use the land which is best to use  
25 for the purposes of the general plan and the

1 ordinances allow, if the goal of the people who  
2 drafted the ordinance and the general plan is to  
3 protect the watershed and make sure there is no  
4 contamination, there is plenty of overlap between  
5 those objectives. In other words, these areas do not  
6 have to be designated as a natural waterway in order  
7 to afford them 100 percent protection because there  
8 are a lot of other ways to address the issue of any  
9 potential contamination that the Estate would be  
10 perfectly willing to address without necessarily the  
11 disproportional burden of this one-size-fits-all  
12 solution.

13           Again, we can address this at more length  
14 when the Council wants to deal with that issue  
15 head-on, but the idea is that all of the goals  
16 envisioned in the ordinance and the Estate's own  
17 interest in protecting the natural features of  
18 property can be achieved without necessarily the  
19 disproportionate and highly intrusive method that is  
20 imposed by not just a quick reading of the ordinance,  
21 but in the Estate's mind, an over-application of the  
22 ordinance in the particular situation.

23           Any questions or comment about that?

24 Thank you.

25           MR. GILMAN: Is that a law, though? Would

1 we be breaking the law if we allowed you to build  
2 within the 50-foot setback requirement? I mean, you  
3 are offering other ways to comply, but I'm not sure  
4 that we can legally accept those other ways.

5 MR. CALL: That is an excellent question,  
6 Council member. The question is, and the Town has  
7 been quite -- the staff of the Town and your legal  
8 counsel has been quite strong on this point: A  
9 natural waterway is what the Town Council says it is.  
10 And you may determine as a question of law that  
11 something is or isn't a natural waterway, but there  
12 is enough room in the definition of a natural  
13 waterway that we would certainly stipulate that if  
14 you chose not to give it that designation, since you  
15 are the ultimate authority on that, then we will step  
16 up and provide the protection you want without ever  
17 having to use that designation as the way to get it.

18 As you might expect, in this situation, as  
19 in other types of extensive inquiries, reasonable  
20 minds may differ. And it may easily be that you can  
21 achieve the same thing without having to make that  
22 tough call, but it is your decision, Council member.

23 MR. GILMAN: I'm not sure it's the  
24 Council's decision. I think it's our engineering and  
25 consultant's decision. I'm not trained enough to

1 decide what is a waterway and what is not. I mean,  
2 there are people out there that would claim to have  
3 that training, and if that person disagreed with my  
4 opinion as a Town Councilor, that would give them  
5 grounds for objecting to the whole project, wouldn't  
6 it?

7 MR. CALL: Certainly that official could  
8 disagree with the Council as well, but the Council  
9 assumes the position of the appeal authority in the  
10 latest revisions of your land use code. There is  
11 nothing inappropriate about that, and it's not  
12 unusual in these situations for a group of lay  
13 individuals who can balance all the interests  
14 involved to be the entity that makes the final  
15 decision. And that is what would be your role,  
16 should you choose to exercise that. There is no  
17 question that it is not unusual at all for a member  
18 of a city council to determine that they want to  
19 yield to what they consider the better wisdom of the  
20 building official, but it is your call.

21 MR. SULLIVAN: Craig, why don't you take  
22 just a moment to talk about the differences between  
23 the 2008 delineation and the 2009 delineation.

24 MR. CALL: Certainly. Let me do it on  
25 this map without -- they are both on that -- Charles,

1 did you close the entire thing?

2 Well, just let me point out the difference  
3 and then we can flash the difference.

4 Mr. Kemp identified a natural waterway  
5 here in 2008 and didn't identify one here or here.  
6 In this new drawing, there is much more square  
7 footage involved but there is -- but this waterway --  
8 this is what he considered a water or a potential  
9 waterway when he looked at it dry, he determined was  
10 not when it was wet.

11 I want to show that other chart.

12 So this is the 2008 version, and then back  
13 again, and 2009. And those drawings in color are in  
14 your binders, members of the Council. Thanks.

15 MR. SULLIVAN: And I might also say that  
16 included in Tab 5 is our letter to the Town Council  
17 of September 22 where we set forth our position on  
18 each of the waterways that the Town's building  
19 official identified in 2009 where we disagree -- it  
20 shows where we disagree, and it shows the reasons for  
21 our disagreement with reference to the natural  
22 features there. And certainly if you have any  
23 questions on those issues, we invite you to ask them  
24 whenever you feel like it. But in the absence of a  
25 question, I guess that is what we have to show you on

1 natural waterways.

2 I'd like to move now to delivery of water  
3 to the project. And I think all of you members of  
4 the Council know by now that this is the critical  
5 issue, sort of the lynch pin of the entire project,  
6 and that it has been our effort to obtain approval  
7 for a private water system that would be developed  
8 from the Quincy Mine to the Patsey Marley Hill  
9 Project. The reason why we have been involved in  
10 that is that, as I said a moment ago, Salt Lake City  
11 has refused to allow us to connect to the Town's  
12 existing water system. The Town's existing water  
13 system actually traverses the Patsey Marley Hill  
14 Project pursuant to an easement that was granted to  
15 the then owner of Patsey Marley back in the 1970s and  
16 1980s. So we think there is some sense in connecting  
17 the Patsey Marley Hill Project to the Town's water  
18 system, but at this stage it looks like it may be  
19 impossible. So we have developed and are seeking  
20 approval from the appropriate agencies for a water  
21 system from the Quincy Mine source to the Patsey  
22 Marley Hill Project.

23 Under Tab 7 of your binder, as I said a  
24 moment ago, there are the water quality tests that  
25 have been performed over the years that show that the

1 Quincy Mine water has the requisite quality to be  
2 used as a culinary source. The water quality tests  
3 are behind Tab 8. The author of the engineering  
4 summary that we have is Fred Duberow. He is here  
5 today and can discuss that when he stands up here in  
6 a second.

7 Tab 9 shows the private water system, and  
8 I'm going to ask Fred to just address with you and  
9 show you and explain to you the private water system  
10 and how it would work.

11 MR. DUBEROW: Thank you. I think I'd just  
12 like to begin with my discussions -- a little over a  
13 month ago, Charles and I met with the Division of  
14 Drinking Water along with Keith Hansen, who is the  
15 water system operator for the Town of Alta, as well  
16 as Snowbird. And it was stated by the Division of  
17 Drinking water personnel that their desire would be  
18 that the system be a part of the Alta Town system.  
19 It's kind of a statewide policy that they try to have  
20 water systems, you know, in established municipal  
21 systems or water districts. So that is their stance  
22 on it, but they also stated that, you know, if we  
23 cannot get around that because of issues with the  
24 Town and Salt Lake City that they couldn't deny us  
25 the ability to go ahead and develop a private water

1 system.

2           So just to start out here and get  
3 everybody oriented, this is the Patsey Marley Mine  
4 here, currently the Quincy Mine. And I visited this  
5 on September 11th with Al Tunbridge from Alta Ski  
6 Lifts and measured the flow that was going over in  
7 the collection box and measured it to be right about  
8 200 gallons per minute. Al also stated that since  
9 they had been making snow, or using it for a  
10 snow-making supply, they metered into their  
11 snow-making pump stations or station and they  
12 measured a range of 160 to 180 gallons per minute  
13 during their snow-making periods, and they never  
14 seemed to go below 150 even later in the winter. So  
15 it's got an ample supply for what we would need. Our  
16 project, even for ten lots, we would probably need  
17 something on the order of 10 to 12 gallons per  
18 minute. The peak-day source capacity, if we have  
19 storage, which we are, of course, planning to do --

20           MR. GILMAN: I have a question. I know  
21 you are measuring significant water there, but is all  
22 the water in the Quincy the property of the Estate or  
23 does some of it belong to Salt Lake City or some  
24 other shareholders?

25           MR. LIVSEY: If I may, pursuant to the

1 1976 contract we have with Salt Lake City, we are  
2 entitled to an allocation which is sufficient for the  
3 ten lots.

4 MR. GILMAN: Do you have that? I assume  
5 that's in your letter from the state engineer or Salt  
6 Lake City Water telling you how much water you have  
7 out of that mine. He says it's sufficient. You  
8 know, that can be a gray area rather than a sure  
9 thing.

10 MR. LIVSEY: The only firm number we have  
11 is from a correspondence from John Guldner to Lee  
12 Kapoloski in which John Guldner memorializes a  
13 conversation with Jeff Neidermyer. That letter  
14 states that it was Jeff Neidermyer's opinion that  
15 33,000 gallons per day is the contractual amount. A  
16 copy of that letter is in your binder under -- I  
17 think it's Tab 9.

18 MR. GILMAN: And that is a letter from  
19 Jeff Niedermeyer saying you have 33 --

20 MR. LIVSEY: John Guldner had a  
21 conversation with Jeff Niedermeyer. John Guldner  
22 wrote a letter to Lee Kaposki explaining the  
23 contractual rights. Salt Lake City has been very  
24 hesitant to quantify the exact amount. However, they  
25 have repeatedly said we have sufficient water for our

1 needs.

2 MR. GILMAN: You have a letter saying that  
3 in the --

4 MR. LIVSEY: Yes. I think we provided  
5 that to you before.

6 MR. DUBEROW: And just to kind of get an  
7 idea, the 10 to 12 gallons a minute would be  
8 something on the order of from 15,000 to 18,000 -- or  
9 18,000 gallons per day. So that's about half of what  
10 we have. So that is why I say there is more than  
11 enough water there.

12 I kind of worked out a route with Al to  
13 follow the C run down past the ticket building here  
14 and to bore underneath the creek, and the utilities  
15 that are in this corridor here -- I've got the  
16 shakes. But so --

17 MR. GILMAN: So this corridor is different  
18 than the one you told us you were going to use at the  
19 September 25th meeting, correct?

20 MR. LIVSEY: There are three alternatives  
21 outlined here.

22 MR. GILMAN: I can't read any of that.

23 MR. LIVSEY: There is one that we talked  
24 about, which goes along the road. It's approximately  
25 ten feet south of the Town system. The second

1 alternative -- actually, the preferred alternative is  
2 in red the entire way along the valley. It roughly  
3 corresponds and parallels the rope tow and goes up  
4 through the project and along the top road and then  
5 to two location sites. And then this blue system, it  
6 is actually about ten feet south of the Town sewer  
7 line. All of these are existing starred corridors  
8 and so they were selected because they would have the  
9 least environmental impact on vegetation that has  
10 never been disturbed.

11 So those are the three different corridors  
12 through there. So we've added one additional  
13 corridor. It's probably reasonable to represent that  
14 the Ski Lifts is under the belief that the least  
15 impactful alternative would be the red alternative or  
16 the blue alternative, which is the sewer line that  
17 parallels the sewer line.

18 MR. GILMAN: And in your conversations  
19 with the Forest Service, the disturbance would be  
20 obviously more than five acres to go along the  
21 transfer tow?

22 MR. LIVSEY: No. It's substantially under  
23 five acres. The entire pipe system, wasn't it about  
24 one acre?

25 MR. DUBEROW: Well, it's about three and a

1 half total for this preferred alternative.

2 MR. LIVSEY: Including the tanks.

3 MR. DUBEROW: Including the tanks. These  
4 are two alternative tank sites here. But, yes, we  
5 did choose these routes that are in existing  
6 disturbed areas. The sewer right-of-way, is a  
7 non-exclusive utility easement that we could coexist  
8 with the sewer for ten feet, separated from the sewer  
9 line. Up here, we're going parallel to sewer here,  
10 and then we go up along the existing water up to  
11 Grizzly Gulch, the Town's water system. Then we'd  
12 follow the road up to our tank site.

13 MR. CURRY: Who owns that property where  
14 the tank site is?

15 MR. DUBEROW: Well, the southerly site  
16 here is on the Forest Service, so it would be a part  
17 of the three and a half acres that would be in the  
18 special use permit. It is in the special use permit  
19 application. This other site is on a little steeper  
20 ground and would impact a larger area to excavate the  
21 tank. The tank that would be planned would be a  
22 reinforced concrete tank, and it would be totally  
23 revegetated and it should be relatively invisible to  
24 passersby or whatever.

25 MR. CURRY: And who owns that property?

1                   MR. DUBEROW: That is owned by Alta Ski  
2 Lifts. We're planning right now this tank to be  
3 200,000 gallons in size. 180,000 gallons would be  
4 dedicated to fire storage, which is 1,500 gallons a  
5 minute for two hours. The rest would be available  
6 for the domestic use, which would far exceed what the  
7 homes would need. They would need something on the  
8 order of five to 10,000 gallons, depending upon kind  
9 of the usage the homes would have. We would expect  
10 they would be potentially higher uses than average  
11 homes in the state just because they will be larger  
12 homes and could house, you know, a large number of  
13 people at sometimes, during the holidays, or  
14 whatever. So we feel like the extra 20,000 gallons  
15 would be more than enough to meet the needs of the  
16 ten lots. Plus, I think also the Fire District said  
17 we could get by with a fire flow of 1,500 gallons a  
18 minute for only an hour, which would only be 90,000  
19 gallons, so we're doubling that.

20                   I think that that would -- I mean, I  
21 strongly recommend that we have that just for the  
22 size of the homes and the nature of the sites.

23                   Also, we are showing some of these  
24 optional connection points to the Town's system.  
25 Keith Hansen was desirous of creating a loop to the

1 Town system. So he would prefer that we take one of  
2 these routes rather than paralleling the Town's  
3 system, just to provide the loop in the event of a  
4 break in the Town's line. These valves could be  
5 opened in an emergency case to provide that looping,  
6 as well as to replenish the Town's water tank during,  
7 say, the occurrence of a fire flow event.

8 So I think that, you know, it will be a  
9 superior system to what a lot of subdivisions have  
10 throughout the state, more than adequate capacity for  
11 fire flow and domestic uses, you know, fire hydrants  
12 throughout the subdivision, and it will be positioned  
13 so that every house is within 200 to 250 feet of an  
14 active fire hydrant. And these hydrants would also  
15 be available for use by the Grizzly Gulch area that  
16 currently has no fire protection. So I that think  
17 is -- that would --

18 MR. LIVSEY: If you can leave this up for  
19 a second. I have a little chart we'll throw up next,  
20 but I wanted to point out a couple of things.

21 As it's designed right now, and there has  
22 obviously been some push-back about the Estate  
23 perhaps trying to bully the Town. We have simply  
24 shown this interconnect as a possibility. Obviously,  
25 as we work with the Forest Service -- and I'm going

1 to give you a timeline for how long that will take --  
2 as we work with them to consider these three  
3 alternatives as well as the two potential tank sites,  
4 the alternative will come forward which will be most  
5 desirous. We are not insisting on an interconnect.  
6 We are providing this as a possibility. We believe  
7 if Salt Lake City and the Town is willing to provide  
8 some fire flow enhancements for the general Town as  
9 well as looping enhancements -- on the note of fire  
10 flow -- well, right here before I go, these two tank  
11 sites, the main difference between the two sites,  
12 other than one is on private and one is on federal,  
13 the tanks set on private property on the Florida  
14 Mining claim is on steeper topography, and as a  
15 result it will be perhaps -- well, it will not be  
16 impossible, but it will be very problematic to bury  
17 the entire 25-foot tank below topography. So on the  
18 private land tank site, there may be some of the tank  
19 showing.

20 MR. DUBEROW: No.

21 MR. LIVSEY: Is that not right?

22 MR. DUBEROW: No, it will be buried.

23 MR. LIVSEY: Both.

24 MR. DUBEROW: It will be buried. We will  
25 just have to make a bigger scar to make the hole.

1           MR. LIVSEY: So there is more disturbance  
2 with one than the other.

3           MR. DUBEROW: And a little more footprint  
4 for the backfill tank would be required.

5           MR. LIVSEY: The access road is actually  
6 an existing mining road that comes up through here,  
7 and that would be improved slightly. And in the  
8 special use permit, we are asking the Forest Service  
9 to allow us to improve that road for access to either  
10 of the two tank locations.

11           The tank location on the federal land is a  
12 little bit easier to construct. It's a little  
13 flatter ground. We think it would be a little bit  
14 better, and that is why we're showing both options  
15 there.

16           Will you move to the fire flow, Craig.

17           One of the things that has come up is  
18 whether or not there are any inadequacies in fire  
19 flow capacity. And what we see here, this is the  
20 Town's -- and I don't know for certain if it's 375 or  
21 300. I've seen it both ways. The point is, the Town  
22 has a nice, big existing tank located just up above  
23 this building. Grizzly Gulch, on the other hand, has  
24 an existing 10,000 gallon tank. This is -- this does  
25 not represent a lot of fire-fighting capacity as it

1 currently exists. This is the proposed 200,000  
2 gallon tank. If an interconnect is permitted, the  
3 homes in Grizzly Gulch will receive additional fire  
4 flow support. Even if it's not interconnected, we  
5 will be strategically placing fire hydrants  
6 throughout the subdivision in locations where these  
7 homes will actually have additional fire flow  
8 provided by this tank. It's more incidental than  
9 planned, but it will help.

10 If we add all of these tanks together, the  
11 Town's, Grizzly Gulch, and the proposed tank, it will  
12 total 585,000 gallons, approximately. Just by note,  
13 the Hell Gate fire used approximately one million  
14 gallons. I think this 200,000 gallons could benefit  
15 the Town. Let's flip to the next slide, Craig.

16 This talks about the different contracts.  
17 As mentioned before, the Town has a water contract,  
18 it's 265,000 gallons. There has been some debate  
19 recently whether it's actually 265 or 115. We'll  
20 leave that debate for another day, but I did show the  
21 difference here. This is the total amount of the  
22 water at Quincy Mine under the 1975 contract. We  
23 believe this to be the allotment, 33,000 gallons to  
24 be the allotment, under the 1975 contract for Quincy.  
25 I've cited that source to this letter I mentioned

1 before from John Guldner to Lee Kapaloski dated  
2 February of 1999.

3 Salt Lake County requires 400 gallons per  
4 home. Because we're planning on ten homes, that is  
5 4,000 gallons. This represents the amount -- the  
6 minimal required amount for Salt Lake County  
7 requirements. In reality, we plan during peak flow  
8 to be closer to 10 or perhaps 12,000 gallons per day.  
9 I'd be very surprised if we ever came close to the  
10 peak demand number.

11 And then, Craig, if you will pull up -- we  
12 have two more slides to run through quickly. Yeah,  
13 let's start with that one.

14 You asked what "indefinite" means and  
15 we've tried to give you an approximation of  
16 indefinite. Note on here, the special use permit  
17 application has been filed. That was done today. It  
18 was e-mailed to the Forest Service. It is in your  
19 packet, as well as the map, which I have shown for  
20 the water system.

21 The environmental assessment and scoping  
22 process will begin this fall. And what is  
23 interesting to note -- and this is a date we don't  
24 control -- March or April of 2010 there is a review  
25 board that reviews categorical exclusion permits.

1       Apparently this review board meets infrequently. The  
2       next available date is March or April of 2010.

3               During that review committee, they will  
4       decide whether or not a field review is required. If  
5       so, we are going to have to wait until the snow comes  
6       off the property for a field review, and it will  
7       include a review all the way from Quincy all the way  
8       up to Patsey Marley. So we are well into summer.

9               I won't outline the rest of the process,  
10       but really what we've got here is two cutoff points.  
11       If the categorical exclusion is granted and we are  
12       under five acres of total disturbance, perhaps August  
13       2010 we'll have a decision on the special use permit.  
14       If not, we go through a more involved process and we  
15       are down here with an environmental assessment, fall  
16       2010. If it's not approved then, we jump all the way  
17       down here to a final record of decision for the  
18       special use permit either being approved or denied  
19       August or December 2011. I didn't come up with the  
20       dates. I called Al Suci, who is with the Forest  
21       Service. He helped me give you his best estimate of  
22       what we might anticipate for this project.

23               Craig, if you will run to the next slide.

24               After we get done with this, and I don't  
25       know if that is August 2010 or 2011, somewhere in

1 there, then at that point we are ready to finish our  
2 application with the State Drinking Water Division.

3 MR. GILMAN: So if your decision is  
4 denied -- application -- or the Forest Service denies  
5 you your request on the 11th -- I mean, in 2011, I  
6 would assume that you would begin the appeal process  
7 or a lawsuit process, perhaps, after that?

8 MR. LIVSEY: I see no reason to jump that  
9 bridge until we are there.

10 MR. GILMAN: So --

11 MR. LIVSEY: I don't know the answer.

12 MR. CURRY: Let me ask you, Charles, about  
13 a scenario that did lay out here. What is the  
14 scenario under which the Forest Service would deny a  
15 categorical exclusion but would permit you to go  
16 ahead with a special use permit application?

17 MR. LIVSEY: As I understand it, if the  
18 cat-ex isn't accepted, all you do is you default to a  
19 full process. So if you don't get the short process,  
20 you go to the long process. There is not a denial.  
21 They just say, "This doesn't qualify for the  
22 categorical exclusion. You need to go through the  
23 full process."

24 MR. CURRY: And what are the standards for  
25 determining whether it qualifies for a categorical

1 exclusion?

2 MR. LIVSEY: There are many, including  
3 social impact, total disturbance area, et cetera.  
4 And the Forest Service has a fair amount of  
5 discretion with those standards.

6 MR. CURRY: But according to your timeline  
7 here, there is no public process?

8 MR. LIVSEY: That is the scoping piece  
9 right here. So there will be public scoping.  
10 Everybody on the registry will receive a copy of the  
11 special use permit and be able to weigh in on it.  
12 There is not an official -- if you remember when we  
13 did the snowmobile over-the-snow issue, we did the  
14 whole process. It took two and a half years and you  
15 will remember there were a series of public meetings.  
16 This scoping process may include public meetings.  
17 That is up to the Forest Service. I don't control  
18 that.

19 Should we move on?

20 The water system, when we get to the state  
21 level, we've already selected a manager and selected  
22 the certified operator. We've filed with the state  
23 and the Division has accepted the application. There  
24 is a series five to eight here of various reviews,  
25 including a nuts-and-bolts review of the pumps and

1 tanks.

2 One of the things to point out here,  
3 before we can be reviewed the Division has to review  
4 the wastewater system to make sure that it will  
5 qualify. In order to do that, we need the Town  
6 will-serve letter on the sewer issue. I know we've  
7 addressed this in the past. In the somewhat distant  
8 future, this will become increasingly important and  
9 not having that letter will hold us up from  
10 proceeding. So we would request that at some point  
11 that the Town issue a will-serve letter, even if it  
12 acknowledges the deficiency and says that it will  
13 allow us to connect, assuming the deficiency needs to  
14 be fixed, when the deficiency is fixed.

15 Nine is this final approval. From the  
16 time the engineer specs are sent to the Division,  
17 it's often 60 to 90 days before the plans are  
18 actually approved. This is not a political process.  
19 They want to make sure that the system is designed  
20 properly and meets the state requirements, et cetera.

21 Now, the wild card on here is this review  
22 by Salt Lake City. Salt Lake City ordinance, in  
23 their extraterritorial jurisdiction, requires a  
24 review. I don't know what that entails, to be  
25 honest. I've never heard of that being done. I'm

1 sure it's happened. We will submit our plans to Salt  
2 Lake City for their review. And, again, I have no  
3 timeframe from Salt Lake City about how long this  
4 process will take. Needless to say, best case  
5 scenario, we're in the middle of next summer, next  
6 fall, and even early winter before we're at the  
7 state. And then we've got another 60 to 90 days at  
8 the state for things to be reviewed, and then Salt  
9 Lake City will review it.

10 As we mentioned at the last meeting --  
11 well, the last meeting where we met together in this  
12 building -- this will not be a quick process. This  
13 is a very complicated subdivision simply because of  
14 this private water system. We hoped to hook onto the  
15 Town's system. We think that to be the most  
16 reasonable alternative. Unfortunately, that has not  
17 come to fruition. Therefore, we're proceeding with  
18 the private water system in all of its complexities.

19 I think I've hit everything. Have we,  
20 Alan?

21 MR. SULLIVAN: Back to you. Do you have  
22 any questions for us?

23 MR. DUBEROW: The only thing that I didn't  
24 mention was that all of the lines in the system are  
25 planned to be eight-inch diameter minimum, which is

1 the same as the Town's water lines to carry the fire  
2 flow. Even the line up from the Quincy or at least  
3 the ticket building would be an eight-inch as well to  
4 carry fire flow, if need be, and provide the  
5 interconnect with the City or the Town.

6 MR. GILMAN: Would the size of those water  
7 lines change between a seven-lot or a ten-lot  
8 subdivision?

9 MR. DUBEROW: No, because the fire flow  
10 would be the same and that is really what is  
11 dictating the size.

12 MR. GILMAN: The size of the mains. Yeah,  
13 okay.

14 MR. SULLIVAN: That is our presentation.  
15 And I want to urge you to take the time, if you can,  
16 to look at the materials that we presented in the  
17 binder that we have not taken the time to address to  
18 you orally today.

19 I want to state one thing that maybe gets  
20 lost in all the shuffle and that is, this property is  
21 within the Town's limits and it is zoned for  
22 residential. And what we have proposed to develop is  
23 a residential neighborhood that would be  
24 environmentally sensitive. In fact, we believe that  
25 these folks have gone out of their way to propose a

1 development that would take into consideration all of  
2 the environmental values of the property and is the  
3 most sensitive use of the property that can be made  
4 with the property.

5           The other important point I would make to  
6 you is that we need time to solve the water delivery  
7 issue that we presented. We've laid our cards on the  
8 table. We have told you what the issues are. We  
9 have told you what our plans are. We have told you  
10 what we understand to be the sequence of the approval  
11 of the water delivery system from the source in which  
12 we have a right. And we would respectfully submit  
13 that there is no pressing need for the Town to vote  
14 up or down on the project at this time. Rather, we  
15 believe that we should be given, the Estate should be  
16 given, the opportunity to complete the development  
17 work with reasonable diligence. And I can assure you  
18 that we are working with reasonable diligence.

19           We ask, however, that you provide us a  
20 decision on the natural waterways issue, because that  
21 will determine the scope of the project in a very  
22 significant way, and it would be helpful to us going  
23 forward to have that decision. We've presented you  
24 with our arguments on the natural waterways. If you  
25 have any questions about the arguments we've made, we

1 welcome them, and we would welcome continuing  
2 dialogue on all of these issues. And, again, thank  
3 you very much for your time.

4 MAYOR POLLARD: That concludes the  
5 Estate's presentation.

6

7 ALTA TOWN COUNCIL AND TOWN STAFF QUESTIONS

8 MAYOR POLLARD: So at this point, does the  
9 Town Council have any specific questions that we  
10 would like to be addressed at this point or would it  
11 be everybody's pleasure to move on into the public  
12 comment period?

13 MR. RICHARDS: Maybe you guys could check  
14 my math for me real quick because you guys have  
15 obviously done your homework on this. The Quincy  
16 Mine has 200 gallons a minute. You say that is what  
17 you measured when you went up there, right?

18 MR. DUBEROW: Yes.

19 MR. RICHARDS: Okay. 12,000 gallons per  
20 hour. You guys should know this stuff, right? You  
21 have gone through it and designed this whole thing.

22 MR. DUBEROW: Right.

23 MR. RICHARDS: You've got 288,000 a day --  
24 60 minutes an hour...

25 MR. DUBEROW: Right.

1                   MR. RICHARDS: How much of that has Alta  
2 Ski Lifts contracted for their snowmaking? They have  
3 contracted that water for their snowmaking.

4                   MR. LIVSEY: Maybe I can take a stab at  
5 this. Our contract predates Alta Ski Lifts Company's  
6 snowmaking contract. We need approximately,  
7 maximally, 12,000 gallons per day and the Ski Lifts  
8 has a contract for -- do you want me to say it to the  
9 public?

10                  MR. WIERINGA: Sure.

11                  MR. LIVSEY: It's my understanding it's 20  
12 million gallons per snowmaking season. Close?

13                  MR. WIERINGA: It's a nice number.

14                  MR. LIVSEY: We talked to the Ski Lifts  
15 and we believe that we have created a storage which  
16 is adequate to allow them to run their snowmaking  
17 system when they need to and we can bridge that gap  
18 with excess capacity with the storage tanks. In  
19 other words, when they are running at full capacity,  
20 whether it's three or four days, which would be a  
21 really good run, we will have excess capacity in the  
22 storage tanks to draw on if we are unable to take  
23 Quincy water. Once they are done with their -- and  
24 as you probably know, a really good run would be four  
25 or five days, maybe -- I mean, going 24/7 for

1 multiple days is very atypical, conditions  
2 permitting. We believe we would be able to work with  
3 them to toggle back and forth to top off our tanks in  
4 the next phase when they are going full-bore.

5 MR. DUBEROW: Also, we only need ten  
6 gallons a minute. If we had a pump that could do 20  
7 or 25, we could pump when they are not pumping. They  
8 usually don't make snow around the clock if they are  
9 open. The other thing we believe, and I talked to Al  
10 about this, is that the snowmaking demand period is  
11 mostly, you know, November, December, and that would  
12 be a time when these houses would be normally not as  
13 highly occupied as, you know, once you get into  
14 December. So they are kind of noncompeting uses as  
15 we see them.

16 MR. LIVSEY: We believe we will be able to  
17 provide a situation where both parties can co-exist  
18 on the same water with the quantity that is  
19 available.

20 MR. MOXLEY: I have some questions.  
21 I don't know what our process is going to  
22 be, but what might be helpful to me, although we may  
23 not be prepared for it today, is sort of a point and  
24 counterpoint on how the Estate views the waterways  
25 and how the Town views the waterways based on that

1 letter and advice from counsel.

2 MAYOR POLLARD: Are you asking for a  
3 consolidation of the two --

4 MR. MOXLEY: Yeah. In other words, we  
5 just get out the map and the Estate says X and the  
6 Town says Y.

7 MS. RUNGE: And I think we've kind of done  
8 that already. Clarence Kemp stands by his memos. He  
9 is not going to play tit for tat. He just believes  
10 that what he determined is how the ordinance lays out  
11 natural waterways and he stands by that.

12 MS. LEWIS: I think the Estate is  
13 challenging every natural waterway that Clarence  
14 determined.

15 MR. MOXLEY: Well, I thought I heard a  
16 little give on that.

17 MR. LIVSEY: As we went through the tour,  
18 I tried to point out ones that -- we are not certain  
19 they are, but they could be, whereas others we  
20 believe are absolutely under no circumstances --  
21 under no circumstances do they meet all the criteria  
22 outlined in the ordinance.

23 MR. SULLIVAN: If you would turn to Tab 5  
24 there is my letter of September 22, and that explains  
25 our general position. And attached to that is, I

1 think, it's A and then there is Appendix B. And our  
2 Appendix B is our disagreements, if you will. And so  
3 we go drainage by drainage. There are 13 drainages  
4 that are identified as natural waterways in the  
5 Forsgren 2009 delineation, and what we have done is  
6 to take on those with which we disagree, and we do  
7 not disagree with all of them. So we are just  
8 identifying the ones we disagreed with and we explain  
9 why we disagree with the ones we disagree with.

10 MR. MOXLEY: Thank you. In an ideal  
11 world, then, as I understand your presentation, what  
12 you would like from us is either for us not to decide  
13 or to decide that you can go ahead with the condition  
14 subsequent being that you would have to be in place  
15 with all your approvals by the winter of 2011; is  
16 that correct?

17 MR. SULLIVAN: That is one way to do it.  
18 In the best of all possible worlds, what we would  
19 appreciate is, first of all, a decision from you  
20 folks on the natural waterways issue --

21 MR. MOXLEY: That is number one.

22 MR. SULLIVAN: -- so we know which  
23 direction to go, and then allow us to make periodic  
24 reports to you so you can be satisfied that we are  
25 working on this with reasonable diligence. And then

1 when we are ready, we come before you again and we  
2 can assure you that we will act with reasonable  
3 diligence. And so we can then have the process  
4 proceed in that way.

5 MR. MOXLEY: When we were here last time,  
6 or up at the library, and we talked about the timing,  
7 I thought I heard you say that you didn't -- you  
8 needed time, but you didn't know how much time. And  
9 today you were saying you thought the winter of 2011,  
10 as best as you can estimate it presently.

11 MR. LIVSEY: We were asked to produce an  
12 approximate timeline. We've tried to do that. I can  
13 honestly tell you we don't know the timeline. Those  
14 dates will be set by third parties, governmental  
15 agencies, which are not in our control.

16 MR. SULLIVAN: So we can tell you that we  
17 know the sequence of events in the regulatory  
18 process, but we don't know how long exactly it is  
19 going to take but we have given you our best  
20 estimates. And, of course, the Forest Service  
21 process could be much shorter than 2011.

22 MR. MOXLEY: But is it accurate to say  
23 that what you want us to do is approve it or approve  
24 it conditionally through when? Whatever it takes?

25 MR. SULLIVAN: We would like you to

1 approve it conditionally with --

2 MR. LIVSEY: I think we are in the middle  
3 of the process. I think we would love for you to  
4 continue to allow us to go through the process, and  
5 when we are at that point, I think we can jump that  
6 bridge then. I mean, that would be my thought on it.

7 MR. MOXLEY: Hypothetically, though, if  
8 you don't have your approvals by September of 2012,  
9 how do you view it? Is there ever a point when you  
10 are done?

11 MR. LIVSEY: Yeah, there will be a point  
12 when we are done. I mean, again, there is a group  
13 that will make that decision, whether we give up at  
14 that point or if we are not approved or whether it  
15 goes on from there.

16 MR. MOXLEY: And then it seems to me that  
17 there is an inherent conflict, because on the one  
18 hand -- and I haven't read all the materials today or  
19 studied John's letter or et cetera -- but on the one  
20 hand, you are saying there has been a reliance factor  
21 and you spent money. And you are saying to us today,  
22 "Well, gee, don't decide because we have all these  
23 hoops we have to jump through." So, I mean, how do  
24 you reconcile all that?

25 MR. SULLIVAN: The reliance we have is on

1 the laws and ordinances that we must abide by in  
2 order to get approval of the project. And the whole  
3 purpose of the vesting doctrine is that the  
4 developer, once he files an application, can then  
5 spend money to get these outside agency approvals and  
6 do all the rest in reliance upon a given set of laws,  
7 and that is really the reliance factor. We know that  
8 the money we are spending is our risk. We know that.  
9 We don't expect it to be anybody else's risk. But we  
10 at least ought to know what the ground rules are as  
11 we spend money, and that is the reliance that we are  
12 talking about. And that goes to one of the questions  
13 that one of the Council members asked last time:  
14 What would happen if the Council were to vote today  
15 to deny this application? Well, we think that would  
16 be premature because we think we have a right --  
17 there is the legal problem that I mentioned -- that  
18 we have the right to proceed with reasonable  
19 diligence once we file an application that is vested.

20 But if we do have to start over, then we  
21 would have to start over to spend significant sums of  
22 money to achieve these without -- these agency  
23 approvals without any assurance that the property  
24 wouldn't be down-zoned, that the subdivision  
25 ordinance would not be changed. The developer is

1 entitled to have some sort of certainty as to what  
2 the ground rules are as he spends money.

3 MR. CURRY: And that is really what it  
4 comes down to for you, isn't it?

5 MR. SULLIVAN: Yes.

6 MR. CURRY: That is why it's so important  
7 to you that you remain vested under the laws that  
8 were existent as of 2007. It's not the new  
9 subdivision application ordinance that was passed;  
10 you are concerned about a change in the subjective  
11 requirements.

12 MR. LIVSEY: We are concerned with both.  
13 We are concerned that with the subjective  
14 requirements, that may not change. But we're also  
15 concerned about an ordinance that requires you to  
16 have all the approvals in advance before you file an  
17 application.

18 MR. CURRY: But the only possible negative  
19 effect that could have on you would be if the  
20 subjective requirements were changed?

21 MR. LIVSEY: That's true.

22 MR. SULLIVAN: That's true.

23 MR. LIVSEY: If I may, two years ago I sat  
24 down with Salt Lake City without a subdivision plat,  
25 and they said, "Well, it's nice to talk about these

1 things. Come back when you have a plan. We want to  
2 see how many lots, what it will look like," et  
3 cetera.

4 So we set out to design that plan. After  
5 we met with them, showing them the plan, they said,  
6 "Well, take it for review now. Let's see if you can  
7 get this approved."

8 Salt Lake City is -- we've been -- as you  
9 know, you have seen multiple correspondence with  
10 them. I mean, this is one of a series of  
11 chicken-and-egg dilemmas that we have dealt with  
12 effectively through this process, where under the new  
13 ordinance it would be a little more difficult.

14 MR. GILMAN: As a group who obviously does  
15 this for other developments in other parts of Salt  
16 Lake County or perhaps all over Utah, can you point  
17 out to me -- educate me on why our ordinances are so  
18 much different than West Valley City's or Draper.

19 MR. LIVSEY: The primary difference is  
20 just when triggering vests. It's different in each  
21 municipality. In the Town of Alta, triggering vests  
22 very, very late in the process -- in fact, after  
23 everything has been approved by all the other  
24 agencies. That is the only time vesting is  
25 triggered. In a lot of other municipalities in Utah,

1 triggering vests earlier in the process, depending on  
2 the municipality.

3 MR. MOXLEY: Well, you are really saying  
4 the ordinance doesn't work because as you sit here  
5 today, you are saying that you don't know whether you  
6 can get the approvals in two years.

7 MR. LIVSEY: The new ordinance, you mean?

8 MR. MOXLEY: No, the existing one.

9 MR. LIVSEY: Again, that is not our  
10 concern if we are vested. So I hate to steal the  
11 public's time to talk about that.

12 MAYOR POLLARD: Dave?

13 MR. RICHARDS: I'm going to bite my tongue  
14 and let the public have their time.

15 MAYOR POLLARD: At this point I will move  
16 to the next item, which is the public comment period  
17 or public hearing on the proposed Patsey Marley  
18 Subdivision.

19

20 **PUBLIC HEARING ON PROPOSED PATSEY MARLEY**

21 **SUBDIVISION**

22 MAYOR POLLARD: One thing that I would  
23 like to say is maybe because of the weather and some  
24 other circumstances and people not being able to get  
25 here today, and I believe it was posted on our

1 website yesterday, we have extended the period for  
2 written comment to be submitted regarding this to the  
3 close of business day on Friday, October 2nd, which  
4 is the end of this week.

5           How we'd like to move forward with regards  
6 to this action is, if anybody would come up -- we'd  
7 like to limit your comments to five minutes. State  
8 your name. I do have a list here of people here who  
9 have asked to speak and some maybes here. What I'd  
10 like to do is, as opposed to having a response to --  
11 if there is a question that is proposed by any of the  
12 commenters, I'd like to record those questions and  
13 deal with them at the end of the presentations.

14           We have received some written comments as  
15 of the initial deadline, one by Jerry Oyama, another  
16 one by Sam Williams, another one by Tom Bourgrin, and  
17 another one by John Holland.

18           That being said, I will now open the  
19 public comment period and -- actually, what I'll do  
20 is start -- we had everyone sign in at the beginning  
21 of the meeting, so I'll just read off a name. And if  
22 at this point -- there were some maybes on here, and  
23 I'll ask you if you want to speak. The first person  
24 on the list is Jen Clancy.

25

1                    **COMMENT BY MS. JEN CLANCY:** Hello. My  
2 name is Jen Clancy and I serve as executive director  
3 of Friends of Alta. Thank you for this opportunity  
4 to offer my views on the proposed Patsey Marley Hill  
5 Subdivision.

6                    As Alta's local land trust, Friends of  
7 Alta has dedicated its efforts towards the protection  
8 of Alta's environment. For nearly three decades,  
9 Friends of Alta has sought to protect the headwaters  
10 of Little Cottonwood Canyon stream and the invaluable  
11 watershed which surrounds and supports it. Friends  
12 of Alta has diligently worked with private  
13 landowners, the Town of Alta, Salt Lake City, and the  
14 United States Forest Service to protect habitat for  
15 flora and fauna, maintain our open spaces, and  
16 protect the watershed that provides culinary water  
17 for Salt Lake City and Sandy Cities, Alta and  
18 Snowbird.

19                    Friends of Alta has shown its commitment  
20 to these efforts of preservation and conservation by  
21 acquiring undeveloped lots at fair market value in  
22 Albion Basin and then placing conservations on these  
23 lands.

24                    We are acutely aware of the pressure to  
25 allow new development in and around Alta. As an

1 organization, Friends of Alta is not against any new  
2 development, only that development that is outside  
3 the legal water service boundaries established in  
4 1976 by the Town of Alta and Salt Lake City. It is  
5 our hope that through thoughtful planning and use of  
6 the guidelines set forth in Alta's 2005 general plan  
7 that Alta's community may achieve both economic and  
8 environmental sustainability.

9           As to the Shrontz Estate's application for  
10 Patsey Marley, there is literally a sea of  
11 information, some of which is accurate and some of  
12 which is inaccurate and misleading. For instance, on  
13 their website and in other publications, the Estate  
14 stated, "The lots are situated so that more than 90  
15 percent of the property will remain untouched,  
16 preserving over 23 acres of open space and ski  
17 trails."

18           I simply don't understand how just over 25  
19 acres consisting of ten 8,000 square foot homes is  
20 considered open space. This appears to be exactly  
21 the type of ecosystem fragmentation which has  
22 happened in other communities that were not alert to  
23 the long-term consequences of development and driven  
24 by a desire to financial gain.

25           For those of you watching the Ken Byrns

1 National Parks special, Frederick Law Olmsted, the  
2 1850 landscape architect of New York City's Central  
3 Park, stated my philosophy on conservation so well  
4 when he said, "The rights of posterity are more  
5 important than the desires of the present."

6 Please understand that the Patsey Marley  
7 proposal before you is not a clustered development of  
8 homes, a hotel, or PUD that would maximize open  
9 space. The proposal before us will affect our  
10 watershed and fragment and destroy the open character  
11 of the existing landscape.

12 It should also be duly noted that the area  
13 of this proposed subdivision was annexed to the Town  
14 of Alta in 1980, four years after the 1976 agreement  
15 between Salt Lake City and Alta, which clearly drew a  
16 line in the sand of the area to be served by the  
17 Town's existing public water system. In support,  
18 Alta's 2005 general master plan adds, "Residential  
19 development, whether commercial or private, should  
20 not be allowed in areas not adequately served by  
21 public water and sewer systems as determined by the  
22 Salt Lake City Department of Public Utilities Water  
23 Division and Salt Lake City Valley Health  
24 Department."

25 The proposed Patsey Marley Subdivision not

1 only threatens development on this 25-acre parcel but  
2 also all of the remaining undeveloped privately-owned  
3 lands now in Albion Basin.

4 As everyone here is well aware, this  
5 ecosystem is irreplaceable habitat for some of the  
6 world's most renowned wildflowers, wildlife,  
7 wetlands, and beautiful fields of snow -- something  
8 future generations deserve to experience as we have,  
9 its temporary stewards.

10 All across America our open spaces are  
11 quickly being closed and permanently eliminated by  
12 development. Alta is not unique in facing these same  
13 pressures. The question you, as our elected  
14 officials, are being asked to act on is: Does this  
15 subdivision proposal meet all of the ordinance  
16 requirements you have been entrusted by this  
17 community to carry out?

18 And to everyone involved in this process,  
19 I would like to ask if it is possible to consider  
20 conservation of this treasured landscape a priority,  
21 to stave off dollar signs for the intangible benefits  
22 of maintaining open space.

23 In closing, when landscapes change due to  
24 development, they are lost forever. Alta is unique.  
25 Let us make sure we protect this uniqueness and pass

1 it on to future generations as our legacy. Thank  
2 you.

3 MAYOR POLLARD: Julie Willis?

4

5 COMMENT BY MS. JULIE WILLIS: And just to  
6 be clear, Mayor Pollard, I have a question. So do  
7 you want to take questions at the end?

8 MAYOR POLLARD: Yes.

9 MS. WILLIS: My only comment is this: I  
10 agree with absolutely everything Jen just said. Do  
11 watch the Ken Burns video. It's on tonight. It's on  
12 for the rest of the week. Be impressed by the wisdom  
13 that took decades, if not centuries, to come up with  
14 a master plan of protecting that which is not owned  
15 by any of us.

16 MS. BLACK: Julie, would you ask your  
17 question? We'll write it down and that way they can  
18 answer it at the end.

19 MS. WILLIS: Sure. In reference to the  
20 comment made about the bridge, I think you said Lot  
21 2, and I quote, "It will not affect the wetlands."

22 I just want to know what evidentiary  
23 material you have that can support, "will not affect  
24 wetlands." So I don't know if that is -- if you have  
25 actually contacted any environmental consultant or

1 that kind of thing. Thank you. Thank you for the  
2 opportunity to speak.

3 MAYOR POLLARD: Thank you. The next one  
4 we had was an Alex Schmidt as a maybe.

5 MR. SCHMIDT: I'm good.

6 MAYOR POLLARD: Okay. Karen Travis.

7 MS. TRAVIS: I'll pass at this time, Tom.

8 MAYOR POLLARD: Okay. Jennifer Ketsor.

9

10 COMMENT BY MS. JENNIFER KETSOR: My name  
11 is Jennifer Ketsor. I'm the issues coordinator for  
12 Save Our Canyons. Save Our Canyons is dedicated to  
13 protecting the beauty and wildness of the Wasatch.  
14 We have been a local conservation voice dedicated to  
15 this effort for 37 years. Over the years we have  
16 worked on development issues confronting the Wasatch  
17 canyons, mountains, and foothills. Today we are  
18 faced with an issue concerning a subdivision  
19 development in the Town of Alta. This proposal could  
20 potentially impact 26 acres leading up to Albion  
21 Basin. Approval of this project has ramifications  
22 not only for Alta, but could also potentially impact  
23 the Central Wasatch.

24 Alta is a unique place nestled near the  
25 top of Little Cottonwood Canyon. The area

1 surrounding Alta forms the headwaters of the Little  
2 Cottonwood Canyon watershed. Countless visitors are  
3 drawn to Albion Basin for the alpine setting and  
4 beautiful summer wildflowers. It's a ski destination  
5 with some of the best snow in the Wasatch. According  
6 to the Alta general plan, Alta would like to maintain  
7 its current state for future generations to enjoy.

8           The Alta experience can only be preserved  
9 through thoughtful and responsible planning. One of  
10 Alta's planning policies clearly states, "Open space  
11 should be preserved and maintained." Approving the  
12 Patsey Marley Subdivision would diminish the value of  
13 what so many hold treasured about Alta. It is in the  
14 public interest to retain this land as open space.

15           While the economic value of development is  
16 measurable, more often than not the value of open  
17 space is overlooked. The value to the public is  
18 beyond the value represented by the development.  
19 These homes would possibly be enjoyed a few weeks out  
20 of the year, while Alta is a place enjoyed year-round  
21 from wildflower season to ski season.

22           The Shrontz Estate is claiming an  
23 environmentally sound proposal mindful of its  
24 impacts. However, the scale of the proposed  
25 development would be precedent setting. If this

1 proposed development is approved, it would introduce  
2 an entirely new element into Alta's landscape, an  
3 element not clearly outlined in the general plan.  
4 Building seven luxury homes of up to 8,000 square  
5 feet could set the standard for future build-out and  
6 single-residence building. It explicitly states in  
7 the general plan that if a development is not  
8 adequately served by public water and sewer systems  
9 that the development should not be allowed. Salt  
10 Lake City Public Utilities denied the Shrontz Estate  
11 water from the Town of Alta's connection citing it  
12 was outside those public water contract boundaries.  
13 However, the final decision rests with the Town  
14 Council on whether the Shrontz Estate can move  
15 forward with its application.

16           Salt Lake City Public Utilities has  
17 extraterritorial jurisdiction over the watershed, and  
18 the Town of Alta shares the watershed with SLCPU,  
19 acting as a steward of that watershed. Supporting  
20 the policies and regulations set out by Public  
21 Utilities should be one of Alta's primary objectives.  
22 Public Utilities' emphasis and objective is on  
23 preservation of water quality and protection of the  
24 watershed. Consideration of our water and resources  
25 for the future cannot be underestimated.

1           The Albion Basin-Alta area is under  
2 pressure from significant development and could  
3 continue to face considerable pressure as time goes  
4 on. Those pressures threaten the landscape, the  
5 watershed, and places we go to seek beauty, solitude  
6 in the state.

7           Save Our Canyons requests the application  
8 be denied by the Town of Alta in an effort to enforce  
9 watershed protection. It should be in the Town's  
10 best interest to ensure the protection and  
11 preservation of a wonderful and beautiful landscape.  
12 We hope the Town will think of Alta's future and the  
13 value to the public, which cannot be measured in  
14 dollars. Keeping the Alta Experience is what is best  
15 for the community, both residents and visitors.  
16 Thank you for the chance to comment and express our  
17 concerns.

18           MAYOR POLLARD: Thank you.

19           Mark Haik?

20

21           COMMENT BY MR. MARK HAIK: I think --

22           MAYOR POLLARD: Mark, could you come up  
23 here, please?

24           MR. HAIK: I'd prefer to sit here.

25           MAYOR POLLARD: Everybody else is coming

1 up here, so if you could please come up, that is the  
2 process.

3 MR. HAIK: I'm Mark Haik. I would urge  
4 the Council to reject the Planning Commission's  
5 recommendation for a variety of reasons. Number one,  
6 some of the basic issues presented at the Planning  
7 Commission hearings, and were as well presented to  
8 the Council by the Town staff, that analysis has been  
9 inadequate and inaccurate on numerous counts.

10 I'll just run through a couple things on  
11 the basics. On the water, the reference is  
12 frequently made to the '76 water contract. I would  
13 urge you all to read it, and I also urge the Council  
14 to draft the letter to Salt Lake City that they can  
15 make public indicating that this would be a good  
16 development for the Town, it would be a responsible  
17 thing to do, it would fulfill the Town of Alta's  
18 prior promise to the landowners to serve the  
19 property.

20 Two, on the water issue, it's frequently  
21 presented that Salt Lake City runs the Town of Alta's  
22 water system. The contract in '76 is only for Salt  
23 Lake City to provide untreated water. The Town  
24 Council should do nothing until the Town Councilmen  
25 can stand up and tell the public what the value of

1 that contractual agreement is regards quantity.

2 It was noted by Mr. Livsey that there  
3 appears to be a dispute between 265 and 115. My  
4 question to you today is can Mayor Pollard or any of  
5 the other Council members indicate what the numerical  
6 value is?

7 Three, on the water issue, there is  
8 nothing that bars the Town Council from acquiring  
9 additional water and delivering it to the applicants.  
10 They can do this by just going straight down to the  
11 Jordan Valley Water Conservancy District and write a  
12 check and sign up for some water.

13 As the Shrontz Estate discussed, it's  
14 probably in the best interests of the Town to  
15 cooperate in the development of their water system  
16 and/or a larger water system for the community.  
17 Mr. Hansen, who runs your water system, thinks this  
18 is a very good idea to create a loop system as it's  
19 envisioned.

20 Now, recently -- in fact, September 2nd,  
21 that was the day that the State Division of Water  
22 Rights approved additional points of diversion --  
23 eight of them, in fact. That was the order from the  
24 Division of Water Rights of that I e-mailed you  
25 before the last Council meeting. That order permits

1 the Lift Company to divert additional waters for both  
2 municipal and culinary use, as well as snowmaking.  
3 The Council should do as I previously abdicated; they  
4 should inventory all of the private water systems  
5 that are serving the Town's residents, inhabitants,  
6 and visitors today and then see to it that they  
7 create a long-term plan to connect those systems and  
8 govern them as one. This is indeed what the Division  
9 of Water Quality wants. They want one system up here  
10 that is publicly regulated and providing clean water  
11 to the residents and visitors. This is within the  
12 ability of the Town Council.

13 Natural waterways have been much  
14 discussed, and I would just note to the Council that  
15 regardless of the ordinance, I would just have the  
16 Council think about ten different places around town.  
17 Natural waterways have had improvements constructed  
18 both in them and proximate to them all over town.  
19 Those areas in include the campground, the angle  
20 station at the Collins Lift, the Wild Cat ticket  
21 office. Those are all proximate to natural  
22 waterways --

23 MS. RUNGE: Thirty seconds.

24 MR. HAIK: -- and the road. The Town  
25 staff has failed to fundamentally assess the road,

1 and their failure is tantamount to being spurious and  
2 incompetent. And the state owns the road and/or the  
3 Town is a successor in interest to the state. And  
4 until the Town Council adequately reviews the  
5 nature --

6 MS. RUNGE: Time is up.

7 MR. HAIK: -- of the status of the road,  
8 they should not proceed further, and they should  
9 cooperate with the Shrontz Estate to see that this  
10 subdivision gets approved and built out in the Town.  
11 Thank you.

12 MAYOR POLLARD: Thank you. Bob Pruitt was  
13 a maybe.

14  
15 COMMENT BY MR. BOB PRUITT: I think the  
16 Estate has a vested right and should be able to go  
17 ahead. I have a question for them and the Town about  
18 the road, though. I think that there are some issues  
19 about the road that need to be addressed. And as a  
20 user of the road in the summer and winter trails, I'd  
21 like to make sure that the subdivision approval  
22 maintains parking for Snow Cats and winter access and  
23 summer access. So that's more of a question.

24 MAYOR POLLARD: Thank you. Roger Bourke.

25

1                   **COMMENT BY MR. ROGER BOURKE:** I have a  
2 written statement that I could just give you to add  
3 to the record, if you like.

4                   Despite the blizzard of paper and the  
5 avalanche of words which the developer has showered  
6 upon you, I see this as a rather simple matter. The  
7 developer has not complied with the requirements set  
8 forth by the Town ordinances. The letter that John  
9 wrote, and I think it was Claire who read it, goes  
10 into all the details of that.

11                   I believe that the Council really has no  
12 choice but to deny the application. Due to the  
13 Town's agreement with the Estate to diligently and  
14 expeditiously and fairly proceed with the substantive  
15 land review process, I believe you are obligated to  
16 dismiss the application quickly and move onto other  
17 business.

18                   MAYOR POLLARD: Thank you. Marcus Dippo.

19  
20                   **COMMENT BY MR. MARCUS DIPPO:** Hi. I don't  
21 hold myself up as a great speaker, so I hope I'm a  
22 good reader in this case. I'm here speaking in  
23 opposition of the proposal. Like many people in the  
24 community, my path crossed with Jody and Dwayne in  
25 different ways and at different times in the past. I

1 don't have any clear timeline on the following  
2 events, but I think it's about in this order.

3           We attended a luncheon at the Alta Club  
4 for the nature conservancy associated with Jody and  
5 Dwayne's support for the purchase of some property in  
6 the Pacific. If I remember correctly, it was part of  
7 a program called "The Last Great Places." They  
8 showed a movie; it was more like a home movie. It  
9 wasn't slick or overproduced, but it showed their  
10 passion for preserving special areas.

11           I remember another conversation with  
12 Dwayne about wanting to clear the power lines up by  
13 their house because the poles up there were such an  
14 eyesore.

15           Another time, I was part of a meeting with  
16 Bill and Mimi Levitt and Jody and Dwayne when they  
17 asked if we would consider selling the lodge to them.  
18 This was not a solicited -- this wasn't solicited.  
19 There was not an offer. There were no negotiations  
20 and we just declined. Sometime later it was revealed  
21 that they bought the property with the hope, I  
22 believe, to build a hotel there. Unfortunately,  
23 their accident put an end to that planning.

24           I understand that a small hotel was their  
25 dream and not that of the heirs or the lawyers or the

1 Estate. It's my hope that that would be -- that  
2 there would be a different way to honor their memory  
3 than this proposal. This seems like a place where a  
4 charitable donation to a nature conservancy or some  
5 other organization -- a land swap or some other  
6 combination that would accrue some tax benefits to  
7 the Estate while preserving the area for the public.  
8 It would serve the greater good of all of us.

9 I'd ask the Estate to pursue a more  
10 creative way to avoid compounding the tragedy of  
11 their death with the destruction of this beautiful  
12 area.

13 MAYOR POLLARD: Rick Rutgers?

14 MR. RUTGERS: I'd defer to my wife.

15

16 COMMENT BY MS. JOANNE RUTGERS: I'm JoAnne  
17 Rutgers. We live at 9721 Hell Gate. I have two  
18 questions. One is, how much additional road will be  
19 included in the proposal that will need to be plowed,  
20 and is that going to be privately plowed or taxpayer  
21 expense? But the main question is, how much more  
22 additional road?

23 The second one relates to the question of  
24 the sewer, which was put in the timeline. The  
25 decision was put off, but we have the city tank and

1 360 or whatever and the proposed tank of 200, which  
2 is a significant increase. Will this require down  
3 the line upgrading of the sewer system at further  
4 destruction of parts of the ecosystem? Thank you.

5 MAYOR POLLARD: Thank you. Bill Binger?

6

7 **COMMENT BY MR. BILL BINGER:** A suit and  
8 tie on a snow day at Alta. I feel about as out of  
9 place as a subdivision on the summer road.

10 Alan Sullivan spoke of putting cards on  
11 the table. I pulled two jokers and that funny little  
12 card you use when you lose one of the other cards.

13 Alta has a rich history of colorful  
14 wheelers and dealers, schemers and dreamers. My  
15 personal favorite is a fellow who arrived in town  
16 back in the mining days. He makes the case  
17 convincingly that he can raise the dead. That's  
18 right; bring the dearly departed back to life for the  
19 modest fee of \$400. This seemed like a good idea and  
20 a good deal. The town's folk easily raised the  
21 money. Upon reflection as to how the dead got that  
22 way in the first place, an additional \$100 was raised  
23 and a total of \$500 was paid just to get him the hell  
24 out of town.

25 People say, "Put your money where your

1 mouth is," so before I'm accused of having my head  
2 where I can't get near my mouth, I just wanted you to  
3 see what \$100 looks like. It was a lot back then.  
4 It's not much now, but it's a start.

5           Bad dream game show where you have to  
6 choose a door, number one, two, or three. I  
7 protested, "But there are four."

8           "No matter," replied the game show host,  
9 "just choose one of three."

10           "Okay. Then behind door number four is  
11 what I really want to see."

12           "After you make your choice, it's all the  
13 same to me. But remember, it will cost you. Nothing  
14 is for free."

15           "All right. I choose door number one.  
16 Let's look inside."

17           "Congratulations. An 8,000-square-foot  
18 trailer. A doublewide."

19           "Can I make a trade?"

20           "Just for you, door number two. Look what  
21 you got. A brand-new, carved out of the hillside  
22 Alta subdivision lot."

23           "I really don't want that either. Can't  
24 we let it be?"

25           "Nonsense. We're here to play. Give him

1 door number three."

2 Open the other third door.

3 "Is that your final decision? What you  
4 want is tax revenue for an entire subdivision."

5 "What about door number four? You  
6 promised."

7 "So I did. You just won the right to  
8 build on every lot, cost-plus, no bid."

9 "These are my choices? I don't want any.  
10 Is this game show through?"

11 "We'll give you all the doors you want.  
12 It's what we do. We are Alta land developers here to  
13 stay, no matter what the cost. Choose any door and  
14 play with us and you have already lost."

15 I woke up in a cold sweat. Oh, man. What  
16 a night.

17 "Who are you?" I stammered, turning on  
18 the light.

19 "I'm the developer of the game show."

20 His eyes burned like little coals.

21 "And I've just achieved one of my coveted  
22 all-time goals. You can read a contract," he  
23 continued, "and spell, I assume. Well, so can I,"  
24 the devil laughed, "and I spelled Alta's doom."

25 I've been trying to contact Ken Burns,

1 Theodore Roosevelt, and John Muir to see if they can  
2 suggest some way out of this mess so we don't lose  
3 the place we love. There has to be a better way. We  
4 must find a better way. Thank you.

5           MAYOR POLLARD: Thank you. Frank Perkins  
6 was listed as a maybe.

7

8           COMMENT BY MR. FRANK PERKINS: Still is.  
9 I'd like to go on record and say I'm in favor of the  
10 subdivision. I think that it's well thought out. I  
11 think they have gone out of their way to address the  
12 many problems that are there. And in any development  
13 there is going to be problems. There is not a --  
14 there is no development that has ever been built  
15 where it's cut and dry and you can go in and just go  
16 A, B, C, and D. It's up to the Town Council to  
17 decide what needs to be done, but there is no reason,  
18 as someone in favor of the development, not to make  
19 reasonable variances and look at the problems. If  
20 you are in favor of it.

21           I hate -- well, I'm going to bring up a  
22 point that hopefully is not inappropriate. But one  
23 of my issues here is a private property owner who I  
24 feel is having his rights taken away. Sure, to save  
25 the environment, we all want to do that. But would

1 you like your home or your lot -- you thought you  
2 bought this lot and you had the rights to build on it  
3 and then all of a sudden, under the guise of rules  
4 and regulations, you can not do that.

5           And I did not know the Shrontz family  
6 closely. I did know Jody and she bought this -- and  
7 I'll just say this; this is not accurate, but the  
8 rumor was -- to save Alta. She had plans for it.  
9 She went this direction, it didn't work. It didn't  
10 work that way. But it was represented to her that  
11 somebody else was going to buy this property and  
12 possibly do something else.

13           I think it's very reasonable. I think  
14 they have gone out of their way. And she should be  
15 commended and the family should for saving the  
16 property. It could have been a lot different. And  
17 this is very low impact for what could have been  
18 built. So anyway, thank you.

19           MAYOR POLLARD: Thank you. Stacy Petersen  
20 was a maybe.

21  
22           COMMENT BY MS. STACY PETERSEN: My name is  
23 Stacy Petersen and thanks for the opportunity. I  
24 guess I feel like when we are looking at the needs of  
25 the community of Alta, those needs, as I see it, are

1 not building million-dollar homes. What we need to  
2 do is preserve open space, preserve the character of  
3 the place, preserve the summer road, which we all  
4 love. And it really -- you know, make a way for  
5 people who work up here to afford to live up here,  
6 like our own mayor. I think there are, like  
7 Mr. Dipppo stated, more responsible ways to use the  
8 property that is there, to donate it to Friends of  
9 Alta, to donate it to conservation organizations to  
10 preserve Alta. Thank you.

11 MAYOR POLLARD: Onno Wieringa.

12

13 COMMENT BY MR. ONNO WIERINGA: Thank you.  
14 Onno Wieringa from Alta Ski Area. A couple of things  
15 on the Forest Service process. You know, I don't  
16 find many things that Charles doesn't understand  
17 perfectly, but the Forest Service process is one that  
18 I understand a little better than he does. He's  
19 close, though. Know that when you go to the Forest  
20 Service to do a project like this, or any project  
21 that we do on the mountain, you write up your  
22 proposal, you take it to them, they analyze it, and  
23 if they want to entertain the project, there is  
24 plenty of room for public input. They will take a  
25 project and you have to write up a Purpose and Needs

1 Statement, which is a really good idea. It really  
2 makes you look at your thinking. And then you have  
3 to identify the alternatives. Alternatives are going  
4 to be a little tough here. That brings you back to  
5 the whole water issue. One of the obvious  
6 alternatives is to get water out of the Bay City  
7 Mine. Any reasonable person would look at this  
8 proposal and go, "Well, if you are ever going to give  
9 them approval to do this project, you should get  
10 water out of the Bay City Mine. That is where  
11 everybody else gets their water." The Forest Service  
12 will have a little trouble with that line of logic, I  
13 can tell you.

14           So they will go through that and then they  
15 will go through -- there isn't this magic five-acre  
16 threshold. All that is, is if you are over five  
17 acres, you automatically go through a really  
18 extensive review process. As Charles outlined, if  
19 you are under five acres, there is a chance that  
20 they -- if they think the impact of this proposal is  
21 small enough, they might give it a categorical  
22 exclusion, which doesn't mean it doesn't go through  
23 public process; it just doesn't go through as much.

24           So with this proposal with the Forest  
25 Service, there will be plenty of time for public

1 scoping, input. And their public scoping is limited  
2 pretty much to identifying issues that the Forest  
3 Service has not identified when they put it out for  
4 scoping. It's not a vote. It's not who is in favor  
5 or not. So that is how that works.

6           The property -- you know, this property --  
7 the family bought this property because -- for a  
8 variety of reasons they looked at this property and  
9 said, "It's zoned residential. It's zoned for  
10 development."

11           They thought -- you know, at one point  
12 before they bought it, this property was approved for  
13 oh, 16, 18 homes -- battling back and forth. But  
14 talking about whether it was -- you know, on the  
15 basis that it was going to be some sort of a  
16 development. The family bought this property hoping  
17 to be able to do something that they thought was  
18 better and maybe better for the community, more  
19 consolidated, maybe better for the economy. For a  
20 variety of reasons that didn't work out -- some of  
21 them tragic, some of them financial -- now it's back  
22 to, as somebody pointed out, look at the Town plan.  
23 It's a residential piece of property. It's zoned  
24 residential and they are just trying to comply with  
25 the rules as they understand them. And I've watched

1       them go through this catch-22 process, and it is  
2       daunting. I mean, I've never seen so many catch-22s  
3       in anything.

4                       But I will say from our behalf, from the  
5       Ski Lifts Company, the family has been up-front, come  
6       to us wanting to be good neighbors, explaining  
7       everything. And in spite of the fact that it is a  
8       subdivision that they are proposing, they have been  
9       real clear that they want to make it blend into Alta  
10      as well as it can, be good for the community. We've  
11     talked about all sorts of other issues that are tied  
12     to this where we maybe have a chance to make some  
13     improvements with some of the weak links we have in  
14     Alta as it stands now. They have been good neighbors  
15     in this process.

16                      MAYOR POLLARD: Actually, as I look back  
17     through the list here, I had John Byrn on here as a  
18     question.

19  
20                      COMMENT BY MR. JOHN BYRN: I actually  
21     think Frank and Onno said it just right. It's a  
22     property rights issue. The Estate has rights; they  
23     are vested in the Constitution.

24                      MAYOR POLLARD: At this point, that  
25     concludes everybody that was listed on the sign-in

1 when they came in. Did anybody arrive after this  
2 list was brought up front that would like to address  
3 us here today?

4  
5 COMMENT BY MR. HERBERT LIVSEY: I'm  
6 Herbert Livsey. I'm the personal representative of  
7 the Estate of Jody Shrontz. She asked me years and  
8 years ago if I would do that. I didn't know she  
9 would purchase this land and I would get in the  
10 middle of this debate.

11 I decided -- and I hope Ellen and Erik are  
12 not upset with me. I've decided to tell you today  
13 what I've been faced with as personal representative.  
14 I have a fiduciary duty to the heirs to administer  
15 this property, her property, her estate, under the  
16 laws of the state of Utah and to make sure that the  
17 heirs are protected.

18 When Jody was alive, as somebody else  
19 said, it started with a small hotel. For reasons of  
20 experts telling them it was too small, they went to a  
21 larger hotel. That was denied by the city and that  
22 is about where it stood when the tragic plane  
23 accident happened.

24 Afterwards, we met and concluded that the  
25 hotel idea was not workable. The land wasn't zoned

1 for a hotel; it was zoned for residential lots. And  
2 so in an attempt to preserve the estate for the  
3 heirs -- if you will excuse me, I've got to get a  
4 drink of water.

5           Again, I hope Ellen and Erik are all right  
6 if I share some things with you.

7           Jody bought this property from Alta Ski  
8 Lifts Company. You would probably be surprised to  
9 know how she bought it. She went to a bank and she  
10 got a loan for the total amount, and she took New  
11 York Stock Exchange type stock and secured the loan,  
12 collateralized it.

13           After her death in 2003 the majority of  
14 the stock that she used to collateralize the loan  
15 started to drop in value quite quickly. As the  
16 personal representative, I had two alternatives.  
17 One, ride the market down and end up in a situation  
18 where the Estate owed the bank more money than it  
19 had -- more assets than it had, or sell all the stock  
20 that was collateralizing it and pay off the loan. I  
21 chose to do that.

22           I then had in the Estate this property,  
23 which was owned by the Estate, private property. We  
24 then met with Ellen and Erik. We had many, many  
25 meetings. We finally decided to go ahead and, as it

1 was zoned, develop it. The stipulations were that it  
2 be environmentally correct, that it be done  
3 correctly, that everything had their approval -- all  
4 the plans, all the layout, the whole nine yards. The  
5 first thing they asked me is, "Why don't we just put  
6 a conservation easement on it and let it be?" I  
7 said, "Fine."

8 Ellen had a heart attack because I do  
9 taxes. I don't get up and speak.

10 I ran the numbers on a conservation  
11 easement. Under the federal law, it would take Ellen  
12 and Erik 50 to 60 years to recapture the charitable  
13 deductions that they would be allowed for the  
14 conservation easement. We could not give the land  
15 all at once because of conservation easement has a  
16 carry-forward of a few years and then it runs out.  
17 So we would have had to begin to put the land in  
18 little pieces and give it that way over the next 50  
19 to 60 years. That idea was then rejected and we went  
20 ahead.

21 My instructions to this team have been to  
22 comply with every ordinance of the Town of Alta, Salt  
23 Lake City, and the state of Utah. We -- I'm not  
24 going to say it. You heard that the Estate has  
25 expended some dollars in this process. I've done

1 that as PR. I've written the checks and I've signed  
2 them because I wanted this to be in Jody's memory --  
3 Jody and Dwayne's memory. The land is private  
4 property. If it can meet the ordinances, it has a  
5 right to be developed. And the heirs of the Estate  
6 have a right to realize what their mother left them.

7 In thinking about this today, I thought  
8 about any of you, if you had inherited from your  
9 mother a 1932 Rolls Royce or a Bentley -- a beautiful  
10 car, it had been restored, it was worth three million  
11 dollars, but it didn't meet the EPA requirements for  
12 its exhaust system. And so I took a tractor, a huge  
13 tractor, and I flattened it until it was six inches  
14 tall, and when you came screaming up to me, "What  
15 have you done to my Rolls Royce that my mother left  
16 me?" My answer would have been, "It wasn't aligned  
17 with the EPA standards and, therefore, I've destroyed  
18 it."

19 Now, we're slightly different on this lot.  
20 We're trying to be in line with every ordinance. But  
21 how would you feel if that happened to you? That is  
22 what is being proposed to happen to the heirs of the  
23 Estate.

24 And I hope the Town Council knows that my  
25 commitment is to cooperate. My commitment is to

1 comply with all the laws and that's what I've  
2 instructed this legal team to do, and my commitment  
3 to you is we will continue to do it. We would like  
4 the opportunity from time to time and sit down and  
5 talk with you. The only time we've ever had is I  
6 come to these meetings and it's a confrontational  
7 thing. I don't understand why it's confrontational.  
8 This is private property. You have a duty to your  
9 citizens. One of them happens to be the people who  
10 own property. I have a duty to the Estate. I don't  
11 know why we can't sit down and talk this thing  
12 through and work it through. If we're wrong on an  
13 ordinance, we'll correct it. I pledge to you, we  
14 will do what is necessary to satisfy your ordinances.  
15 All I ask of you is to let us come in and talk with  
16 you. Let this be a partnership, a cooperation.

17           Somebody said, "Let's have a memorial to  
18 Jody. Let's give the property away."

19           Would you give your three-million-dollar  
20 Rolls Royce away if I hadn't smashed it?

21           UNIDENTIFIED FEMALE SPEAKER: Yes.

22           MR. HERBERT LIVSEY: We have somebody back  
23 here that said yes. Terrific. I congratulate you.

24           I feel a huge responsibility on my  
25 shoulders. I have to write every check. I have to

1 make every decision after I've talked with Ellen and  
2 Erik. I think what we're doing is in line with the  
3 zoning of the Town. And, again, I pledge to you we  
4 will do everything we need to to satisfy you under  
5 the laws and ordinances that we're vested under.

6 I appreciate your time. I hope that what  
7 I've said has been all right with you. I hope it  
8 hasn't offended Ellen and Erik to share some personal  
9 insights about the Estate. It's not an easy thing to  
10 have the situation we've ended up with. Thank you so  
11 much.

12 MAYOR POLLARD: Thank you.

13

14 COMMENT BY MS. BOBBI TOLMAN: My name is  
15 Bobbi Tolman. I just have a quick comment. This may  
16 be more sentimental than anything else. I've had a  
17 season pass to Alta 20 years of my 21 years of life.  
18 And what that has taught me is that property is not a  
19 Rolls Royce. That can be replaced. It's not a  
20 Bentley. You know, Alta is one of the most special  
21 places in the world. It's unlike anywhere else. And  
22 I'd like to speak for the younger generations and  
23 future generations of Alta that I've seen a lot of  
24 change already in my life happen at Alta. And I  
25 don't necessarily believe that it is a great idea to

1 approve the subdivision. I think that Alta can be --  
2 it's irreplaceable. I don't think that it's a  
3 wonderful idea. It can't be replaced if -- the  
4 subdivision is -- I mean, if it approves, if all the  
5 subdivisions are approved -- sorry. I just don't  
6 approve of the idea as the younger generation of  
7 Alta, and I don't want to see any more changes  
8 happen. Thank you.

9 Thank you.

10

11 COMMENT BY MS. KATIE AHRENSEN: My name is  
12 Katie Ahrenson. I've lived and worked here. My  
13 question is to the Estate planner. And I don't know  
14 if you want to answer this or not, but you talked  
15 about the Shrontzes having a loan that they needed to  
16 pay off. And I was wondering before you started this  
17 road down the development, did you go back to Alta  
18 Ski Lifts and ask them if they would buy back the  
19 land at a reasonable profit? That is my question.

20 MR. HERBERT LIVSEY: We had discussions  
21 with Onno about jointly working together to pursue  
22 the hotel because Jody had really, I think, in part  
23 bought the land because Onno asked her to increase  
24 the number of beds at Alta for tourists.

25 After she died and we talked to people up

1 here, the hotel wasn't an option. I know that is  
2 what Onno wanted was a hotel.

3 MS. AHRENSEN: And did you go back to them  
4 and just say --

5 MR. HERBERT LIVSEY: We had conversations  
6 with Onno. I don't remember if I ever actually said  
7 to him directly, "Would you buy it back for what Jody  
8 paid for it, plus what Jody spent on it up to that  
9 point in time?"

10 I don't remember if that was said or not.

11 MS. AHRENSEN: Okay.

12 UNIDENTIFIED MALE SPEAKER: What would it  
13 take today?

14 MAYOR POLLARD: How about let's --

15 MR. HERBERT LIVSEY: I was only going to  
16 say they don't want to know.

17 MAYOR POLLARD: At this point, that  
18 concludes everyone that has written a request to  
19 speak. We have all of our submitted written comment  
20 and have allowed anybody who is here who did not sign  
21 in to speak.

22 So at this point I will close the portion  
23 of this meeting which was the public hearing. I  
24 think the next item on the agenda would be response  
25 by the Estate to public comments or questions that

1 were --

2 MR. LIVSEY: Kate, if I miss any, will you  
3 help me?

4 MS. BLACK: Sure.

5 MAYOR POLLARD: I misspoke. This is still  
6 part of the public hearing process.

7

8 **RESPONSE OF THE ESTATE OF JOANNE SHRONTZ**  
9 **TO PUBLIC COMMENTS OR QUESTIONS ON PROPOSED PATSEY**

10 **MARLEY HILL SUBDIVISION**

11 MR. LIVSEY: I wrote down four questions.  
12 If I have missed any, I apologize. Maybe Kate Black  
13 can help me.

14 One of the questions asked about bridges  
15 over the wetlands, which I pointed to and said, "Will  
16 not affect the wetlands."

17 Perhaps I will rephrase that. Under the  
18 Army Corps regulations a nationwide permit would not  
19 be required because the wetlands will not be impacted  
20 and, therefore, remediation will not be required. So  
21 when I say, "no effect on the wetlands," I was  
22 thinking that the nationwide permit would not be  
23 required because the bridge would span the entire  
24 distance of the wetlands. I don't know if that  
25 answers your question or not, but that is my take on

1 it.

2 The road issue and winter access,  
3 obviously this is a very key issue. As all of you  
4 know, from the gate on during the winter it is not  
5 plowed. We don't intend to change the status quo  
6 unless we're required to do so. What we've proposed  
7 is that each homeowner, just as everyone else in  
8 Grizzly Gulch and Albion Basin does, would have  
9 over-the-snow vehicle access to their individual  
10 lots. We don't intend to change anything unless it's  
11 required of us.

12 On one of the maps over here, if you come  
13 look afterwards, you will see there is a proposal to  
14 increase parking behind the gate, which would allow  
15 for 20 parking stalls. We believe we've satisfied  
16 the parking requirements under the Town ordinance.  
17 And, therefore, those stalls are not required. The  
18 Town has taken a slightly different position. As a  
19 result of the Town's interpretation of the ordinance,  
20 we have proposed -- basically at the Town's request,  
21 it was suggested that we propose a small section  
22 behind the gate be plowed long enough to accommodate  
23 for 20 spaces.

24 We have also discussed with the Town, as  
25 well as the Ski Lifts Company, the creation of a

1 potential parking structure behind the Lift Company's  
2 Snow Cat shop. That is one of the considerations on  
3 the table at this point. And I think we favor trying  
4 to create solutions which benefit the entire Town.  
5 Parking is obviously a big deal up here, and we think  
6 that a parking structure behind the Ski Lift's  
7 commercial use makes some sense. We don't own that  
8 land. It would have to be at the grace of someone  
9 else that we are able to do that structure.

10 So as far as -- that is two questions in  
11 one -- how will winter parking and public access be  
12 affected and then what will the requirements be for  
13 snow removal. We don't anticipate removing any snow  
14 unless we are required to do the parking. If we do,  
15 that snow removal will be privately taken care of,  
16 not publicly paid for.

17 The third question I wrote down was sewer  
18 system upgrading, and this was a result of one of the  
19 maps or displays we put up that shows the increased  
20 volume of the water.

21 The system is actually very well designed  
22 in the entire Little Cottonwood Canyon. My records  
23 show that approximately 170 million gallons of sewage  
24 can flow down the Little Cottonwood Canyon main  
25 interconnect. I don't know the exact numbers for the

1 Town of Alta, but I understand the sewer line is a  
2 similar size the entire length of the canyon. I  
3 don't perceive that any upgrades will be required as  
4 a direct result of this subdivision. I assume at  
5 some point the system will be antiquated and need to  
6 be replaced. That won't be based on whether the  
7 subdivision does or does not exist. We believe that  
8 the sewer system is adequate to serve the subdivision  
9 as well as any other growth that may take place in  
10 the Town of Alta.

11 It's probably worth noting, there was some  
12 comment about the Town jurisdictional boundaries in  
13 the 1976 contract and the fact that there is a  
14 perception in the public's eye that the boundaries  
15 are the only area -- inside the boundaries are the  
16 only area entitled to water service. I just wanted  
17 to note quickly that the Estate has its own water  
18 contract that predates the Town's water contract.  
19 And what is being proposed and was outlined, the  
20 private water system takes advantage of and uses the  
21 contract as the Estate is entitled to. And as we  
22 proposed, the private water system will connect the  
23 Quincy Mine with the water in the subdivision. And  
24 so we have our own contract and our contract actually  
25 has a jurisdictional boundary which includes the

1 Patsey Marley Hill by name and reference.

2 I did want to point out that there are  
3 several homes in the Town of Alta which approach  
4 8,000 square feet. Those homes are both on the  
5 bypass road on the west end of town, as well as there  
6 are, I think, two or three homes in Grizzly Gulch  
7 that exceed 6,000 square feet. The 13 -- 12 or 13  
8 homes in Grizzly Gulch -- some have commented this is  
9 a pure area that should never be disturbed. The  
10 reality is, this is, as you can see, centered between  
11 a commercial cat house, which is noisy for  
12 maintenance, as well as the homes in Grizzly Gulch.

13 I don't have any other questions. Kate,  
14 did I miss any questions?

15 MS. BLACK: No, I don't think you did.

16 MR. LIVSEY: Does the Town Council have  
17 any questions?

18 MAYOR POLLARD: Just to stay in procedure  
19 with the agenda that we have, I'll close that and  
20 then we'll address that issue.

21

22 **PUBLIC HEARING IS CLOSED**

23 MAYOR POLLARD: So with that being said,  
24 now I'll take the action to close the public hearing.  
25 Do I need a motion on that?

1 MS. BLACK: No.

2 MAYOR POLLARD: At this point I will close  
3 the public hearing.

4 ALTA TOWN COUNCIL DISCUSSION ON PROPOSED  
5 PATSEY MARLEY HILL SUBDIVISION

6 MAYOR POLLARD: Now the next item on the  
7 agenda is the Town Council will discuss issues with  
8 regard to the Patsey Marley Subdivision. Public  
9 comment is no longer allowed unless identified for  
10 your comment. But I will allow any kind of dialogue  
11 between the Estate team and the Council as we deem  
12 necessary.

13 MAYOR POLLARD: You know, actually one of  
14 the questions that I had coming into today was with  
15 regard to the issue of the quantification of the  
16 water quantity out of the Quincy Mine in relation to  
17 the Alta Ski Lifts water contract. And I feel like  
18 you have addressed that and have worked through that  
19 with the Ski Lifts Company.

20 And I don't know if you have clarified  
21 that. Has that been qualified with the Salt Lake  
22 City Public Utilities on that same level?

23 MR. LIVSEY: I don't understand the  
24 question. Has Salt Lake City approved --

25 MAYOR POLLARD: Have they, I guess,

1 validated your calculations that you have sufficient  
2 water from that mine after the full execution and the  
3 rights of the water contract that the Ski Lifts has  
4 out of that source right now?

5 MR. LIVSEY: To my knowledge, this issue  
6 has not been reviewed, and to my knowledge there is  
7 not a requirement that it be reviewed. I think we've  
8 been trying to work with the Ski Lifts Company to  
9 take care of that in a way that benefits both  
10 parties. And I don't know that we will need Salt  
11 Lake City's clarification unless an issue arises  
12 between the two parties. Is that a fair way to --

13 MR. SULLIVAN: We do have the assurance of  
14 Salt Lake City that we have sufficient water for the  
15 development.

16 MAYOR POLLARD: And you have been --

17 MR. SULLIVAN: We will provide that to you  
18 specifically.

19 MAYOR POLLARD: Okay. I don't believe at  
20 this time I've seen that.

21 MR. SULLIVAN: I think it's in the  
22 materials somewhere.

23 MAYOR POLLARD: Okay. From today's or --

24 MR. LIVSEY: It's the 2000 letter from  
25 Salt Lake City to Jody Shrontz. And then there are

1 outlines that the subdivision has sufficient water  
2 for a minimum of 16 homes, which is the annexation  
3 language. We can e-mail that to you.

4 MAYOR GILMAN: Does anybody have any  
5 questions?

6 MR. MOXLEY: No.

7 MR. CURRY: I don't have any.

8 MAYOR POLLARD: Dave?

9 MR. RICHARDS: No. I guess I have one.  
10 I'm sorry. I don't want to sound confrontational,  
11 Herbert, so forgive me. I'm young and, therefore,  
12 inherently dumb, as my old man used to say. But the  
13 Estate has stated time and time again that in the  
14 historical record the City denied rezoning for the  
15 hotel, and I can't find that. I can't find a formal  
16 request to ever rezone the property, nor was there a  
17 formal denial to ever rezone the property. As best I  
18 can tell, there was never a discussion to rezone the  
19 property, unless -- okay, but just for the historical  
20 record, I'm not -- can you produce that? Maybe I'm  
21 missing it.

22 MR. SULLIVAN: There was a petition that  
23 was filed. I don't know that it ever received formal  
24 review by the Town Council. There were multiple  
25 meetings, and I think some of them were public

1 meetings. There was never a formal denial on the  
2 subdivision. It pretty much evaporated through an  
3 informal process. I'd be able to e-mail you a copy  
4 of the petition that was filed.

5           MAYOR POLLARD: I was going to say,  
6 actually, that was something that I had written down  
7 also. And there was a short period of time there  
8 where I was not involved in the Town Council, and I'm  
9 not exactly -- I mean, I should know what dates those  
10 were, but I don't at this time. And I don't remember  
11 any action ever -- actually ever even coming as a  
12 discussion item to the level of the Town Council.

13           And I apologize because it could have  
14 happened in that short period of time, and I don't  
15 have the calendar.

16           MR. LIVSEY: I, like you, was not there.  
17 We have a petition that is styled as a petition to  
18 rezone. I'd be happy to provide that to you.

19           MR. MOXLEY: How is that relevant to all  
20 this?

21           MR. RICHARDS: I have no idea. I'm just  
22 trying to clarify.

23           MR. MOXLEY: I'm just trying to  
24 understand, myself.

25           MAYOR POLLARD: I think we -- it was a

1 discussion with regards to some --

2 MR. MOXLEY: Out of fairness.

3 MAYOR POLLARD: Herb?

4 MR. HERBERT LIVSEY: If I can answer. The  
5 technical answer is after Jody died, we held a lot of  
6 meetings with a lot of different people. We came out  
7 of that with the sense that there was no way in the  
8 world that the Town Council would approve a larger  
9 hotel and I didn't pursue it. If there was a  
10 petition, Charles is bringing up something that has  
11 slipped my memory or I didn't know about. But the  
12 feeling that we had was that it was a dead alley to  
13 try to go down, the hotel route.

14 MR. MOXLEY: How many houses do you need  
15 to make it economically viable for this development?

16 MR. LIVSEY: We've never had a study done  
17 on that.

18 MR. HERBERT LIVSEY: What is economically  
19 viable?

20 MR. MOXLEY: I don't know.

21 MR. HERBERT LIVSEY: The margin is getting  
22 smaller all the time.

23 MR. LIVSEY: With the incremental cost of  
24 the private water system, I don't know. We haven't  
25 had a study done.

1                   MR. HERBERT LIVSEY: I mean, it's really  
2 true. That is why I said I pledge to you -- I hope  
3 you understand we think we have been working with  
4 you. We hope we have been. But the margin is  
5 getting smaller all the time. And I've got a  
6 fiduciary duty that weighs very, very heavily on my  
7 shoulders, and I would like very much to cooperate  
8 and try to move this thing along in a way that you  
9 people can feel good about and we can feel good about  
10 and resolve this.

11                   MAYOR POLLARD: Mark?

12                   MR. HAIK: I was present at a meeting  
13 where that was discussed. It was a Planning  
14 Commission meeting at Bambara. And they did discuss  
15 the requirement for a zoning change at that time.  
16 And I would just urge the Council and the Estate to  
17 review the tapes from that meeting and you can hear  
18 for yourself the subject of the discussion.

19                   MAYOR POLLARD: Thanks. I didn't know  
20 that. Okay. Dave?

21                   MR. RICHARDS: No.

22                   MAYOR POLLARD: All finished?

23                   MR. MOXLEY: Yes.

24                   MAYOR POLLARD: With that, I appreciate  
25 the time that you guys have spent and the information

1 that you have provided us. We will have some  
2 perusing to do. I think I know what I'm going to do  
3 this weekend, go through this. I have appreciated  
4 the effort that you guys have put forward with us and  
5 with the last work session we had. And, you know, as  
6 we toured the property up there last week, that was  
7 extremely informative for us to actually put our feet  
8 on the area we are talking about as opposed to  
9 circling around.

10 I appreciate all those who have come today  
11 and provided us with their input as this issue goes  
12 forward. This is a very emotionally charged issue  
13 among the folks here in the community and as stated  
14 by Herb. And, you know, again, we will provide a  
15 complete and thorough analysis of this and we will  
16 move forward on the process of this.

17 Right now, the next meeting that we have  
18 scheduled to bring this into a public venue again  
19 will be our Town Council meeting on Thursday, October  
20 8th at 10:00 a.m. which is regularly held at the  
21 library community center down the road.

22 And with no other action before us today,  
23 I think we should all go out and enjoy the beautiful  
24 weather we're having today and remember why we're all  
25 here in the Town of Alta and everybody have a good

1 evening. Meeting adjourned. Thank you.

2

3

**ADJOURN MEETING**

4

MR. RICHARDS: I'll move to adjourn.

5

MR. GILMAN: I'll second that.

6

MAYOR POLLARD: All those in favor?

7

COUNCILMEN: Aye.

8

MAYOR POLLARD: Those opposed?

9

COUNCILMEN: (No responses.)

10

MAYOR POLLARD: The motion is carried.

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(The meeting ended at 5:44 p.m.)

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REPORTER'S CERTIFICATE

STATE OF UTAH                    )  
  )  ss.  
COUNTY OF SUMMIT            )

I, Jennifer E. Garner, Registered Professional Reporter and Notary Public in and for the State of Utah, do hereby certify:

That said proceeding was taken down by me in stenotype on September 30, 2009 at the place therein named, and was thereafter transcribed, and that a true and correct transcription of said testimony is set forth in the preceding pages;

I further certify that I am not kin or otherwise associated with any of the parties to said cause of action and that I am not interested in the outcome thereof.

WITNESS MY HAND AND OFFICIAL SEAL this 30th day of September, 2009.

\_\_\_\_\_  
Jennifer E. Garner, RPR  
Notary Public  
Residing in Summit County