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February 7, 2001

Mayor William H. Levitt  
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Town Hall  
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"In sum, there are no legal impediments to the extension of the main sewer line to the Grizzly Gulch area. In my opinion, property owners in that area have a compelling argument that they deserve and should receive such service as soon as practicable." Page 4

**Re: History and Legality of extending main sewer line to Grizzly Gulch Residential Area of the Town of Alta**

Dear Mayor Levitt:

You have asked that I prepare an opinion regarding the extension of the sewer line currently existing in Alta from its current terminus to the Grizzly Gulch area of the Town. You have asked that I provide a history of the sewer as part of this opinion.

Alta incorporated as a municipality in 1970, in part to facilitate funding, both from grants and bonds, for a sewer. Also in 1970, Snowbird developers created a Special Service District to facilitate construction of a sewer. In October of that year, Snowbird obtained approval from the State Health Department to extend a sewer line from the connection with the Cottonwood Sewer District's line (located near the "LDS" storage vaults") to a point beyond the main building at Snowbird. It is believed that this line, which is referred to as the "outfall" line in prior documents, was completed in 1971. The cost of this line was shared by the Service District and Alta. From its terminus at Snowbird, Alta agreed to pay 100% of the cost to extend the line through Alta, including the Grizzly Gulch area.

In 1971, residents of the Town of Alta approved a bond election authorizing \$50,000.00 in general obligation bonds and \$200,000.00 in sewer revenue bonds. Work began on engineering, right of way acquisition, and regulatory approvals — however, much difficulty was encountered. Final approval by the State Health Department for construction was not given until July of 1972. The next month, the Environmental Protection Agency awarded the Town a grant in the amount of \$85,600.00.

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The general bond election of 1971 meant that all real property in the Town, including lodges, restaurants, and homes, became, in effect, "collateral" to repay those bonds, subject to foreclosure in the event interest and bonds were not repaid on time. This threat became quite real in 1972 when the Town, due to the difficulties mentioned above, had not yet constructed the main sewer line and hence, did not have any revenues with which to begin making bond payments. However, the payment was eventually made, and in September of 1972, construction began on the sewer line.

The construction contract called for completion within 100 days of commencement of the work, and the bulk of the work was completed by the first week of November, 1972. However, work was temporarily halted at that time because of extremely adverse weather conditions, including unusually heavy snowfalls. The decision was made to continue the work, however, in spite of significant cost overruns, so that the main sewer line could be completed to the Snowpine Lodge, which it was in January of 1973. In the same month, EPA increased its grant paid to the Town to \$236,000.00.

In 1974 the main sewer line was extended to the base of the Albion Lift, which allowed for much needed public toilets and a sewage dump station. However, because of cost overruns, the main sewer line could not, at that time, be extended to Grizzly Gulch. It was agreed that when sewer revenues became sufficient, the line would be extended. The Town Council has determined that revenues and sewer fund reserves are sufficient to do so at this time.

Property owners in the Grizzly Gulch area paid property taxes for interest and toward the retirement of the general obligation bonds until they were paid in full, in the late 1980's. These owners continue to pay fees for utilizing the sewer dump station. It is of note that the last General Plan adopted by the Town, adopted in the early 1990's, after several public hearings, states:

*" . . . in accordance with Phase 5 of the original sewer construction plan approved in 1971, the Town's sewer system should be extended to the Grizzly Gulch area and existing residences connected, eliminating [holding] tanks . . . "*

(There are property owners within the corporate limits of Alta whose parcels, because of annexations, are included in the Special Service District which also serves Snowbird. These owners also paid toward the retirement of the general obligation bonds. To remedy this situation, the Town determined how much each property paid toward the retirement of the bonds and paid these funds to the District, which, in turn, gave credits to the affected homeowners.)

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Obviously, the property owners in the Grizzly Gulch area have contributed substantially to the development of the sewer line. They could be said to have an "equity" interest in it, just as the homeowners and businesses which have been connected since 1973.

Strong public policy exists in favor of having all properties, residential and commercial, served by an approved sewer system whenever conditions, such as adequate water resources, make connection possible. This is even more compelling in a watershed area.

Some have raised concerns that you and another member of the Town Council live in the area to be served — the implication being that the main sewer line should not be extended to that area for the sole reason that you both happen to reside there. I disagree. As long as the sewer line extension serves the whole area in an efficient and cost effective manner, as determined by professional engineers, and does not provide an unequal advantage to you or the other councilmember, there is no legal reason why the sewer line cannot be extended to these homes. To hold otherwise would mean that this area could never receive sewer service simply because an elected official happens to reside there.

Likewise, I find nothing in Utah statutes or case law which would prohibit you or the other councilmember from voting on this matter. You have both disclosed your home ownership in Grizzly Gulch in public meetings. You will both be required to pay for laterals from the main line to your respective homes.

You have asked whether state law requires that homeowners in Grizzly Gulch be connected to the sewer line once constructed. Section 10-9-38,(2)(a), Utah Code Ann., 1953, as amended, grants authority to municipalities to require connection to a main sewer line if the building lies within 300 feet of said line:

*"Any city or town, may, for the purpose of defraying the cost of construction, reconstruction, maintenance or operation of any sewer system or sewage treatment plant, provide for mandatory hookup where the sewer is available and within 300 feet of any property line with any building used for human occupancy and make a reasonable charge for the use thereof."*

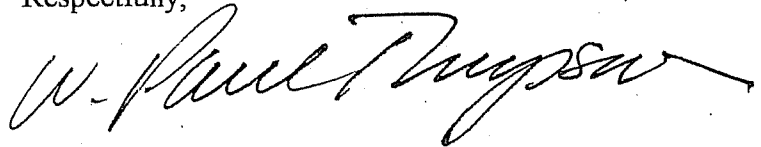
As a final note, the sewer system has been valued at over \$1,000,000.00. Cottonwood Sewer District recently took pictures of the main sewer line with a specially adapted television camera and certified that the line is in good working order and is structurally sound. The expenditure for the extension will leave approximately \$100,000.00 in the sewer revenue fund for depreciation, repairs and other needs. The expenditure for the extension of the line is consistent with sound fiscal policy.

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In sum, there are no legal impediments to the extension of the main sewer line to the Grizzly Gulch area. In my opinion, property owners in that area have a compelling argument that they deserve and should receive such service as soon as practicable.

More detailed histories of the sewer are available from the Town Staff, as well as other documents. If I can be of any further assistance on this matter, please let me know.

Respectfully,

A handwritten signature in black ink, appearing to read "W. Paul Thompson". The signature is written in a cursive style with a long horizontal flourish at the end.

W. PAUL THOMPSON  
Legal Counsel, Town of Alta

WPT:pt