

Bluff Town Council Public Hearing for Acton Disconnect Petition Minutes
August 15, 2023
Bluff Community Center at 6:00 p.m.
190 N 3rd East P.O. Box 324
435-672-9990

Regular meetings are held the first three Tuesdays of every month at 6:00 p.m. Requests to be on the agenda may be submitted in writing to Ann Leppanen (ann@townofbluff.org) at least 4 days before the meeting. Agendas and minutes are posted at: townofbluff.org and audio, in addition, at the Utah Public Notice Website. To view the livestream, or watch past recordings, please visit our YouTube channel: <https://www.youtube.com/channel/UCTqBxSP-Erhxq6muVMX6vdw>.

This hearing was held electronically and in person and can be viewed on our YouTube channel

The hearing started at 6:05 p.m.

Roll Call Mayor Ann K. Leppanen, Luanne Hook, Jim Sayers, Linda Sosa, Brant Murray
Erin Nelson Town Manager

Welcome

Leppanen welcomed the community and other attendees, including:

Bruce Baird, legal counsel for Kim E. Acton and Ida E. Acton (“Petitioners”);

Brian Torgerson, regional director for SITLA with legal counsel Keli Beard; and Bishop

Barry Beisner, Reverend Jack Chase, Reverend Cornelia Eton, and Reverend

Leon Sampson of the Episcopal Church of Navajoland.

A representative from the BLM was unable to attend. Leppanen read the public hearing legal notice that ran in the *San Juan Record* that described the action and the affected properties.

Rules and Procedures

Nelson explained that those wishing to comment could sign the list until 6:15 p.m.

Virtual attendees can put their name in the comment bar and written comments can be sent to office@townofbluff.org until August 29th at 5:00 p.m. or mailed to Town of Bluff, PO Box 324, Bluff Utah 84512. Nelson read the Public Hearing Protocol. Commenters will be randomized and have five minutes. She explained that Utah State Code 10-2-502.5 is being followed for the steps for the hearing. The Council has 45 days to make a decision on whether to grant the petition to disconnect.

Nelson went through the factors to be considered in ruling on the petition requests. The Acton disconnect represents 6.7% (640 acres) of incorporated land within Bluff. SITLA

has 77.5%, the BLM has 14.1%, and Navajoland has 1.7% of the remaining land. Adding the SITLA, BLM and St. Christopher land brings the total petition to 9,514 acres, 40.1% of the total Bluff incorporated land. Nelson summarized the Staff Report, which is available on the town website at townofbluff.org. Nelson presented the document and maps on the overhead screen.

Bruce Baird and Petitioners' Position

Leppanen invited Bruce Baird, Counsel for the Actons, to speak. Baird explained he was going to spend most of his time responding to what he felt was wrong, both factually and legally, in the Staff Report, including road maintenance, Wildland Fire Protection from the Town, electricity, taxation, culinary water, open space, and zoning of undeveloped land. Baird began with page 2 of the Staff Report. The Actons' property is zoned A2 which is private agricultural land but which Baird disputed with the comment that there is "no meaningful agriculture." Baird elaborated on the difficulties of challenging a town's zoning in a later court action. The property is effectively zoned "open space." The Town's intent is to have "no meaningful use."

Baird moved on to dissect the Town's 2022 and 2023 budgets with a focus on roads, road maintenance, services in general, and wildlands fire protection expenditures. His conclusion was that this property is "on the far edge of the far edge of nowhere." A bit of time was spent with Baird trying to work with the Town Manager to pull up and place the maps he provided in a suitable position on the screen and he asked the audience if anyone had a laser pointer as he had forgotten his. All in all, Baird had 3 or 4 maps for the public hearing. Baird concluded that there are few municipal services provided by the Town on the bench.

Baird stated that the disconnect did not create an "illegal" peninsula in the petition mapping. Baird acknowledged to the clergy of Navajoland and the people connected to the Mission land that they had not been contacted by Baird nor informed that Navajoland had been included in the disconnect petition. Baird conceded that, by removing Navajoland from the petition to disconnect, a peninsula would be created but that the Town itself could create peninsulas and islands. Although Baird would "be happy to have the Mission stay in the town" Baird provided advice to the Town as to its options on the Navajoland piece. The Town could refuse to disconnect St. Christopher's

Mission, thereby keeping it within the Town's boundaries, or it could disconnect St. Christopher's Mission and then re-annex it at a later date.

Baird also considered protecting water from the town aquifer would not be a valid reason for local concern for several reasons. Water is regulated by the Environmental Protection Agency and Utah Division of Drinking Water. He did agree with the Staff Report's statement that as to the actual services provided by the Town which Baird reiterated that it is a "polite way of saying non-existent."

Baird offered that he is paid to have people yelling and unhappy with him and he concluded with the statement that his clients own 20% of the private land in the Town of Bluff yet they "don't live there, can't vote" and have "no say." "Everyone is yelling to stop development."

Jason Torgerson and SITLA Position

Leppanen invited Torgerson to speak. He explained the history of School and Institutional Trust Lands Administration in Utah and their mandate from the State to develop land for income for schools. Torgerson also explained the history, from his point of view, of interactions with Bluff over the zoning of SITLA land, open space, and undeveloped land, the last several years of the Bluff Bench Solar Project, and Bears Ears land transfers. He was disappointed that SITLA land had been zoned open space. He said he has wanted to work with Bluff but feels that we are not willing to work with SITLA and that is one of the reasons they have joined the disconnect petition.

Keli Beard, council for trust lands, explained the solar lessee had come to her and asked for some certainty for the ongoing project. The two ways forward are either they ask for a zoning change or they just move forward because SITLA does not have to follow any zoning, rules or ordinances. Beard encouraged the Council to look at how Kane County developed a process to work with SITLA on a project. SITLA has just acquired land in Bluff through the land transfer and will be working with Bluff on those. Beard showed the land on a map and knew Bluff had fears of the land being sold and that Bluff would have no control or say in the matter. She stated SITLA does not usually sell land. Beard stated SITLA is a proper petitioner because they joined with a private landowner. Beard, Torgerson and Baird are all prepared to litigate if needed.

Reverend Leon Sampson and St. Christopher's Mission of Navajoland Position
Leppanen invited the Navajoland representatives to speak. Reverend Leon Sampson, who grew up here, opened with the rich eighty-year history of St. Christopher's and its powerful impact on and service to the community across the river and Bluff. The Mission has supplied medical, educational, spiritual, food and water needs for years and continues with a housing project, covid food boxes, a sustainable water ministry and more projects. He explained the artisan water ministry and how some families today still haul water and depend on the Mission providing it, along with travelers who come for water. The land that provides that water is precious and must be protected. In the past the Mission opposed drilling into the aquifer. Stewardship of the water allows the Mission to continue service to the people. The State of Utah has given the Mission funding over the years and currently to develop services for the people. Many people use and depend on this water every year.

Public Comment

Dan Meyers, online, felt "lucky to live in the community of Bluff" and noted it is important to have a say in our lands for our health and the health of our children. He described the gravel pit on SITLA land on the top Calf Canyon that creates health hazards and is allowed to run without an environmental management plan. The land of the disconnect is our back yard. He urged the Council to not disconnect.

The public hearing then moved to "in person" comments.

Tamara Desrosier noted the importance of being good neighbors. She referenced Baird's frequent words that he didn't care what we do and it doesn't matter to him, he will get his way anyway. He, the Actons and SITLA are colluding to get their own way, not work together with Bluff. If the land is disconnected and sold at auction in the future those people will have no connection to Bluff and she noted some of this happened at Moab. Desrosier is not in favor of disconnection.

Nathan Sosa, a member of the Mission, noted there was no communication that Navajoland was added to the disconnect petition. If the water at the Mission is fouled it affects many people on the reservation. As a Bluff School board member, he noted the \$14,000 the school receives does not go very far as the elementary school does not have art, music or after school programs, or a librarian. He urged no disconnection.

Kirsten Ewing said we are not clear about the motivation of Baird and SITLA; we don't know what the intention is with this land and, we don't have the right to know. The water running under the land is very valuable. It doesn't make sense to her and she is in favor of no disconnect.

Reverend Cornelia Eton, who is serving the community at St. Christopher's, noted the importance of trust, clarity and building relationships. She hoped the comments are heard and respected and underscored their importance and it shows what matters to the community.

Jackie Warren informed Torgerson that 20+ plus years ago she was part of a conversation with Torgerson about SITLA land and a young woman there had researched that 82% of SITLA funding goes to administration, not schools. She noted that may have changed over the years.

Josh Ewing recognized many factual inaccuracies in Baird's speech. He noted Bluff is a solution-oriented town that likes to work with neighbors. He gave examples of when SITLA made changes, including drilling, land trades, and the massive expansion of the gravel pit and they did not contact the town. He gave examples of how the town worked with UDOT on gravel, the BLM on the River Trail and the Guymon property. He questioned what does SITLA really want and is not telling us. We are solution oriented when others are willing to work with us. He urged no disconnect.

Reverend Jack Chase noted the cooperative community-wide effort during covid to help others and the community garden. He echoed Reverend Eton about the need for transparency on all sides and working together toward solutions. He agreed Bluff is solution oriented and wants to work with other organizations. He felt nothing is served by disconnection.

Bill Crowder had two points: in addition to community, the important parts of Bluff to him are the natural beauty, quality of the air, lack of noise pollution, and natural landmarks like the Comb, Sacred Mesa, and Bluff Bench. He posed the question to those wanting to disconnect, what is more important, the quality of life or money? His second point is that we have been listening to threats to drive the town bankrupt and he is ready and willing to fight this on several levels. If it embarrasses SITLA, so be it.

Bill Lincoln said he would like to speak for the dead and Gene and Mary say give them hell!

Bishop Barry Beisner said he learned three weeks ago from hearsay that St. Christopher's was to be forced to separate from the town of Bluff. He truly does not

want to separate from the town and now realizes they do not have to. He referenced page seven of the Staff Report that part of the reason Bluff incorporated was to protect the aquifer, part of which is under Bluff Bench. Several years ago there was a project to drill into the aquifer and the indigenous community, faith community and members of Bluff united to stop it. While he sees no positive reason to allow disconnection, he sees it could allow drilling and the possibility of compromise of the aquifer. Bluff's clean water could be lost forever.

Jacob Nelson noted he is new to the community and a business owner. He pointed out part of the eventual decision about the disconnect involves the potential court case that could happen if the disconnect is voted against. He elaborated this involves the identity of the town and residents who love the beauty, quiet and rich history of the area and work hard to have those things to enjoy. No one knows why the Actons want to disconnect, which is a good reason against disconnection. Bluff would no longer have a say in that area. People who enjoy what this town offers would have no problem fighting to keep it the way it is. Baird has threatened to drain us financially. What he doesn't realize is when something is worth fighting for the money is not wasted. He read municipal code and pointed out other examples that rebutted Baird. He is in favor of development but the Council needs to be able to control it. He asked the Council to consider why people come here and vote for the future.

Marcia Hadenfeldt characterized herself as "the sweeper in the Carol Burnett Show." She thanked the Council and the amazing neighborhood of friends for standing up to the most blatant use of threats against us. She encouraged all to fight this.

Bruce Baird Rebuttal

Baird felt there was no substance in what was said. He noted Bluff wanted control of their land but his experience is control means "no development." He refuted several previous speakers' public comments. He said the water issue is the only substantive issue and water is not within the control of Bluff. He suggested the water issue is just a way to deny development. As to the Actons' motivation he said they have "no plan at the moment;" they just don't want to be part of Bluff. Baird volunteered that "Hutchinson is one of" his "dearest friends."

Brian Torgerson Rebuttal

Torgerson thanked the public for coming and their comments. He said water is very important and SITLA works closely with the Division of Water Rights. He worked with Bluff on the sale of the Twin Rocks property and the protection of the site located on it. The only projects in town currently are the solar farm and a 40-acre project below the bluffs. The lack of services available make the Bluff Bench parcel different from parcels closer to town. He explained how SITLA money is used. He wants to work with Bluff and will continue to come down and meet.

Town Council Questions

Jim Sayers asked Baird if he knew what the Actons planned to do to develop this land. Answer: he did not know and to the best of his knowledge, they have no current plans.

Luanne Hook asked Baird why his clients were not present. Answer, they are home at his advice. Baird never believes in a client being badgered; it's a matter of personal safety that he advises them not to come.

Mayor Leppanen stated that, as she understands it, in the normal course of the disconnect, if the petition to disconnect is denied, as the Town did on (Judy) Lyman, there is an expectation of an appeal. Baird didn't do that; "you came after us in a different way." Leppanen said "this sucked in a lot of land from SITLA. Why?" Answer: Baird answered that it "appeared to (me) that we had a probable reasonable argument on the issue of an island and I don't believe in wasting client's time and money when we could lose." Baird asked SITLA to join this disconnect so the Acton property would not be an island. Baird explained that the Town's refusal to disconnect the Judy Lyman property was not appealed in the courts because he doesn't appeal when he's not sure he will win.

Hook asked Torgerson what percent of the budget SITLA provides to the State of Utah. Answer: around 5%. They operate like a business.

Question: what is the purpose of these little landlocked pieces of land that are being acquired in town? Answer: there are no plans, it is just mapping.

Question: is the Bench zoned A-1? Answer, there are no conditional permits in Bluff, the County A-1 would allow for a solar farm.

Leppanen thanked all participants and guests. She noted the deadline for written comments is August 29th at 5:00 p.m. The Council has 45 days to make a decision.

Sayers motioned to adjourn at 8:19 p.m., Murray seconded and Leppanen, Sosa, Hook, Murray and Sayers voted in favor.

Linda Sosa Recording Officer

For requests to receive emails/meeting invitations, email linda@townofbluff.org