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TRANSCRIPT OF THE
WASATCH COUNTY BOARD OF ADJUSTMENT
JANUARY 21, 2016

Board Members Sam Coombs, Jay Eckersley, Merry Duggin,
Present: Anissa Wardell, James Bills.

Others Present: On list attached to a supplemental file.

Staff: Doug Smith, the Wasatch County Planner
Tyler Berg, The Wasatch County Attorney's
Office.

VICE-CHAIR ECKERSLEY: We will call this Board of
Adjustment to order. We would like to welcome all who are
here. My name is Jay Eckersley and I am acting as the Vice
Chairman of this Board of Adjustment and we will conduct
this meeting.

The chairman is no longer on this board so one of our
first items of business tonight will be election of
officers. That is the authorization under which I am
working.

We have an agenda tonight which has at least four
pieces. Is Tyler with us yet?

DOUG SMITH: No, he is not. He said that he would
be here.

VICE-CHAIR ECKERSLEY; So when Tyler comes in he
is one of our county attorneys. Everybody stare at him

1 because he will be on the agenda tonight. He is prepared
2 but just late.

3 Our agenda tonight includes reviewing the minutes of
4 September 3 and we will get to that in a second. Also
5 election of officers as I have mentioned before for the
6 Board of Adjustment. Bear with us. The third is we will
7 have our staff, Doug, review with us all of the findings
8 and the potential actions that this board is in position
9 tonight to address and all of those staff findings so he
10 will come up.

11 After he is done we are going to ask the County
12 Council to review with the Board and we don't do this every
13 time but sometimes we do our job and there he is so
14 everybody stare at him. How are you doing my friend?

15 MR. TYLER BERG: Fine.

16 VICE-CHAIR ECKERSLEY: After Doug is finished we
17 are going to ask Tyler to rehearse with the Board of
18 Adjustment its responsibilities tonight so that we are as
19 tight as we can be. In other words keep us out of trouble.

20 What he is going to talk to us about is reviewing and
21 responding to the staff findings and the planning
22 Commission's record as it relates to this application and
23 receive a respond to Rocky Mountain's application De Novo
24 along with any new information that they may chose to bring
25 forth.

1 We are not planning to do any public hearings on old
2 information. We reserve the right to hold one on any new
3 information that comes in but we may or we may not open to
4 public hearing but if we do it will only be on new
5 information that the applicant brings forward. So that is
6 our agenda tonight. Anything that you want to add to that
7 board members.

8 MR. JAMES BILLS: No.

9 VICE-CHAIR ECKERSLEY: Let me also state up front
10 that we as a community board appreciate all the work that
11 the staff does. We appreciate the attorney. We appreciate
12 Rick and appreciate members of the board. Some of them have
13 driven a bit tonight to get here. Do you feel welcome and
14 appreciated?

15 MR. JAMES BILLS: Yes.

16 VICE-CHAIR ECKERSLEY: With that then we will go
17 right into the first item and there is nothing to add to
18 the agenda Doug?

19 MR. DOUG SMITH: No.

20 VICE-CHAIR ECKERSLEY: And you two interrupt me
21 if you need to, either of you. Rick you can do that too if
22 we are not clear enough.

23 So the first item is to look at the minutes of
24 September 3, 2015 Board of Adjustment meeting and looking
25 for a motion and anything that you want to make. So a

3 them as is.

4 VICE-CHAIR ECKERSLEY: Thank you we have got a
5 motion do we have a second?

6 MR. JAMES BILLS: I will second that.

7 VICE-CHAIR ECKERSLEY: A motion and a second. Now
8 are there any changes, corrections, any discussion on the
9 minutes?

10 MS. MERRY DUGGAN: I am not going to ask for any
11 changes but I would like to make a comment that I thought
12 that we had quite a long involved discussion concerning the
13 issue and I didn't feel that was quite reflected enough in
14 the minutes. I would like to request that perhaps we could
15 do that in the next set okay.

16 VICE-CHAIR ECKERSLEY: But no amendments
17 requested?

18 MS. MERRY DUGGAN: No.

19 VICE-CHAIR ECKERSLEY: Any other discussion on the
20 minutes hearing none all in favor say aye.

21 MS. WARDELL: AYE.

22 MS. DUGGAN: AYE.

23 MR. BILLS: AYE.

24 MR. COOMBS: AYE.

25 VICE-CHAIR ECKERSLEY: AYE. Any opposed? We have

1 motion on minutes, September 3, 2015.

2 MS. ANISSA WARDELL: I make a motion to approve

1 got the minutes approved. The next item is BOA election of
2 officers. Do we have a motion for a chairman and a vice-
3 chairman?

4 MS. DUGGAN: I would like to nominate you as the
5 chairman.

6 VICE-CHAIR ECKERSLEY: Okay, we have got a motion.
7 Do we have a second?

8 MS. WARDELL: Second that.

9 VICE-CHAIR ECKERSLEY: Any discussion on the
10 motion notwithstanding the way I look and lets not get
11 painful here. Any further discussion on them? All in favor
12 of having Eckersley serve as the chairman of the BOA say
13 aye.

14 MS. WARDELL: AYE.

15 MS DUGGAN; AYE.

16 MR. BILLS: AYE

17 MR. COOMBS: AYE.

18 VICE-CHAIR ECKERSLEY: AYE. Are there any
19 opposed? Thank you appreciate that. The second is now we
20 need a motion for a vice-chair person.

21 MS. WARDELL: I would nominate Merry as our vice-
22 chair.

23 CHAIR ECKERSLEY: I was going to vote for her as
24 chairman too.

25 MS. WARDELL: I am sorry.

1 CHAIR ECKERSLEY: We have got a motion for Merry
2 Duggin as vice-chairman.

3 MR. BILLS: I will second that motion.

4 CHAIR ECKERSLEY: We have a second. Any discussion
5 on that? All in favor say aye.

6 MR. COOMBS: AYE.

7 MR. BILLS: AYE

8 MS. DUGGAN: AYE.

9 MS. WARDELL: AYE.

10 CHAIR ECKERSLEY: AYE. Any opposed? We are now
11 legit and operating on a go forward basis thanks. Doug we
12 will turn the time to you.

13 DON WATTS, REPRESENTATIVE FOR ROCKY MOUNTAIN
14 POWER, IS REQUESTING AN APPEAL OF THE PLANNING
15 Commission DECISION OF NOVEMBER 12, 2015 DENYING
16 THE CONDITIONAL USE PERMIT FOR THE PROPOSED NEW
17 DOUBLE CIRCUIT 138 KV POWER LINE WITH ABOVE GRADE
18 POLE HEIGHTS THAT ARE PROPOSED TO BE BETWEEN
19 50-85 FEET. THE PROPOSAL IS ON THE WEST SIDE OF
20 BROWNS CANYON SOUTH OF THE WASATCH/SUMMIT COUNTY
21 LINE IN SECTION 36, TOWNSHIP 2 SOUTH, RANGE 4
22 EAST IN THE JBOZ JORDANELLE BASIN OVERLAY ZONE.

23 MR. SMITH: Tonight we have an appeal to the Board
24 of Adjustment a denial of the conditional use for Rocky
25 Mountain Power. I will go through and give you some

1 background as well as the presentation that essentially was
2 made to the Planning Commission so you have an
3 understanding of things. If I don't give you a full
4 understanding please speak up.

5 This proposal is for a power line which is up in the
6 north portion of the County and adjacent to Brown's Canyon
7 Road and Highway 248. So you can see the north arm of the
8 Jordanelle there and further north that is the proposal.

9 This drawing shows the approximate location of the
10 existing route as it runs parallel to Brown's Canyon and
11 then as Brown's Canyon turns and heads due south it kind of
12 runs southwest over to the sub-station there off Highway
13 40, the existing route does.

14 The proposed route is in red and would come off that
15 existing route and existing right-of-way and head south. I
16 have got a line drawn in there the approximate location of
17 the County line. It comes south and crosses the County
18 border and then heads west from there.

19 This is a more recent aerial photo, closer photo of
20 the development in there. This is very dated as well. If
21 you went up there today you would see a lot more. If
22 somebody could turn those lights off.

23 CHAIR ECKERSLEY: Do you have your pointer Doug?

24 MR. SMITH: Yes. So Highway 248, Park City is this
25 way to the west and Kamas is this way to the south. The

1 Stock Building Supply is right here. This is referred to as
2 Black Rock Ridge. There are seventeen plexes in here. This
3 is an existing seventeen plex built in 2006ish I want to
4 say. Right now there are townhouses and stacked condos in
5 his area here. This is a future phase that will have a road
6 come up here and exit out onto Brown's Canyon. The power
7 line comes right in here like this.

8 MR. BILLS: The proposed line?

9 MR. SMITH: The proposed power line yes right in
10 here and heads west. This is the easement for the proposed
11 power line. So the County line in red. The proposed
12 easement comes down to the corner of the property and then
13 heads west. So you can see that the platted seventeen
14 plexes and townhouses in here. And then that future phase
15 runs up here with a cul-de-sac right here and units right
16 in here. So at the closest point to the closest unit you
17 have got about a hundred and five feet from the unit to the
18 closest point.

19 So just a summary of the proposal. This came to the
20 planning Commission and it required a conditional use. A
21 conditional use only goes o the Planning Commission. It
22 doesn't go to the County Council. The intent behind a
23 conditional use is in various zoning areas we have what is
24 refereed to as a permitted use something that we feel is
25 doesn't have impacts. So for example single family homes

1 obviously permitted use in a residential zone. It is done
2 administratively.

3 Conditional uses are uses that we feel have impacts
4 that will need to be mitigated. It goes to the Planning
5 Commission and they have findings that they need to make to
6 determine if they can mitigate whatever negative impacts
7 that use creates.

8 The intent of a conditional use and probably will
9 cover a few of these. The intent of the conditional use is
10 to mitigate negative affects of the proposal. The basis of
11 having a conditional use is that many uses which may be
12 appropriate in various zoning districts may not be
13 appropriate due to the facts of a specific request such as
14 proximity to a dissimilar use .

15 So what I am trying to infer there is that some
16 conditional uses in a zoning district may be completely
17 appropriate. And as you move closer to a dissimilar use at
18 some point it may not be appropriate. So where that
19 dividing line is I am not sure. And that is why conditional
20 uses are reviewed by the Planning Commission on a case by
21 case basis. One use that is a thousand feet away may not
22 require mitigating conditions. Another use that is a couple
23 of hundred feet you may not be able to mitigate the
24 negative affects.

25 The proposal was denied by the Planning Commission on

1 November 12, 2015. The applicant asserts that the Planning
2 Commission erred in their denial. So that is what this
3 appeal is tonight is you are to determine whether they made
4 a mistake in their denial of the conditional use.

5 The proposal is an upgraded line to provide the
6 necessary power for the growth in the valley. I don't think
7 that there is any argument there that there needs to be
8 upgraded lines into the Heber Valley. Depending on the
9 option and I will show you those in a minute the poles are
10 between sixty-five and a half feet and eight-five feet
11 tall. As I mentioned they are within one hundred and five
12 feet of the medium density residential development to the
13 east.

14 An easement was purchased from a property owner which
15 is Promontory to the north of the development to realign
16 the poles. The easement crosses the County line for a
17 portion of the realignment. We are not aware of any due
18 diligence done with the County prior to the purchase of the
19 easement.

20 The applicant has proposed four options or four
21 alignments. I will go through each one of those.

22 The first one would be running poles on a monopole
23 configuration which violates the ridge line. These would be
24 the poles that are eight-five feet high.

25 The second one would be running poles so they do

1 comply with the ridge line ordinance but requires the lines
2 to be more horizontal so there is four poles for every one
3 pole which is in the monopole proposal.

4 Running poles down Brown's Canyon which is an
5 additional cost of three point three-five million and it
6 doesn't make sense to run poles underground and putting the
7 line underground at an added cost of six point eight
8 million. Due to the state statute any additional costs for
9 any of those options over and above the base cost and Rocky
10 Mountain Power can explain this better, would have to be
11 paid by the County.

12 So Option One you can see on the top and each one of
13 these options will have on the top the existing conditions.
14 This is taken from the intersection of Brown's Canyon and
15 Highway 248. We have a ridge line ordinance in the County
16 and there are various viewing platforms around the County.
17 We can't just say that you know we will go up to the base
18 of the hill and you can't break the ridge line. We have got
19 to have some specific viewing platforms or essentially
20 everything would be a ridge line issue.

21 So from this location you can see on top the existing
22 hills there. And on the bottom picture you can see inserted
23 in that the monopole option one proposal. The lines are
24 coming up and on the ridge they are coming from Summit
25 County and you can see the number under the first one pole

1 number one crosses into Wasatch County and goes above the
2 ridge line there and then dips down and heads west.

3 So you have got essentially four poles in the County.
4 I believe that pole one would be right on the County line
5 but in Summit County I am assuming. Then pole six is in
6 Summit County as well. It shows the distance from that
7 townhouse to the east a hundred and five feet.

8 The cost for this would be five hundred thousand
9 dollars. This is their preferred plan so it wouldn't be
10 something that the County would have to pay for.

11 Option Two to bring the poles down lower and it is
12 intended that they would comply with the ridge line and
13 these would be sixty-five and a half feet tall. It would be
14 four poles so that the lines could be more horizontal
15 lower. On the top again you have got the existing
16 conditions down. Below you have got the proposed alignment
17 so you can see that the first pole in Summit County and
18 then they drop down into that four pole system so you can't
19 see them above the ridge line there. You have got the three
20 sets of four poles there, two three and four. The pole
21 distance would still be hundred and five feet with Option
22 Two.

23 Option Three is running the line underground. So you
24 can see on the bottom slide they would have to put bigger
25 poles at the beginning and berm this so that this

1 underground line so you would have larger double poles
2 there. Then it would run underground for that portion
3 through Wasatch County kind of at a diagonal. The cost of
4 that option would be six point eight million dollars. You
5 can see on that bottom paragraph that according to Utah
6 State Code that we would have to bear the cost of that
7 option.

8 Option Four is running the poles down Brown's Canyon
9 and then out to Highway 248. So you would have essentially
10 eight-five foot high poles all down Brown's Canyon and all
11 the way up Highway 248. You can see the number of poles
12 there in this drawing. That would be an added cost of three
13 point three-five million dollars.

14 When an item comes to the Planning Commission our code
15 in 16.23.07 has a conditional use standard or review. As I
16 have said here this is directly from the code verbatim and
17 that is that the County shall not issue a conditional use
18 permit unless the issuing department or Commission finds
19 and it lists these eight items. These are the eight items
20 in your staff report as well.

21 Number One: The application complies with all
22 requirements of Title 16. The business shall maintain a
23 business license which is not applicable.

24 The use will be compatible with surrounding structures
25 and use, location, scale, mass, design and circulation.

1 Visual or safety impacts caused by the proposed use
2 can be adequately mitigated with conditions.

3 The effects of any future expansion in use or scale
4 can be and will be mitigated through conditions.

5 All issues of lighting, parking, the location and
6 nature of the proposed use, the character of the
7 surrounding development, the traffic capacities of adjacent
8 and collector streets.

9 The environmental factors such as drainage, erosion,
10 soil stability, wildlife impacts, dust, odor, noise and
11 vibrations have been adequately mitigated through
12 conditions.

13 Number Seven: the use will not place an unreasonable
14 financial burden on the County or place significant impacts
15 on the County or surrounding properties without adequate
16 mitigation of those impacts.

17 Lastly Number Eight; The use will not adversely affect
18 the health, safety, or welfare of the residents and
19 visitors of Wasatch County.

20 Just quickly this is the reason why an ordinance and
21 it essentially says from those viewing platforms that
22 structures should not break a primary ridge line. So from
23 that viewing platform as you can remember the hillside has
24 blue sky behind it. We consider that a primary ridge line
25 and so the intent of our ridge line ordinance is to keep

1 structures below those ridges so that we have the views
2 that we enjoy in the valley.

3 I wanted to put in the verbatim minutes of the meeting
4 and essentially since the applicant is appealing the
5 Planning Commission's decision I wanted to go through with
6 you their discussion. I thought that we provided you the
7 verbatim minutes.

8 CHAIR ECKERSLEY: You did.

9 MR. SMITH: Now I don't want to go through all of
10 them but I wanted to start with page thirty on line twenty-
11 four just to show some of the background and this is
12 Commissioner Hayward speaking. He says if I understand we
13 have been through this several times. The conditional use
14 statutes allows developments or structures or uses if they
15 can meet certain parameters of mitigation for the questions
16 that come up. I think and you know that I have listened to
17 the arguments back and forth. We have heard and received
18 information about health issues and distance from the power
19 lines. Shall we say a controversial batch of information.
20 We also have received information on property values and
21 distance from power lines. That also has been a mixed bag.
22 I think that in general the trend is that yes it does
23 decrease property values to have a power line in your back
24 yard.

25 Just on top I can't see that the place that they are

1 going to put this power line can be mitigated. I think that
2 it is something that there is no way to do it. I mean it is
3 where it is and within a certain distance of the other
4 habitation. There s evidence that it will decrease their
5 property values and we will have a negative impact on their
6 lifestyle. I don't think it can be mitigated.

7 So this is part of the general discussion and then we
8 go to Commissioner Jacobsmeyer who says that "Mr. Chairman
9 I would like to make a motion based upon the findings and
10 conditions of the Planning staff that we deny this request
11 for a conditional use permit. I don't know if we have to
12 forward this to the council."

13 Commissioner Lewis says "no that we don't.
14 Commissioner Jacobsmeyer says based upon the information
15 furnished here and the owners in the neighborhood who are
16 vehemently opposed to this instance I think this should be
17 something that we postpone or deny."

18 Chair Gappmayer says that "I think you ought to make
19 the choice if you are making the motion."

20 Jacobsmeyer then says "okay, denied. Forget the
21 postponement and if you are willing to come back with the
22 same snake oil", which I wish that he wouldn't have said
23 but he did.

24 Chairman Gappmayer says that "we also need to include
25 in your motion that we can't see a way that this can be

1 mitigated.

2 Commissioner Jacobsmeyer said that "I thought that I
3 said. There appears to be no change to mitigate the
4 objections."

5 Chairman Gappmayer: "Okay good we have heard the
6 motion and is there a second."

7 And there was a second and then a vote all in favor it
8 was unanimous.

9 So possible findings and I am almost done and sorry
10 for the length of this.

11 CHAIR ECKERSLEY: You are fine.

12 MR. SMITH: Possible findings:

13 The upgraded line is necessary to provide dependable
14 power for the growing population of the Heber Valley.

15 Rocky Mountain Power purchased the easement adjacent
16 to the development in Wasatch County without performing any
17 due diligence with Wasatch County which created a
18 conditional use with impacts that the Planning Commission
19 felt could not be mitigated.

20 The existing power line is currently in the middle of
21 the Promontory development within an easement wholly in
22 Summit County. Rocky Mountain Power purchased a new
23 easement in Wasatch County with the intent to re-align the
24 power poles for the benefit of Promontory residents, the
25 development and to the detriment of the residents in

1 Wasatch County.

2 State Code 54-14-201. Conditions on siting of
3 facilities by local governments - Payment of actual excess
4 costs requires entities to pay additional costs for
5 mitigation measures. The reason that I point that out is
6 because the options that were presented to us essentially
7 were not options unless the County was willing to pay the
8 six point whatever million dollars to put it underground.
9 Even then we still had impacts from the ridge lines that
10 were in Summit County.

11 The Planning Commission denied the conditional use at
12 the November 12, 2015 meeting.

13 The Planning Commission found that the impacts of the
14 proposal could not be mitigated.

15 There was not an error in the Planning Commission
16 decision. The findings listed in 16.23.07 that must be made
17 in order to grant a conditional use could not be met.

18 The applicant states that "The Planning Commission
19 opposed each of the proposed transmission line alignments
20 through Wasatch County presented by the Company, and failed
21 to accept the mitigation measures proposed by the company
22 and failed to accept the mitigation measures proposed by
23 the company to mitigate the anticipated detrimental effects
24 of the project".

25 Again I don't think there were any mitigating measures

1 other than something that would cost the County six million
2 dollars or three million dollars for an option that
3 obviously was worse than the preferred option.

4 The applicant states that "Contrary to the grounds for
5 denial in the report of action Commissioner Jacobsmeyer's
6 motion for denial was expressly based on the position that
7 Wasatch County did not want the transmission line within
8 its boundaries and that the line should remain in its
9 current alignment in Summit County". This however, is
10 clarified by the chair in the motion and accepted as part
11 of the motion. So in that motion it was stated that the
12 detrimental effects could not be overcome.

13 According to the applicant, "the Board of Adjustment
14 should reverse the Planning Commission decision because
15 that decision was based on insufficient and impermissible
16 grounds, and should approve the company's application".

17 The basis of having a conditional use is that many
18 uses, and this is a repeat of one that was earlier, which
19 may be appropriate and various districts may not be
20 appropriate due to the facts of a specific request such as
21 proximity to a dissimilar use.

22 The Board of Adjustment should review this based on if
23 the Planning Commission erred in their motion and their
24 determination that the impacts were not mitigated by the
25 applicant.

1 So I am sorry the last slide.

2 So the alternative actions are number one uphold the
3 Planning Commission decision. So if the Board of Adjustment
4 feels that there was not an error made in the decision by
5 the Planning Commission then you would uphold their
6 decision.

7 Recommendation for continuance if they want to have
8 more information provide .

9 Number three: Agree with the applicant that there was
10 an error in the Planning Commission denial. This action
11 should be taken if the board of Adjustment feels that there
12 was an error made.

13 That is all I have are there any questions or m.

14 CHAIR ECKERSLEY: Questions for Doug please.

15 MR. JAMES BILLS: Tell me what is wrong with the
16 current easement that they have.

17 MR. SMITH: The applicant would be better to fill
18 you in on that. That has been our question from day one. We
19 have asked for the agreement. It hasn't been provided to
20 us. We don't know why they can't upgrade the line in the
21 present easement.

22 MR. BILLS: Okay.

23 CHAIR ECKERSLEY: Any other questions. Nice job.

24 MR. SMITH: Thank you.

25 CHAIR ECKERSLEY: Next item, Tyler will you

1 rehearse with the Board our responsibilities tonight and
2 anything else that you want to share with us.

3 MR. TYLER BERG: Yes, I need to come over here to
4 microphone I guess. I think that Doug has really already
5 gone through your possible findings as well as the options
6 that you have. With the way the County Code is written when
7 someone appeals to the Board of Adjustment the burden is
8 placed on the appealing individual or entity in this case
9 to prove that an error has been made. It is what we would
10 call a De Nova review which just means you guys hear
11 evidence. You just heard the evidence from Doug, from
12 Planning, saying here are our findings. Here is what we are
13 thinking.

14 You are going to hear from Rocky Mountain Power and
15 you are going to hear evidence from them. Because you are
16 actually hearing the new evidence and not just going off
17 paper that is why it is called a De Nova review because
18 both sides have the opportunity to present evidence for you
19 to look at.

20 CHAIR ECKERSLEY: Thank You. Wait, wait, wait
21 questions for Tyler. He just gave us our job description.
22 Are you good?

23 MS. DUGGAN: Yes.

24 Ms. Wardell: Yes.

25 Mr. Bills: Yes.

1 MR. COOMBS: Yes.

2 CHAIR ECKERSLEY: You can still ask him questions
3 once he sits down.

4 MR. DON WATTS: This is the same presentation that
5 we shared with the Planning Commission so new information
6 is in it. Doug just covered a majority of the information.

7 CHAIR ECKERSLEY: Tell us your name.

8 MR. DON WATTS: Don Watts, Rocky Mountain Power
9 representative for Rocky Mountain Power.

10 This isn't our first rodeo in building a transmission
11 line. We have done it several times and we continue to do
12 it to meet the needs of our customers wherever they need to
13 be served. In this day and age it is getting more and more
14 difficult especially as communities develop and grow to
15 find places to put power lines. We understand that not
16 everybody enjoys looking at a power line. To us they are
17 beautiful. They look great in the morning dew as you are
18 looking down the canyon and because they serve a purpose.
19 They serve a purpose to allow our customers to turn on
20 their lights every day without having to think about it.

21 When we come into a position like this we understand
22 that the counter arguments is that not everybody likes to
23 have them there but we have to put them somewhere. We have
24 to have them somewhere. We will talk about how we got to
25 where we are in this particular project.

1 We developed the project in about 2007. We identified
2 a need especially in the summer and winter peaking times.
3 The summer and winter we peak and we are kind of a unique
4 utility in that we peak both in the summer and winter
5 especially here in the Summit and Wasatch County area with
6 the snow making machines and things the ski resorts with
7 the snow industry. A lot of heavy machinery to pump that
8 water and to make snow.

9 So our system has to be separated in the wintertime.
10 Typically we have an older forty-six system that has been
11 place for quite some time. It has served our customers for
12 a very long time very well but it was getting loaded to the
13 point where we could not keep it connected for fear that
14 it might cascade outages if something should happen on
15 another part of the system. We have to separate that system
16 which does reduce the potential for reliability or having
17 redundancy available. So if something happens on that one
18 section that section will go out. So we identify the need
19 for this project to bring that redundancy back into the
20 region.

21 One of the projects which is this one we are building
22 a new transmission line from Evanston, Wyoming which has
23 already been constructed down to about Coalville is where
24 we are at now that has permitted and constructed to that
25 point. The ultimate goal is to get to our Silver Creek Sub-

1 Station which is there off from Highway 248 and Highway 40
2 there just to the northeast side of the highway.

3 The next phase beyond this one that we have been
4 working with Heber Light and Power on specifically because
5 it comes through their service territory which is our next
6 phase which will complete what we need to do to re-enforce
7 the region. That is our Midway to Jordanelle piece of our
8 line. That will be coming from the base of Jordanelle over
9 to the Midway Cemetery which is where our sub-station is
10 over on that westside.

11 We have to have all of the pieces in place to make our
12 plan work. If we cannot build one of these pieces our plan
13 will not work to re-enforce and provide the redundancy and
14 reliability for our customers here in the valley both in
15 Wasatch and in Summit County and to service Heber Light and
16 Power.

17 Doug mentioned that there is no real question that the
18 line is needed. It is desperately needed especially as the
19 growth and developments like Wolper's development continue
20 to come into Wasatch and Summit counties. The need for this
21 line continues to grow.

22 We originally submitted a conditional use permit or
23 application in 2011 but because of the economic slow down
24 it was determined that we go slow our project down so we
25 withdrew our application after that point.

1 In 2014 it was decided that we needed to start
2 wrapping up our project again and develop in the time line.
3 We started to hold meetings. We held several meetings from
4 September 2014 through January 2015 when we filed again. We
5 went through several meetings with the County and through
6 the Planning Commission where we were ultimately were
7 denied.

8 What we are proposing and what we feel we are
9 proposing is nothing new we feel to this County or to this
10 state that has not already been approved other places.

11 If you stand at the corner of Brown's Canyon and
12 Highway 248 you will see another power line already
13 adjacent to other developments to the south where we have a
14 double one thirty-six eight and forty six line that are
15 already there that development was approved in proximity to
16 a line that was already there. So the dissimilar use we
17 disagree on in that there is a line already there that was
18 approved where development was approved adjacent to a line
19 knowing it was there. We feel that the argument goes both
20 ways. That dissimilar doesn't apply because it is already
21 in place there just across the street.

22 This is our Option One as Doug has already shown.
23 There were pole one just for the record is just barely
24 inside the County line on this particular one so there will
25 be five poles within the County. This is our preferred

1 option because we do feel it is the least impactful.

2 When we are designing and when we design our lines we
3 try to design them as cleanly as possible in straight lines
4 and as narrow as we could possibly get them to meet the
5 National Electric Safety Codes. Just like the County uses
6 the Uniform Building Code when they inspect buildings and
7 construct we apply the National Safety Code to our
8 facilities because that is the national standard that we
9 have to adhere to to operate them safely where it won't
10 impact the safety of those that are around those
11 facilities.

12 This is the top down view that shows a little bit
13 different than the County line and then the poles and where
14 it comes in. So we are further west than Brown's Canyon
15 Road and I think that was originally planned out. This is
16 the development that is currently on going right now on
17 this piece. I believe which was just started this last
18 year.

19 This is the Option Two to address the concern when it
20 was brought up concerning the ridge line. The same slide
21 that Doug has shown showing the proximity to the proposed
22 development or the one that is currently under
23 construction.

24 This is a drawing of a typical poles that are for this
25 Option One where we have boh circuits. Each circuits takes

1 three wires, an a, b and c phase. They would be placed on
2 either side of the pole on a single pole at the top and the
3 diameter of the poles are eight to twelve inches in
4 diameter at the base and maybe it is a foot and a half to
5 two feet diameter on a tangent pole. Most of them would be
6 wood.

7 This was the original corner structure where it would
8 take one of the circuits on each pole to turn ninety
9 degrees. There at the bottom corner of the County. This
10 is not showing the two pole structure but you get the idea
11 where the cert would come in and turn ninety degrees one on
12 each pole right there.

13 This design required guide wires. And in our early
14 conversations it was determined that at the end of these
15 guide wires would come out about the same distance as the
16 height of the pole which would put those end of the guide
17 wires which are not electrified at all. They are insulated
18 so they are not energized and they are safe to be around
19 would be about thirty five to forty feet from the edge of
20 the home which was proposed. So to help mitigate that we
21 proposed installing a new corner pole which would be a self
22 supporting pole to get our distance further away from those
23 residences. This would put us over a hundred feet away from
24 those residences which is a lot further than where we are
25 in some of our downtown Salt Lake wires. We have got poles

1 in front yards and we operate them safely without incident
2 because they meet all of the National Electric Safety Code
3 requirements for clearances. We work very hard to make sure
4 that we meet those.

5 We feel that this is our least over impactful design.
6 It gets us the furthest away and the fewest number of poles
7 within the County. It keeps our right-of-way as narrow as
8 we can possibly keep so that we can still meet our
9 requirements for vegetation clearing and for safety. With
10 the addition of that new corner pole it increases our
11 distance from the nearest resident to over a hundred feet.

12 Option Two was presented to address in an attempt to
13 address the ridge line ordinance that was in Wasatch
14 County. This is a top down view and you can see from the
15 top perspective we shifted pole number one north of the
16 County line. Then we would roll flat on the four pole
17 structure that Doug has shown. I have got it under the same
18 picture that I can share but there is a trade off and then
19 we have to go wider to keep our clearances from each of the
20 conductors on those poles for safety reasons. The same
21 corner pole as in Option One and then this is the pole that
22 requires us to go flat.

23 We substantially reduce the heights of the poles so
24 that we can get them closer to that ridge line but we do
25 have to go wider as a consequence of it. This is an option

1 that we are willing to build. We have stated that before so
2 that we can be more substantially in line with the ridge
3 line ordinance.

4 MR. BILLS: This is one that will cost the County
5 some money?

6 MR. WATTS: No, the costs are between one and two
7 and the costs are very similar so there is not cost
8 difference to the County on this.

9 MS. DUGGAN: Mr. Watts question please.

10 MR. WATTS: Yes.

11 MS. DUGGAN: You mentioned that you are having to
12 do vegetation clearing underneath these lines. Option One
13 would be how wide?

14 MR. WATTS: Option One I think our easement is
15 sixty feet, thirty feet from center line each way sixty
16 feet.

17 MS. DUGGAN: So you clear vegetation sixty feet
18 wide?

19 MR. WATTS: Correct.

20 MS. DUGGAN: And the same with Option Two?

21 MR. WATTS: Option Two we would do the same type
22 but it would have to be wider.

23 MS. DUGGAN: Even wider.

24 MR. WATTS: Even wider because we have to spread
25 out. The main thing that we look for are certain types of

1 trees that will pop up in our easements and we don't want
2 them growing up into our lines. That causes a lot of safety
3 hazards.

4 MS. DUGGAN: So this would be directly under the
5 wire.

6 MR. WATTS: Correct.

7 MS. DUGGAN: And would make the right turn or the
8 ninety degree angle.

9 MR. WATTS: Whatever the width of our easement
10 would need to be we would have to clear to the edge of
11 those easements.

12 MS. DUGGAN: If you easement only sixty feet wide
13 how would you clear vegetation wider than that?

14 MR. WATTS: Not wider than our easement no. And
15 clearing vegetation is any types of brush, under growth
16 that can grow up that break our minimum clearance to our
17 conductors. We are not going to remove grasses and other
18 things. Those would still be allowed to be on there but
19 trees and those that would exceed the minimum clearance
20 that we need we would have to cut them.

21 MS. DUGGAN: So is this the same easement that you
22 would access if you needed to do any service maintenance?

23 MR. WATTS: Correct, we would use the same
24 easement.

25 MR. BILLS: At some point and time will you

1 explain what is wrong with the current easement that you
2 are using.

3 MR. WATTS: You bet.

4 MR. RICHARD HALL: So Richard Hall an outside
5 counsel for Rocky Mountain Power and assist on their side
6 regarding power lines. That question has come up a number
7 of times why can't we stay within the existing easement
8 there. As Don as alluded to nobody gets terribly excited
9 about finding out these power lines are going to be in
10 proximity of their structures.

11 MR. BILLS: Right.

12 MR. HALL: We have got an existing easement there.
13 As was explained to the Planning Commission those are very
14 old easements. They were center line easements that did not
15 clearly outline what the widths of those easements are.
16 Unfortunately we have got those older easements throughout
17 our system there. When we encounter them particularly when
18 we have to grid lines we approach the landowners and ask if
19 we can go ahead and get a new easement that clearly
20 outlines the width and in this case thirty feet off the
21 center line of the easement there.

22 When Promontory was approached about this they asked
23 Rocky Mountain Power if that easement would be moved.
24 Keeping in mind that the easement stays within Promontory's
25 property. So we are moving it from that original one the

1 landowner has asked us to put it on the outside edge of
2 their property and in fact has agreed to pay the difference
3 to move that there. So you know we do this commonly
4 throughout our system there.

5 When we have a landowner that we approach for an
6 easement and they request that we move it we will go ahead
7 and move it at their cost in order to protect our rate
8 payers but we will move it to a different location.

9 Now does that mean that the adjoining landowner is
10 sometimes unhappy because now it gets closer to the
11 property, yes it does. In fact this seems to be the case
12 here as well. Keep in mind we have to respect not only the
13 adjoining landowner we have to respect the landowner who
14 has the easement within his property.

15 MR. BILLS: Which do you respect the most?

16 MR. HALL: The question becomes which one do we
17 have to respect more. We are within one property we try to
18 mitigate the impacts of the adjoining property owners. The
19 comment was made by Doug that there has been no attempts at
20 mitigation under Options One and Two. In fact quite a bit.

21 We can't make these lines disappear. We have got them
22 all over the state near residences all over the state. We
23 can't just make them disappear and you can't see them. They
24 are always going to be impacts from those.

25 MR. BILLS: So you are saying that the easement

1 that you have now is not an easement.

2 MR. HALL: It is an easement.

3 MR. BILLS: You can't use it.

4 MR. HALL: Would not under this system. We don't
5 have clear, we would have to get an amended easement with
6 a clear width on it. The current one is just the meets and
7 bounds description as to kind of as built location of the
8 line.

9 MR. BILLS: Do you keep it cleared now from
10 vegetation?

11 MR. HALL: We do keep it clear.

12 MR. BILLS: How wide?

13 MR. HALL: Could ask our folks here we keep it
14 clear but we won't build an upgraded line in those
15 easements.

16 MR. BILLS: Why?

17 MR. HALL: Because it creates a problem if the
18 landowner comes to us and says how wide is your
19 easement? We don't know. We don't have it clearly outlined
20 in the document.

21 MR. BILLS: Isn't there some statute like fence
22 lines that says it has been here a hundred years?

23 MR. HALL: We can go in there and try and fight
24 that battle with every single landowner.

25 MR. BILLS: Well, we are just talking about one

1 landowner here.

2 MR. HALL: Keep in mind that one landowner sets a
3 precedent for the next landowner. If one landowner comes
4 and says hey this we create precedence all along the
5 system. I mean it is easy to focus on one landowner.

6 MR. BILLS: I know but okay so here is what I am
7 struggling with okay. That landowner says move it over here
8 where it will impact not only that landowner but a new
9 landowner and a new County that has ordinances and
10 restrictions. That is a big move. That is not just oh okay.
11 So tell me why it is not easier to deal with Promontory
12 than with all of this stuff.

13 MS. HEIDI GORDON: If I just may quickly. My name
14 is Heidi Boren and I am in house counsel. I just wanted to
15 clarify really quickly, one quick statement. That is at the
16 time of this new use easement was granted that adjoining
17 property the bank owned so there was no development going
18 on. There was no plan for development to go on. It was
19 owned by the bank at the time.

20 MR. BILLS: Was the ridge line ordinances in place
21 in this County do you know?

22 MS. GORDON: There was a ridge line ordinance in
23 place but I don't know what it says.

24 CHAIR ECKERSLEY: Wait just a minute we would like
25 to have you come up to the mike.

1 MR. HALL: Certainly and we have tried to mitigate
2 and comply with the ridge line under Option Two there.
3 Again we think the impact of those flattened out lines may
4 actually increase preferences when we do Option One because
5 we think there is less of an impact but to the extent in an
6 attempt to comply with the ridge line ordinance which
7 admittedly we question whether it applies to the poles
8 accepted that we are just going to work that way. We have
9 gone for Option Two to try to comply with the ridge line as
10 well. That again is another attempt to mitigate the impacts
11 here which we have tried to do heavily through the options.

12 MS. HEIDI GORDON: My name is Heidi Gordon.

13 CHAIR ECKERSLEY: Why don't you make your comment
14 again.

15 MS. GORDON: At the time that we acquired the new
16 easement from Promontory the adjacent property was bank
17 owned. So this new developer actually acquired this
18 property after the easement was already and had already
19 been in place.

20 MR. HALL: Keep in mind too that every time that
21 we move a line there is always one landowner that thinks he
22 is getting further impacted and another one that a
23 preference on location. We just have to deal with that.
24 Your question about do we need that impact one over another
25 we are not in a position to make that decision. We do the

1 best that we can with what we are dealing with.

2 MR. BILLS: We are just dealing with just one
3 landowner okay. So he just says instead to put it here, put
4 it over there.

5 MR. HALL: On his own land.

6 MR. BILLS: I understand that. But now he has
7 moved it over to his neighbor.

8 MR. HALL: But again is it his responsibility to
9 say okay I am going, for example lets just take Promontory
10 and I don't know Promontory's entire plan but certainly
11 have heard things there.

12 They have plans for development within the center of
13 their property.

14 MR. BILLS: Okay, didn't they know that there was
15 a power line in the center of that property?

16 MR. HALL: They did and they approached us at the
17 time and they said that we would like to relocate that line
18 to reduce the impact on their property.

19 MR. BILLS: So they have asked you move it first
20 before you decided to upgrade?

21 MR. HALL: Oh no when we came to them for the
22 relocation of the line or for the upgrade of the line and
23 started to discuss about getting an upgraded easement that
24 is when the request was made. They tried to take it out to
25 the edge of the property but admittedly it was to reduce

1 the impact on that landowner's property.

2 MR. BILLS: So if I have an easement through my
3 property with your power line I can ask you to move it?

4 MR. HALL: Well, it depends on the nature of that
5 easement and whether or not and on that point actually if
6 you are willing to pay the cost of that we always entertain
7 that.

8 MS. GORDON: Yes, there is two considerations that
9 if the property owner wants a power line moved is the cost.
10 And if the property owner is willing to pay that and if it
11 works for us from an operational standpoint. So those are
12 the two things that we think about when we consider those
13 requests.

14 MR. HALL: We are required to provide safe,
15 adequate efficient power. If those can't be met with the
16 relocation we do have to deal with that. In this case it
17 was felt that we could in fact relocate that line and meet
18 our standards with respect to the requirements to provide
19 safe, reliable, adequate efficient to our customers subject
20 to Promontory paying the difference in the cost. That is
21 what we looked at there.

22 We can appreciate every time we move a line it creates
23 impacts. We reduce them in one place and increase in others
24 unfortunately that is the business that we are in.

25 MR. BILLS: I understand that.

1 MR. HALL: Any other questions?

2 CHAIR ECKERSLEY: Don are you finished or are you
3 coming back up?

4 MR. HALL: Probably still working through the
5 options and I can talk about mitigation that was done.

6 MR. BILLS: Sorry about that.

7 MR. WATTS: Moving to Option Three that Doug
8 already discussed was the underground option. If there are
9 any questions on this one. The first state statute was
10 mentioned that any additional costs to bury a line would be
11 at the cost of whoever requests that to happen. In this
12 case the estimated cost would be about six point eight
13 million dollars which is an option if there are parties
14 that are willing to pursue that.

15 Then of course Option Four. Options Three and Four are
16 not our favorite. We don't necessarily like underground
17 transmission lines. We have to operate them differently
18 than we do our overhead lines. We can't what we call re-
19 close on fault on an underground line which can impact the
20 restoration at times if there is a fault on an underground
21 transmission line. So there is some reliability things that
22 we have to take into consideration when we have to bury or
23 when we are asked to bury a transmission line.

24 Option Four of course was the one down Brown's Canyon
25 which we don't think is a viable option. It was an option

1 that was presented to show what options may be out there to
2 look at.

3 We look at sound when we design our structures. Sound
4 and you will hear a lot of people talk about the crackling
5 noise and everything else. And we ran some calculations and
6 the noise level would be about the sound of a library, very
7 quiet because the sound is primarily determined by the
8 voltage of the line and the size of the wire. The size of
9 the wire for this particular project, we are using what we
10 call a twelve seventy-two ACSR which is just over an inch
11 in diameter which is one of the larger wires that we use so
12 the noise is greatly reduced. We are not using the three
13 forty-five voltage which is the ones that are typically the
14 one you hear crackling in the humidity.

15 The safety codes to talk about the proximity to
16 buildings we meet or exceed in this particular case by far
17 the minimums distances to adjacent buildings. One hundred
18 feet is and essentially can call it a hundred miles in an
19 electrical safety distance almost because we have a ten
20 foot safety working circle for our transmission lines if
21 there is anyone working near our transmission lines. We are
22 going to be over a hundred feet from these transmission
23 lines from the nearest building of adjacent building.

24 So we work very hard to make sure that we meet or
25 exceed these safety standards to keep risks to not only our

1 workers who work on these lines every day at a minimum but
2 also to the residences that are around or live or work or
3 play or walk underneath our lines.

4 To talk about the property values to show mitigation.
5 CH2HILL did a massive study in a collection in taking in
6 studies from other companies and reviewed them to find out
7 what are the impacts of transmission lines on property
8 values. I will let you read through some of these
9 summaries. This is the summary of their report of gathering
10 multiple reports together that were done in the industry by
11 experts.

12 They find that there are impacts but those impacts
13 tend to go away over time. Just like when we build
14 something most of the time everybody notices it when we are
15 working on it but they tend to disappear after they live
16 with it when they are around it. They don't notice them
17 because they are every where. Transmission and distribution
18 lines are every where in our world. We see them along the
19 highway. We see them along our roads and streets and we
20 don't pay attention to them. They don't impact property
21 values over time is what the summary of this report
22 especially as we are further away.

23 One of studies indicated that distances ranging from
24 two hundred feet to six hundred feet that the value or the
25 impacts were greatly diminished. We are already half that

1 distance away so the impacts according to these studies
2 should be minimal on those property values.

3 Any further questions?

4 CHAIR ECKERSLEY: Any questions for Rocky Mountain
5 Power?

6 MR. BILLS: I have a question regarding the
7 easement. How long has that easement been there about a
8 hundred years?

9 MS. GORDON: If that is the average I don't know
10 specifically on this one but the average along this line is
11 about hundred years.

12 MR. BILLS: Pretty established I would think.

13 CHAIR ECKERSLEY: Older than I am.

14 MR. BILLS: It was probably there before
15 Promontory bought the property right?

16 MS. GORDON: Yes, I expect that is right.

17 MR. BILLS: Yes.

18 CHAIR ECKERSLEY: Any other questions for Rocky
19 Mountain representatives?

20 MR. BILLS: No.

21 CHAIR ECKERSLEY: Okay, thanks. Okay, I am going
22 to talk for just a little bit.

23 As I mentioned up front the Board of Adjustment
24 doesn't have to open to public hearing because there has
25 been numerous public hearings go through the Planning

1 Commission. When nothing new is presented therefore there
2 isn't the need.

3 When something new is presented then we have the
4 option. The prerogative of the chair is and I will mention
5 why I think there has been new information presented. There
6 may not be any public comments want to be made and that is
7 fine. I am not requesting them.

8 What we just heard was from Don Watts is that there is
9 no new information tonight over the prior record. At the
10 same time it is my opinion that your time line over view
11 which was well presented that spoke to a lot of
12 communications with the Planning staff, the Wasatch County
13 Planning staff that is a little counter to what we have
14 heard in the staff report. So I would view that as new
15 information. In essence you are taking exception to the
16 Planning staff's report that there hasn't been a lot of
17 communications. You introduced new information. I don't
18 know we have had a lot of communications with the County
19 Planning staff.

20 You also raised voluntarily the notion that there is
21 other similar uses in the area that this is not unique and
22 therefore the Planning staff should recognize that there is
23 other similar uses. I see that as new information that you
24 are presenting.

25 You mentioned briefly that you want a straight line

1 wherever possible. I hadn't heard that and I didn't see
2 that in the Planning Commission record.

3 Then you also have talked about and this is
4 interesting. I am going to ask you a question. You talked
5 about the old easement. You brought it up relative to the
6 property owner in Summit County that the old easement to
7 the new easement Rocky Mountain Power would only receive
8 the cost of the move. In other words you have a straight
9 line a hundred year easement. Instead the property owner
10 wanted you come down this way and cut across so the longer
11 unstraight line you volunteered that you received from the
12 property owner just the cost of the new easement. That is
13 what he said. Do you want to counter that?

14 MS. GORDON: The cost difference to construct in
15 the new location versus what it would have cost to build in
16 the current location.

17 CHAIR ECKERSLEY: Right so I would view that as
18 Rocky Mountain Power comes out zero, net zero. When this is
19 all over you didn't reap a negotiated settlement of a
20 larger number. You are just moving the line and they are
21 paying the cost of you just moving the line.

22 MS. GORDON: That is correct.

23 CHAIR ECKERSLEY: Okay, I think that is new
24 information that Planning Commission asked for in their
25 record and just didn't get an answer to it. I think that is

1 helpful new information.

2 Given that, see if I have any other notes. Then the
3 CH2HILL analysis and I don't think it was brought up in the
4 Planning Commission record am I wrong.

5 MR. HALL: There was actually a discussion about
6 the relocation of the line.

7 CHAIR ECKERSLEY: Do you remember that Doug that
8 study which says the impact over time is net zero. I don't
9 know what happens over time from the day that you set the
10 line but at some point down the road there is no longer an
11 impact. That makes me smile a little bit only because I
12 don't know how long those property values stayed the same
13 or went down. Maybe they went up but over time it does have
14 an impact.

15 So I am sort of viewing this as some new information
16 which I find helpful. It leads me to say to open it up if
17 there is any public comments that wished to be made I am
18 going to open up public comment right now. It will be brief
19 so please be brief if you have got any comments to make. I
20 am not requesting it. If you don't want to say anything
21 don't need do. But I am going to open it up for public
22 comment.

23 MR. HALL: Limited to the new information or just
24 the old information.

25 CHAIR ECKERSLEY: Only limited to the new

1 information.

2 MR. JEREMY REUTZEL: My name is Jeremy Reutzel
3 and I represent Mark 25. Mark 25 is the adjacent landowner.
4 I think there is another piece of new information.

5 CHAIR ECKERSLEY: Respectfully what is that?

6 MR. REUTZEL: The information is when we were here
7 in front of the Planning Commission Rocky Mountain Power
8 never said that they couldn't use the existing easement. I
9 don't think that is what they said tonight but they seemed
10 to insinuate that they can't use the existing easement.

11 I don't believe that is true and I can tell you why I
12 don't believe that is true but I would like to be able to
13 address that as well.

14 CHAIR ECKERSLEY: Let him address the existing
15 easement use members?

16 MR. BILLS: I do.

17 CHAIR ECKERSLEY: We would like you to address
18 that.

19 MR. REUTZEL: Okay, so this appeal is not about
20 upgrading a transmission line. Lets be clear it is about
21 moving it from an existing easement that has been there for
22 a hundred years to a new easement that was obtained
23 unilaterally without comment from Wasatch County or without
24 comment from the adjacent landowner. Well, they said that
25 the property may have been owned by the bank. I am not sure

1 that is true. Even if the bank owned it you ought to get
2 with the adjacent owner and say that we are moving a power
3 line in here what do you think?

4 You ought to come to Wasatch County if you are
5 thinking about putting in Wasatch County. They didn't do
6 that.

7 Moving on to the easements. As has been discussed they
8 had an easement for a hundred years. The easement is a
9 single pole line easement. It allows them to put a single
10 pole line in just like what they are proposing to do in
11 Option One. It allows them to do that.

12 In fact, if you look at the records from Summit County
13 there are some notes in there that say hey they can use the
14 existing easements for this upgraded transmission line.
15 They can.

16 What they have decided to do and whether it was
17 intentional or it was just kind of a mistake they decided
18 to value Promontory more than they decided to value Wasatch
19 County or the adjacent landowners.

20 CHAIR ECKERSLEY: Don't go too far or I will feel
21 badly that I opened it up for public comment. Just address
22 the new information as best you can and try not to get into
23 what was going through their heads because you really don't
24 know that.

25 MR. REUTZEL: You are right I don't. Like I said I

1 don't know what was going through their head. But I do know
2 that the adjacent landowners weren't talked to. And I do
3 know that the County wasn't applied for in this alignment.

4 The easement exists. It has existed and they can still
5 use it. That is the biggest point here.

6 We are talking about mitigating and the only
7 mitigation that you can do is put it where it already is.
8 That takes away the fire hazards, that takes away the
9 noise, it takes away all of those issues.

10 The only other thing that I would like to point out to
11 the County is that the fire marshal despite what they are
12 saying about safety, the fire marshal has a letter on the
13 record with the Planning Commission that says that we don't
14 think this is safe.

15 CHAIR ECKERSLEY: We have that information in our
16 record from Neering, isn't is Marshal Neering? What is his
17 title?

18 MR. SMITH: Fire Marshal.

19 CHAIR ECKERSLEY: Fire Marshal Neering we have
20 that letter.

21 MR. REUTZEL: Okay. I mean there is a whole bunch
22 of other arguments that I would like but to respect your
23 wishes that I limit it to just the new information.

24 CHAIR ECKERSLEY: We need to do that.

25 MR. REUTZEL: Okay.

1 CHAIR ECKERSLEY: Anything else on new?

2 MR. REUTZEL: I don't believe so. If you have any
3 questions for me I would be happy to answer them. I have
4 looked into the easements and the law on this several
5 times.

6 CHAIR ECKERSLEY: Stay there and lets ask. Any
7 questions that you want to ask.

8 MS. DUGGAN: I do have a question. So you are
9 representing the new development that is going to go in?

10 MR. REUTZEL: Well, the development has been
11 existing and it is also being developed there right now.

12 MS. DUGGAN: Okay, so the information that we have
13 tonight is that the new development that will be built is
14 within a hundred and five feet of where that proposed line
15 would go.

16 That has already been approved yes?

17 MR. REUTZEL: Yes.

18 MS. DUGGAN: Do you know when that was approved?

19 MR. REUTZEL: I think it was approved earlier this
20 year I believe the portion that is one hundred and five
21 feet. Part of the development has been there for several
22 years already. But the portion that is within one hundred
23 and five feet I think it was approved.

24 MR. SMITH: It was December of 2014 wasn't it.

25 MR. RICH WOLPER: Yes, and the other part which is

1 also one hundred feet away or less.

2 CHAIR ECKERSLEY: You will have to come up if you
3 want to speak.

4 MR. RICH WOLPER; I am sorry. I didn't mean to
5 interrupt.

6 CHAIR ECKERSLEY: Well, no either way. I am just
7 saying that.

8 MR. RICH WOLPER: I apologize.

9 CHAIR ECKERSLEY: Don't apologize. We are happy
10 that you are here.

11 MR. RICH WOLPER: My name is Rich Wolper with Mark
12 25.

13 CHAIR ECKERSLEY: We smile when he smiles.

14 MR. RICH WOLPER: Okay, if you look at the other
15 direction where the building has been with the garage
16 assembly it has been there since 2005 but I think was
17 failed to represent. That has been there for ten years.
18 That is also one hundred feet away and that was built in
19 2005, 2006 maybe.

20 CHAIR ECKERSLEY: So I have a question. You can
21 probably articulate it better than I can. Who was there
22 first? I am not sure that it matters and you brought it up
23 and it was in the bank in receivership or something.

24 MS. DUGGAN: I did happen to pull up the new
25 easement today and it was actually executed in March of

1 2011 and recorded in October of 2011.

2 MR. RICH WOLPER: We started in 2003.

3 MS. DUGGAN: I am sorry what year.

4 MR. RICH WOLPER: We started the development in
5 2003.

6 MS. DUGGAN: 2003 and 2011 and so somebody didn't
7 consider something, some where along the line. I certainly
8 can't pass judgment. It just seems that this new easement
9 is a curious choice with so much undeveloped land out there
10 that it would be this close to the property line.

11 MR. RICH WOLPER: Thank you.

12 MS. DUGGAN: Thank you.

13 MS. WARDELL: Jay, I have a question. I don't know
14 if it goes to Doug.

15 CHAIR ECKERSLEY: We are going to pull Doug up
16 too. So go right ahead. Come on up Doug thanks. Are you
17 finished?

18 MR. REUTZEL: I don't have anything but I can
19 answer any questions that somebody might want to know.

20 CHAIR ECKERSLEY: Any questions for him?

21 MS. DUGGAN: No.

22 MS. WARDELL: No.

23 MR. BILLS: No.

24 MR. COOMBS: No.

25 CHAIR ECKERSLEY: Okay, thank you very much.

1 MS. WARDELL: Doug in the August minutes it says
2 that you indicated that the power line easement is adjacent
3 to a medium density development that is under construction
4 and some structures could be within twenty to fifty feet of
5 the power poles.

6 MR. SMITH: I think at that time we were looking
7 at the guide wires that Don mentioned. The guide wires
8 might have been twenty to thirty feet. When they go to
9 the single monopole situation then they are one hundred and
10 five feet. So it has kind of been refined over the months
11 and months that we have gone from Planning Commission to
12 Planning Commission to Planning Commission.

13 MS. WARDELL:; Okay.

14 CHAIR ECKERSLEY: Any other questions for Doug? I
15 have got a couple.

16 So Doug do you want to reply and you don't need to.
17 With regard to the time line overview Planning and staff
18 communications do you take any issue with that or was that
19 just before you?

20 MR. SMITH: Well, it wouldn't have been before me.
21 As far as communication Don and I had talked throughout
22 those months that this has been bouncing around.

23 I must admit that I have a bad memory because I have
24 so many projects happening that sometimes conversations are
25 forgotten by me. If you have a specific question about

1 anything I remember than I will try to answer.

2 CHAIR ECKERSLEY: I am not even sure that we would
3 act upon that. It is just that it was in the report. The
4 Planning Commission doesn't like it when people come
5 forward with proposals that haven't been well worked with
6 our chief planner.

7 It appeared as though this project wasn't fully
8 reviewed with you. Certainly, the notion of the purchase of
9 the new easement and the plans for that was that news to
10 you or was that something that you think was discussed and
11 you forgot about it.

12 MR. SMITH: No, I don't think it was discussed. If
13 you are referring to the easement I think as Don referred
14 to on his slides that there were meetings with Summit
15 County and Val Draper and our Economic Development Director
16 at the time.

17 I think that was probably a thirty thousand foot level
18 where it was kind where we need to approve lines here and
19 here and here. We are going to have a line running here. I
20 doubt that we were going to have an easement right here and
21 poles within a hundred feet of a neighboring development.

22 But with Val Draper might have been the Chair of the
23 Wasatch County Council at that time and our Economic
24 Development Director they really needed to have a Planning
25 person to call. It would have been my predecessor at that

1 time. It was all news to me.

2 CHAIR ECKERSLEY: Yes, it wasn't in the record.
3 What about the notion that there are similar uses that
4 might have an impact on your staff report of the
5 applicant's proposal?

6 MR. SMITH: The similar use that the line that was
7 referred to on the south side of Highway 248 there is a
8 line in there now that has been there for I don't know how
9 long probably decades. We approved a development not quite
10 as high density as this but close. And the poles there I
11 doubt are eighty-five feet tall. I think they are wooden
12 poles and they are probably more like fifty to sixty feet
13 tall.

14 You know that the argument can be made that the
15 developer bought the property. They knew that they were
16 there. They were anticipating and they new that. That was a
17 conscious decision to build homes within I can't even tell
18 you how many feet they are.

19 MR. BILLS: Are they one hundred and thirty-five
20 Kv lines?

21 MR. WATTS: Yes, it would be the same. One circuit
22 is one thirty-eight and the other is forty-six same as what
23 this would be.

24 CHAIR ECKERSLEY: Anything else for Doug?

25 MS. DUGGAN: No.

1 MS. WARDELL: No.

2 MR. BILLS: No.

3 MR. COOMBS: No.

4 CHAIR ECKERSLEY; Well, that is our public
5 hearing. Is there anything anybody else who wants to make a
6 comment on the new information?

7 MS. GORDON: I just have a clarification and maybe
8 you guys can answer this for me. I have looked at the deed
9 and at the time that we acquired this easement it was owned
10 by the bank. I understand that you are saying you started
11 the development in 2003. So is there a change in title
12 during that time?

13 MR. REUTZEL: As I understand it the development
14 started in 2003. The title has shifted certainly between
15 different entities in that time with regard to ownership.

16 MS. GORDON: But except during the time that it
17 was bank owned.

18 MR. REUTZEL: I don't think that was in 2011.

19 MS. DUGGAN: There were documents recorded as far
20 back as 2006 regarding the development that I located. The
21 time line is fuzzy to me as well but it does precede the
22 Rocky Mountain, the new easement agreement.

23 MR. SMITH: Talisker purchased that seventeen plex
24 from the bank probably 2009 or 2008 some where in there.

25 MR. RICH WOLPER: Yes.

1 CHAIR ECKERSLEY: Okay, anything else for public
2 hearing. Hearing none we close the public hearing and now
3 it is up to the BOA Board Members to consider what you
4 would like to consider. You are free to ask questions of
5 one another and anybody in the room. What is your pleasure?

6 And then that would be followed by I would call for a
7 motion if the BOA is prepared to consider a motion tonight.
8 Any thoughts or questions amongst ourselves in public?

9 MR. BILLS: I think that I have heard all that I
10 need for me.

11 MS. DUGGAN: Well, I do think that we need to have
12 a discussion about some of these issues.

13 Option One I think, in my opinion clearly violates the
14 ridge line.

15 MS. WARDELL: Yes, it does.

16 MS. DUGGAN: Do you agree with that?

17 MS. WARDELL: I do.

18 MS. DUGGAN: Option Two I am not quite clear on.
19 The little section of Wasatch County and of course we are
20 only talking about a tiny little section of Wasatch County
21 in this entire scheme of things.

22 MR. BILLS: If we reverse this position of the
23 Planning Commission I mean I think they did a pretty good
24 job. If we reverse them you are not just going to have a
25 power line in there. You are going to have a lawsuit from

1 the landowners in there. You are going to have expenses to
2 the County. I have no idea why we can't use the existing
3 right-of-way and let things lie.

4 I do not see a reason to pick up that liability when
5 if they do Option Two it doesn't affect our ridge line in
6 our County but the view of that mountain in Summit County
7 the ridge lines are already there and we can't do anything
8 about that.

9 If I were a property owner there I don't care what
10 CH2HILL said I know that I won't buy a mountain property
11 with a power line right by it. I won't do it okay. So maybe
12 it doesn't affect the price but it affects the number of
13 buyers.

14 Promontory bought their property with a power line
15 going right through it. They knew it. These other guys
16 didn't know anything about a power line coming by. So you
17 know they are my County neighbors. I don't see a reason to
18 do it. I don't see a reason.

19 MR. COOMBS: They are still moving the power line
20 on Promontory's property. They are not moving it off
21 Promontory's property.

22 MR. BILLS: Right.

23 MR. COOMBS: They still are leaving it on their
24 property.

25 MR. BILLS: Yes, but they are moving it.

1 MR. COOMBS: Right.

2 MR. BILLS: Why do they have to?

3 MR. COOMBS: They don't like the original look of
4 how things are and they want to move it.

5 MR. BILLS: Okay.

6 MR. COOMBS: How can you say one property owner is
7 any more important than the other one like you said before.
8 Why does not Promontory have the option?

9 MR. BILLS: They do until it crosses in to our
10 County and the Planning Commission has to deal with the
11 real issues okay. If they don't cross the County line then
12 there is not those issues.

13 MS. DUGGAN: I don't think that we are really at
14 the point yet where we can talk about reversing a decision
15 or not. I think we still need to consider our code and the
16 options that are involved. I think this is a CUP,
17 conditional use permit application, and we need to follow
18 the procedure for correctness.

19 MR. BILLS: I agree.

20 MS. WARDELL: I just don't see that any of the
21 options are mitigated enough. As much as I dislike
22 Jacobsmeyer's comments and I don't like the way they
23 proposed their motion. I think it was horrible.

24 I just don't see enough evidence here that it is
25 mitigated. I don't think three and four are an option at

1 all. One is clearly out of our ridge line ordinances and
2 two I am still a little bit fuzzy with that I still don't
3 see how that mitigates what the pieces that we are supposed
4 to go by. I still don't see that.

5 MS. DUGGAN: Why don't we go through the pieces
6 that we are supposed to go by and see. Lets talk about that
7 a little bit. Does everybody agree to do that?

8 CHAIR ECKERSLEY: I am willing to do that. I am
9 also willing to accept a motion and then discuss the
10 motion. Is anybody prepared to make a motion yet.

11 MS. DUGGAN: I don't think that we can make a
12 motion until we discuss these issues.

13 CHAIR ECKERSLEY: That is your call.

14 MS. WARDELL: I think that we need to decide and
15 yes I think we need to go through the things.

16 CHAIR ECKERSLEY: We appreciate the work that
17 staff has put together in our reports. We are looking at
18 staff report that is dated January 21, 2016 and if you
19 would turn over to page four those are the findings and the
20 staff's response to the eight matters. Below that is the
21 ridge line issue. Then you go over to page six and you get
22 to possible findings. I haven't counted how many bullets
23 those are.

24 I would suggest that if we are going to discuss these
25 issues which is great lets do it in the same order that the

1 Planning staff has written their report for us. Do you
2 agree with that?

3 MS. DUGGAN: Yes.

4 MS. WARDELL: Yes.

5 MR. BILLS: Yes.

6 MR. COOMBS: Yes.

7 CHAIR ECKERSLEY: You don't have to discuss them
8 all but why don't we start with page four, five, six and
9 seven and pick out any of the bullets you want to discuss.

10 MS. DUGGAN: Well, the first bullet point is the
11 application complies with all of the requirements of Title
12 16 and we have already discussed, at least in my opinion
13 that the ridge line is violated so that violates code on
14 Option One. Anissa has indicated that she wouldn't consider
15 Options Three or four. I tend to agree with that. Does
16 everyone else agree with that too?

17 MR. BILLS: Yes.

18 MR. COOMBS: Yes.

19 MS. WARDELL: Yes.

20 MS. DUGGAN: So we are really talking about maybe
21 Option Two possibly right?

22 MS. WARDELL: Yes.

23 MR. RICH WOLPER: I am sorry to interrupt you but
24 this is just too big of a deal with us. Option Two that is
25 not accurate. We have done our own analysis and they have

1 put up on Option Two three different times. They had it at
2 forty-five feet, fifty-five feet and sixty-five feet. At
3 fifty-five feet it goes above the ridge line. I gave that
4 information to the County. I just wanted to re-emphasize
5 that. They are saying that it is not though.

6 CHAIR ECKERSLEY: The staff report that we are
7 reading says mitigating any impacts in staff's opinion
8 would require the moving poles further away from the
9 dwelling.

10 MR. RICH WOLPER: I was just saying that Option
11 Two does go above the ridge line.

12 CHAIR ECKERSLEY: Right.

13 MS. DUGGAN: We did not have that information did
14 we?

15 CHAIR ECKERSLEY: No.

16 MS. DUGGAN: I didn't.

17 MR. RICH WOLPER: We done our own analysis.

18 MR. REUTZEL: In the statement that we submitted
19 Exhibit A is a statement from an engineer that shows that.

20 CHAIR ECKERSLEY: Well, staff tends to agree that
21 the Option Two to get into compliance would require a move
22 is that accurate? It would require moving the poles further
23 away from the dwellings.

24 MR. SMITH: I think that I am referring to the
25 conditional use aspect up there.

1 CHAIR ECKERSLEY: That is correct.

2 MR. SMITH: If Option Two and they are saying that
3 it complies with the ridge line, I think that before we
4 issue any building permits on that we would want to see
5 elevations and everything to ensure that those are going to
6 be below the ridge line. Because if we issue a permit based
7 on them saying that they are complying with the ridge line
8 and they put a pole up and they are violating it from that
9 viewing platform. There is an obvious problem.

10 CHAIR ECKERSLEY: What you are saying on page four
11 with regard to conditional use permit it doesn't meet that
12 with the poles being in their current proposed locations?

13 MR. SMITH: I think my feeling was that even if
14 they complied with the ridge line ordinance it is still one
15 hundred and five feet away. You still have got to mitigate
16 the aspects of that conditional use. One hundred and five
17 feet with an eighty-five or sixty-five foot pole, in my
18 opinion, does not comply with it.

19 CHAIR ECKERSLEY: That is the way that I read your
20 findings and then your recommendation.

21 MR. HALL: Just to clarify. I am looking on page
22 four number one. The applicant has provided photo
23 simulations of Option Two with the proposed poles that
24 would be in Wasatch County and it appears that they will be
25 under the ridge line, however the poles in Summit County

1 that are part of the system will violate the ridge line.

2 CHAIR ECKERSLEY: We are talking about two
3 different things. I will let Doug respond to you. We are
4 talking about the ridge line one and then we are talking
5 about conditional use.

6 MR. SMITH: Obviously we don't have no
7 jurisdiction over Summit County or control over what they
8 do. So obviously poles would violate the ridge line if
9 their ordinance says they can. I just wanted to let them
10 know that even with Option Two there would still be a ridge
11 line issue with the poles in Summit County.

12 MR. HALL: But just to clarify the staff's report
13 finding is for Option Two where the poles are under the
14 ridge line. Is that what it says here?

15 CHAIR ECKERSLEY: He just said that he is not sure
16 until he sees it.

17 MR. SMITH: I am saying that you guys are saying
18 that they are going to be under the ridge line.

19 MR. HALL: This is yours, the language that I just
20 read. The applicant has provided photo simulations of
21 Option Two with the proposed poles that would be in Wasatch
22 County and it appears that they will be under the ridge
23 line. That is your language?

24 MR. SMITH: Yes.

25 MR. HALL: I just wanted to clarify.

1 CHAIR ECKERSLEY: Right, but he answered the
2 question that he is referencing in his recommendation about
3 conditional use.

4 MR. HALL: They would have to comply.

5 CHAIR ECKERSLEY: Right.

6 MR. REUTZEL: I would like to point out that I
7 don't think that they have an easement for Option Two
8 either, easement for Option One and you correct me if I am
9 wrong I don't there is an easement for Option Two.

10 MR. HALL: The same one.

11 CHAIR ECKERSLEY: Do you want to answer that?

12 MS. GORDON: The application that we filed is for
13 Option One and that is the one that we would be asking for
14 approval. The other options we submitted them to show what
15 options had been considered. If Option Two were approved
16 then we would have to widen the easement before.

17 CHAIR ECKERSLEY: You would have to go back to
18 Promontory to widen the easement?

19 MS. GORDON: Right, that would be a separate
20 matter that we would have to take care of after the permit
21 was issued.

22 CHAIR ECKERSLEY: Okay. So the preference is
23 Option One and that is a good clarifier on Option Two,
24 thanks.

25 Do you want to keep going through these?

1 MS. DUGGAN: I would like to do that yes.

2 CHAIR ECKERSLEY: You are on.

3 MS. DUGGAN: I am hearing conflicting testimony on
4 Option One and Option Two as far as violating the ridge
5 line. So we have a conflict on that.

6 CHAIR ECKERSLEY: Now what we have said and let
7 me clarify the way that I heard it. Doug you keep me
8 straight on this.

9 MR. SMITH: Yes.

10 CHAIR ECKERSLEY: What I am hearing with regard to
11 the ridge line is one violates. Two probably doesn't. We
12 won't know until we see it.

13 With regard to conditional use staff believes that
14 mitigating impacts in staff's opinion will require moving
15 the poles further away from the dwellings. Did I say that
16 accurately?

17 MR. SMITH: In my opinion yes.

18 CHAIR ECKERSLEY: And that is all we are doing is
19 reviewing staff's report. We can disagree with it but we
20 are using staff's report because we value it and it is in
21 order to go through regarding our discussion then we will
22 look for a motion.

23 MS. DUGGAN: So we have eliminated Options Three
24 and Four for sure. Option One violated the ridge line so
25 that is probably eliminated as well. So we are still down

1 to Option Two if this works.

2 Our second qualification is the business shall
3 maintain but this is not a business so that is not an
4 applicable statute.

5 The use will be compatible with surrounding structures
6 and use, location, scale, mass, design and circulation.
7 There certainly is a height difference here. If I were
8 living in one of those places I would be looking right out
9 into the poles. So what do you say? Do we mitigate that if
10 we find it is incompatible?

11 CHAIR ECKERSLEY: We may disagree with staff but
12 staff feels that the impact created by the use is due to
13 the proximity of the dwellings so it is how close are they.
14 That is under conditional use. So we can disagree with him
15 but that is the staff's opinion.

16 MS. DUGGAN: Do you think that it is compatible?
17 Do you think this line is compatible?

18 MS. WARDELL: I don't know. I see that we still
19 have two problems. If what is going on here is that we may
20 still need to go back for an easement, you know, to get
21 more room but for Option Two then I don't think that we
22 have mitigated that.

23 MR. BILLS: There isn't an Option Two on the
24 easement part.

25 MS. WARDELL: I don't think it is an option.

1 MR. HALL: That certainly is a condition that you
2 can place on approval. It is just the other conditions that
3 Doug mentioned that confirm that.

4 CHAIR ECKERSLEY: We knew that. I respect you all
5 but I am not going to have you respond to each of our
6 discussions. This is basically our discussion at this
7 point.

8 MS. WARDELL: I think here the problem is that
9 they did introduce new information but based on from what I
10 can see the Planning Commission had. I think they made the
11 best decision that they could with what they have.

12 MS. DUGGAN: The question is Option Two. Do we
13 think it is compatible?

14 MS. WARDELL: I don't think it is. I think that
15 we have too many problems with Option Two.

16 MS. DUGGAN: I agree with you. I don't know that
17 it is compatible. Anybody else?

18 MR. BILLS: I agree.

19 MS. DUGGAN: Are we ready to move onto number
20 four?

21 CHAIR ECKERSLEY: You bet.

22 MS. DUGGAN: The visual or safety impacts caused
23 by the proposed use can be adequately mitigated with
24 conditions. Well, we talked about the vegetation having to
25 be removed. This is not something you can clean up with

1 landscaping.

2 CHAIR ECKERSLEY: Again the same recommendation
3 from the staff, it is an opinion. He thinks it is too
4 close.

5 MS. DUGGAN: Any other thoughts?

6 MS. WARDELL: No.

7 MS. DUGGAN: Mr. Bills do you think it should be
8 mitigated?

9 MR. BILLS: That depends on what mitigation is. I
10 mean they don't think it is mitigated. I know that we need
11 the power. I know that okay. Until somebody explains to me
12 why they can't run it the way they did I see no way to
13 mitigate that. I see no way.

14 MS. DUGGAN: No way.

15 MS. WARDELL: I just have a concern based on the
16 power line probably had and I don't know another way to
17 explain it other than Mike and I am going to murder his
18 last name. Mike that lives up in Jordanelle when they had
19 the fire up there and it had to do with the power lines.

20 MR. BILLS: Kosakowski.

21 MS. WARDELL: Yes, Kosakowski. I don't know. I am
22 not sure that it can be mitigated. Then when we move onto
23 number five you know future expansion. I can just see
24 problems with it all the way around.

25 MS. DUGGAN: I am concerned about that as well

1 because if you have to come back for an expansion at some
2 later point you know what that will be then. I don't know.

3 CHAIR ECKERSLEY: The staff is suggesting that is
4 just a new proposal.

5 MS. DUGGAN: Correct. If the easement is already
6 set and they have to put that in that easement then is that
7 a problem? We don't know.

8 MS. WARDELL: Correct.

9 CHAIR ECKERSLEY: Okay.

10 MS. DUGGAN: Number six all issues of lighting,
11 parking, the location and nature of the use, character of
12 the surrounding development, the traffic capacities of
13 adjacent and collector streets and on, on and on. Can that
14 be mitigated?

15 MS. WARDELL: I think that is an opinion.

16 MS. DUGGAN: We would have to set the conditions.

17 MS. WARDELL: Right, for some it has got to be an
18 issue but for others I think it will, the noise, the
19 vibrations. I understand that it is less impactful you
20 don't hear as much as some of the other lines that they
21 have but I just don't think so. That is an opinion we would
22 have to make.

23 MR. BILLS: I don't think that would be a big
24 problem really. That is not the problem.

25 MS. WARDELL: It is not my main concern.

1 MS. DUGGAN: Well, they are going to be clearing
2 all underneath the lines so there may be soil erosion and
3 drainage problems. I mean there could be. We would have to
4 consider that.

5 MR. BILLS: You know what we can work that out. I
6 don't think that is an issue. They maintain their lines
7 really well where they are.

8 MS. DUGGAN: Can be mitigated.

9 MR. BILLS: They have a great record. It is not
10 like we are dealing with somebody that doesn't know how to
11 take care of that.

12 MS. DUGGAN: Okay, so I have indicated that could
13 be mitigated.

14 MR. BILLS: I think so.

15 MS. DUGGAN: Okay, the use will not place an
16 unreasonable financial burden on the County or place
17 significant impacts on the County or surrounding
18 properties without adequate mitigation of those impacts.

19 CHAIR ECKERSLEY: I will make a comment there. On
20 the bottom of the page under the purpose of conditional
21 use. One of our jobs here is to protect valuable views
22 which suggests that the value does go down otherwise why
23 would we be concerned about views affecting value? Do you
24 follow?

25 MS. DUGGAN: Yes.

1 CHAIR ECKERSLEY: Okay.

2 MS. DUGGAN; You are saying that cannot be
3 mitigated?

4 CHAIR ECKERSLEY: Correct, that is what I am
5 saying. I am referencing the purpose and one of the
6 purposes that we are here is to protect valuable views. So
7 it is kind of stipulated that there is value to the
8 unabated view line.

9 MS. DUGGAN: The use will not adversely affect the
10 health, safety or welfare of the residents and visitors of
11 Wasatch County. Here we definitely have to consider the
12 letter from the Fire Marshal.

13 MS. WARDELL: Yes.

14 MS. DUGGAN: Who recommends that it should not be
15 there in that particular place.

16 MS. WARDELL: Even based on the issue that we had
17 last year it is a concern to me.

18 CHAIR ECKERSLEY: I didn't see a date on the Fire
19 Marshal's note but he said they recommended remaining in
20 the existing easement and that there was an immediate fire
21 danger to life and property. That is just what he wrote. It
22 is in the record. I think it is could to add it there for
23 our consideration.

24 MS. DUGGAN: That is their eight for the
25 conditional use which all must be satisfied in order to

1 grant the CUP.

2 MS. WARDELL: Well, I think it is obviously it is
3 not. There is only one and we have to have all eight and
4 the majority is that they are not cannot be mitigated.

5 CHAIR ECKERSLEY: Does the board desire to make a
6 motion now or would you like to go through page six and
7 seven the possible findings?

8 MS. DUGGAN: After that I am not sure that we do
9 need to.

10 MS. WARDELL: I don't think so.

11 CHAIR ECKERSLEY: I still have question on the
12 possible finding on page, although I don't want to stop a
13 motion if someone is ready to make one.

14 I had a question that there is a lot of discussion
15 about the line being necessary and we all like to turn on
16 the lights. Is that in our purview? I mean we care because
17 it is going to hook onto Heber Light and Power. We want to
18 turn on the lights.

19 The upgraded line is necessary to provide dependable
20 power for the growing population of Heber Valley. That is
21 absolutely true. Is that a BOA and is that in our purview
22 Tyler?

23 MR. TYLER BERG: What do you mean is that in your
24 purview?

25 CHAIR ECKERSLEY: We have got a proposal on the

1 table and should we be motivated by the fact that power is
2 important therefore we should grant a conditional use
3 because power is important? Or should we say that is really
4 not in our purview. Power is going to be provided on this
5 easement or another easement or something else but the
6 application here isn't for us to make a judgment but power
7 is important so therefore we should grant an easement? Is
8 that in our purview?

9 MR. TYLER BERG: Well, I think to be able to grant
10 the conditional use permit you have to find that all eight
11 of those have been satisfied. But in addition as the Board
12 of Adjustment you are looking at the Planning Commission
13 and you have to find that they committed an error
14 sufficient to be able to grant that.

15 CHAIR ECKERSLEY: Well, you didn't exactly answer
16 my question.

17 MR. TYLER BERG: I don't think that in and of
18 itself is and that wouldn't be enough to motivate you.

19 CHAIR ECKERSLEY: I am really motivated by power.
20 I think everybody is that is why you presented. I am not
21 sure that is in my purview.

22 MR. TYLER BERG: I don't know that would be enough
23 to say that the Planning Commission committed an error.

24 CHAIR ECKERSLEY: That is the second question. In
25 fact would you all like to discuss the extent to which you

1 think the Planning Commission is in error and we need to
2 reverse anything?

3 MR. BILLS: I don't see anything that tells me
4 that they were in error. I would have made the same
5 decision.

6 CHAIR ECKERSLEY: Okay.

7 MS. WARDELL: I believe I would have made the same
8 decision, however, I do think that they could have made
9 that motion much better. I think there was a lack there of
10 professionalism.

11 CHAIR ECKERSLEY: Anybody else see that the
12 Planning Commission record is in error and needs to be
13 fixed?

14 I will put it back to you again. We can go through
15 these possible findings and/or we can get a motion and then
16 discuss the motion.

17 MS. DUGGAN: Having gone through all those item I
18 think I am ready to make a motion. I just needed the
19 discussion with the board. Are you ready?

20 MS. WARDELL: Yes.

21 MS. DUGGAN: I would like to make a motion to now
22 and this is confusing to me because what I want to do is
23 deny the CUP for Rocky Mountain Power on this appeal. I
24 find that he Planning Commission did not make an error in
25 their decision regarding this action before this board

1 because we have eliminated Option One, Three, and Four and
2 considering Option Two in applying the conditional use
3 requirements we find that at least item number three, four,
4 five, seven and eight cannot be satisfied. We cannot
5 mitigate those requirements.

6 CHAIR ECKERSLEY: Very good. Will you include in
7 your motion all of the possible findings and the findings
8 that are in this report from staff basically pages four,
9 five, six and seven for the record?

10 MS. DUGGAN: I would like to include in my motion
11 that we considered all the possible findings that are
12 included in the staff's report.

13 CHAIR ECKERSLEY: We have a motion.

14 MR. BILLS: I will second the motion.

15 CHAIR ECKERSLEY: We have a second. Is there any
16 discussion on the motion? Please any questions, any
17 discussion and you can call upon anybody here especially
18 Doug and Tyler.

19 MR. BILLS: No.

20 MS. WARDELL: No.

21 MR. COOMBS: No.

22 MS DUGGAN: No.

23 CHAIR ECKERSLEY: Okay, we have a motion and a
24 second going once, any further discussion and hearing none
25 all in favor say aye?

1 MR. BILLS: Aye.

2 Ms. WARDELL: Aye.

3 Ms. Duggan: Aye.

4 MR. COOMBS: Aye.

5 CHAIR ECKERSLEY: Aye. Are there any opposed? We
6 have a decision and it is denied. We appreciate the
7 applicant a great deal and please figure out a way to bring
8 us power. We respect what you have done. We respect the
9 opposing views to relative to the residents in Wasatch
10 County.

11 Doug is there anything else?

12 MR. SMITH: No.

13 CHAIR ECKERSLEY: Tyler anything else?

14 MR. TYLER BERG: No.

15 CHAIR ECKERSLEY: Okay, thank you all. We need a
16 motion to adjourn don't we.

17 MS. WARDELL: I would make a motion to adjourn.

18 MS. DUGGAN: I would second that motion.

19 CHAIR ECKERSLEY: We have got a second and I know
20 that we are all in favor of that. Thank you all.

21 MR. BILLS: Aye.

22 MR. COOMBS: Aye.

23 MS. WARDELL: Aye.

24 MS. DUGGAN: Aye.

25 CHAIR ECKERSLEY: Aye. We are adjourned.

1 (WHEREUPON, the Wasatch County Board of Adjustment meeting
2 for January 21, 2016 was concluded)

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C E R T I F I C A T E

STATE OF UTAH)

COUNTY OF WASATCH)

THIS IS TO CERTIFY that the Board of Adjustment hearing was taken by Richard C. Tatton, in Stenotype, and thereafter caused by me, Richard C. Tatton, to be transcribed into typewriting, and that a full, true and correct transcription to the best of my ability of said testimony was done.

I FURTHER CERTIFY that I am not of kin or otherwise associated with any of the parties to said cause of action, and that I am not interested in the event thereof.

WITNESS my hand and official seal at Midway, Utah February 1, 2016.

Richard C. Tatton

RICHARD C. TATTON, CSR, RPR

My Commission Expires:

June 15, 2017

