PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
SEPTEMBER 30, 2010

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will hold its regularly scheduled meeting at the Marsac Municipal Building, City Council Chambers, 445 Marsac Avenue, Park City, Utah for the purposes and at the times as described below on Thursday, September 30, 2010.

Closed Session
2:00 p.m. Property and litigation

Work Session
3:50 p.m. Council questions/comments
4:00 p.m. Traffic and Transportation Master Plan P. 4 - 9
4:30 p.m. Direction on for-hire vehicle licensing P. 10 - 28
5:00 p.m. Board of Adjustment interviews
5:45 p.m. Break

Regular Meeting
6:00 p.m.

I ROLL CALL

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

III PUBLIC INPUT *(Any matter of City business not scheduled on agenda)*

IV WORK SESSION NOTES AND MINUTES OF MEETING OF SEPTEMBER 16, 2010
P. 29 - 38

V RESIGNATIONS AND APPOINTMENTS

Consideration of two appointments to the Planning Commission for terms expiring July 2014

VI CONSENT AGENDA *(Items that have previously been discussed or are perceived as routine and may be approved by one motion. Listed items do not imply a predisposition for approval and may be removed by motion and discussed and acted upon under "Additional Discussion – Agenda Items")*

1. Consideration of change order #4 with Cody Ekker Construction for the Sandridge Avenue Reconstruction Project in the amount of $13,545, in a form approved by the City Attorney P. 39 - 46

2. Consideration of a Resolution amending the Police Complaint Review Committee Terms of Office and repealing and replacing Resolution No. 35-03 in its entirety P. 47 - 54

3. Consideration of an amendment to the Professional Services Agreement with Brown and Caldwell for environmental analysis services related to the Spiro and Judge Tunnels and the Prospector Drain, in an amount not to exceed $35,500 and in a form approved by the City Attorney P. 55 - 56

VII OLD BUSINESS (Continued Items)

Consideration of approval of a Letter of Credit with Zions Bank for the benefit of Summit Land Conservancy in an amount of $40,000, in a form approved by the City Attorney, and authorization to the City Manager to execute related agreements and application documents in a form approved by the City Attorney P. 57 - 66

VIII NEW BUSINESS *(New items with presentations and/or anticipated detailed discussions)*

Consideration of Letter of Intent with the Sweeney Family (MPE) to pursue two alternatives to reduce density from Treasure Hill P. 67 - 75

IX ADDITIONAL DISCUSSION – AGENDA ITEMS

X ADJOURNMENT

A majority of City Council members may meet socially after the meeting. If so, the location will be announced by the Mayor. City business will not be conducted. Pursuant to the Americans with Disabilities Act, individuals needing special accommodations during the meeting should notify the City Recorder at 435-615-5007 at least 24 hours prior to the meeting. Wireless internet service available in Marsac Building on Wednesdays and Thursdays – 4 p.m. to 9 p.m.

Posted: 09/27/10
See www.parkcity.org

Note: This future meeting schedule is TENTATIVE and subject to change.
PARK CITY COUNCIL TENTATIVE MEETING SCHEDULE

October 2010

7 **No meeting**
Liza gone

14 BFO check-in and Pay Plan philosophy – BH
Park City Municipal Corporation Desk Culture Tool – LG
Service level performance measures
City Council interaction protocol update -TB

21 Quarterly Goals Update 3rd Quarter
In-Active Permit System – RE
PSSM wrap-up – work - TY
Resolution – Pancreatic Cancer Awareness Month

28 **No meeting**

29 Quarterly management team meeting

November 2010

4 1251 Kearns Ave plat amendment – FA
2700 Deer Valley Drive ROS amendment - KW

11

18 **Liza gone**

25 Thanksgiving

December 2010

2

9 2011 Insurance Placement - CL

16

23 **Christmas Holiday**

30

Pending Items:
Debrief of Bonanza Road construction – *things learned*
Board and commission training
Lower Park Avenue RDA Plan
Review of two year special event policy
Open space maintenance
U S Postal Service gang boxes in Old Town - MC
Wild land interface issues

City Council
Staff Report

Subject:	**Traffic and Transportation Master Plan Update**
Author:	**Matthew Cassel, P.E., City Engineer**
Department:	**Engineering**
Date:	**September 30, 2010**
Type of Item:	**Informational**

Summary Recommendations:
This report is informational. The Traffic and Transportation Master Plan study is entering its fifth month and staff would like to provide City Council with an update of our progress and our future direction with the study.

Topic/Description:
A street master plan was prepared for Park City by Wayne Van Wagoner and Associates in 1984. This master plan was in essence a street inventory that included roadway design standards and provided a street capital improvement plan. Since that time, the Old Town Infrastructure Study (OTIS) was completed in 2002 and numerous small localized traffic studies have been performed over the years in highly congested areas of concern. As traffic congestion increases, Park City recognizes the need to develop a comprehensive master plan for the City's transportation system. It is anticipated that this tool will be useful for the City to understand and resolve current and anticipated future traffic and transportation issues. This master plan will complete the transportation section of the General Plan currently being updated by our Planning Department. InterPlan Company was selected to develop the Traffic and Transportation Master Plan.

A technical steering committee has been formed to guide the development of the Traffic and Transportation Master Plan. Committee members are as follows:

Matt Cassel	Engineering
Kent Cashel	Transportation
Thomas Eddington	Planning
Roger Evans	Building
Jonathan Weidenhamer	Sustainability
Heinrich Deiters	Sustainability
Brooks Robinson	Transportation
Sayre Brennan	Transportation

The following are the elements to be provided by InterPlan as part of the master plan:

- A travel demand model that will be capable of estimating travel on roads, transit and walk/bike modes in Park City. This model will be used to forecast future traffic, transit use and walk/bike uses based on a range of land use scenarios. The model will be capable of predicting traffic changes based on land use changes,

- A VISSIM model will be developed. This model will be capable of taking the information from the travel demand model and creating a visual simulation model to show the performance of our streets, transit and walk/bike networks,
- Existing street and pathway inventory in a paper map and as GIS layers that will include the street classification and whether it is a public or private road, and
- A scenario development and alternative analysis will be conducted and submitted as part of the final report. Up to five land use scenarios will be evaluated and then three alternative transportation possibilities will be tested for each land use scenario. This will create up to 15 transportation and land use alternatives combinations that will be evaluated,
- Transportation goals will be developed and included in the final plan and cross referenced in the comprehensive plan being developed by the Planning Department.
- Street cross section standards will be provided as part of the final master plan. As each road in Park City is classified (local, collector, etc.), a typical cross section will be developed. These cross sections will be developed based on the existing Right-of-Way width and will include the paved roads width, snow storage and curb and gutter and possibly sidewalk, bike lanes and parking,
- Capital facilities plan development and recommendations on the next steps. The final master plan report will include a section on recommended short term capital improvements and a planning level cost for the possible long term capital projects (next recommended steps), and
- A final report will be submitted in draft and final form. It is anticipated that City Council will adopt the final traffic and transportation master plan.

This master planning process is part of a series of Park City's broader planning efforts to ensure that we can provide infrastructure and services for full-time residents and amenities for visitors, all while balancing the competing nature of our quality of life, environmental sustainability and economic viability. These efforts include the general plan updates and the Lower Park Avenue and Bonanza Park redevelopment consideration.

Traffic and Transportation Goals and Objectives

One of the first steps in developing a Traffic and Transportation Master Plan for Park City is the creation of goals and objectives which provide a direction for the master plan. The following are a list of the DRAFT goals and objectives staff has developed for Park City's Traffic and Transportation Master Plan. It should be noted that they are not final goals and objectives and still have information blanks that need to be determined.

GOAL 1. Park City will have a multimodal transportation system with complete streets and balanced availability of pedestrian, bicycle, transit and auto travel.
Strategic Objectives by 2040:

a. Drive-alone commute mode share for trips to Park City jobs will decrease to 70%.
b. Total daily transit ridership on local and regional transit routes serving Park City will be at least 18,000.
c. The presence of bicycles and pedestrians on Park City's streets, trails and sidewalks will be visibly and significantly greater than today.
d. Public parking supply will be priced at a level commensurate with its value.

GOAL 2. Park City's residents, workers, visitors and guests will have access to convenient transit for circulation within the City.
Strategic Objectives by 2040:

a. Daily bus hours of local transit service will increase to 500 hours.
b. Peak hour frequency on Park City's spine transit route will reach 10 minutes.

GOAL 3. Park City's residents, workers, visitors and guests will have efficient, direct and convenient regional transit connections from and to area resorts, Salt Lake and Utah Counties, and other communities of the Wasatch Back.
Strategic Objectives by 2040:

a. Average daily bus hours of regional transit service connecting Park City to points within Salt Lake, Utah, and Wasatch Counties will be at least 50 hours.
b. Weekday commuter transit service will connect Park City with at least three other communities in the Wasatch Back.

GOAL 4. Park City will have a complete and well-connected network of trails, bicycle lanes and sidewalks that supports safe, convenient and pleasant walking and bicycling to accommodate the needs of residents, visitors, and guests for short trips within the City and surrounding neighborhoods.
Strategic Objectives by 2040:

a. The average Walk Score (http://www.walkscore.com/) for hotels and motels within Park City will be at least 50.
b. All of the primary bicycle corridors identified in the Park City Transportation Master Plan will be completed and open to use.
c. At least 50% of the linear mileage of secondary bicycle corridors identified in the Park City Transportation Master Plan will be completed and open to use.
d. The average Pedestrian Environment Factor (PEF) rating for streets and blocks within the Downtown will be no less than 4.0.
e. The citywide average Pedestrian Environment Factor (PEF) rating for streets and blocks will be no less than 3.0.

GOAL 5. Mobility and accessibility in Park City will be as good or better than today without a per capita increase in average daily vehicular traffic.
Strategic Objectives by 2040:

a. Per capita peak hour VMT within the Park City traffic model will not exceed 4 vehicle miles per person.
b. Total peak hour VMT within the Park City traffic model will not exceed 100,000.

GOAL 6. Park City's street network will be well-maintained, with streets that are not significantly wider than today and without a significant increase in local street mileage.

Strategic Objectives by 2040:

a. Centerline miles of Park City local streets will not exceed 30.
b. Lane miles of Park City local streets will not exceed 60.
c. Average pavement condition of Park City local streets will be no less than 2.4 out of 5.0.

GOAL 7. Park City's transportation system will contribute positively to public health and quality of life by achieving a high level of travel safety and by creating an environment that supports active living.

Strategic Objectives by 2040:

a. The accident rate for personal injury traffic crashes within Park City will be no more than 3.5 per million VMT.
b. Pedestrian count volume at 5 count locations will increase by 50% average per location.

GOAL 8. Park City's transportation system will contribute positively to improved environmental, social and economic sustainability of the community.

Strategic Objectives by 2040:

a. Annual petroleum consumption by surface transportation within Park City will be no more than 1,000,000 BTU equivalent
b. Annual greenhouse gas emissions from surface transportation with Park City will be no more than 280 million metric tons

GOAL 9. Park City's transportation system will support development of mixed use nodes by providing convenient multimodal access to each node concurrent with its development.

Strategic Objectives by 2040:

a. Each mixed use node will be directly connected to the other nodes in Park City by pedestrian, bicycle, transit, truck service and personal vehicle access.

GOAL 10. Park City will use system management and demand management techniques to minimize the financial burden and environmental impact of local transportation facilities.

Strategic Objectives by 2040:

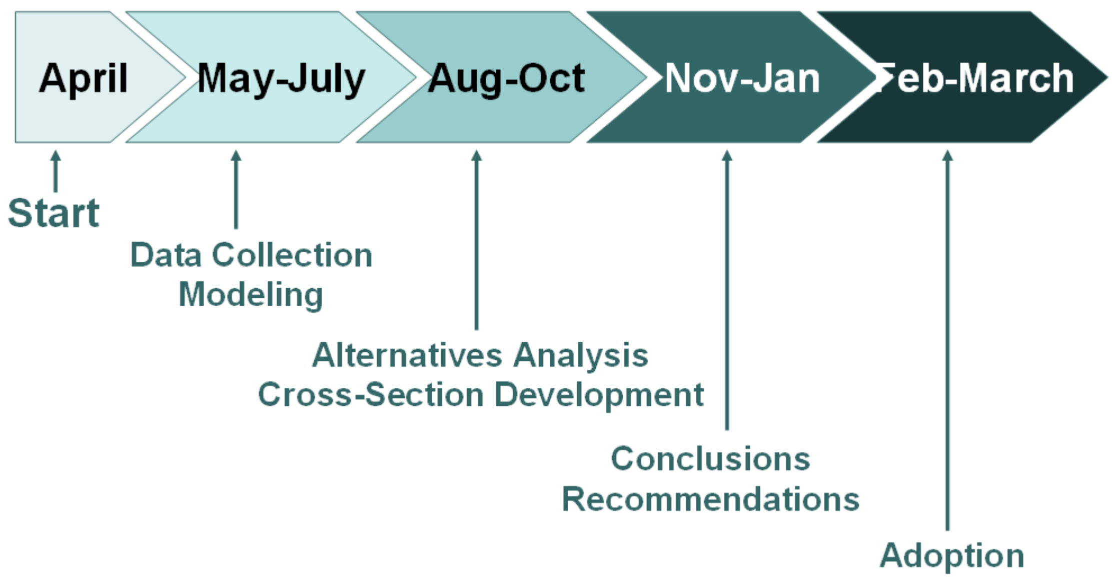
a. Traffic flows on Park City roads and streets (including state highways) will be managed for efficient multimodal operations through comprehensive signal synchronization and use of intelligent transportation systems (ITS) technologies..
b. Lane miles per capita of local streets will not increase compared to today.
c. Park City's festivals and special events will feature coordinated transportation strategies that minimize impacts of vehicular traffic while fostering growth in economic benefits.

Demonstration

As we work our way through this master plan process, we talk in length about the model that is being created for Park City and what it can do for us. Matt Rifkin and InterPlan will demonstrate the model and show Council its potentials during the Council meeting.

Schedule

Since the start of the transportation planning process in April, we spent much of our time collecting existing information on speeds, traffic counts, pavement and right-of-way widths and generally building and calibrating our models. Through the next two months, we hope to use the models to test the results of various transportation infrastructure improvements and other transportation programs and create measurable comparisons based on the goals and objectives listed in this staff report and evolving based on comment. In addition to the next round of stakeholder and public meetings occurring in September and October, we hope to summarize modeling results and work with City Council, the public, and our stakeholders in November and December so that we can develop clear recommendations and a plan for your approval in February or March of 2011.



As the master plan develops, numerous stakeholder, public, Planning Commission and City Council meetings will be held.

- Stakeholder Committee Meetings – The first meeting was held June 16, 2010 and the second meeting was held on September 14, 2010. Summarize outcome of meetings. It is anticipated that one to two more meetings will be held with the stakeholder committee through the rest of the process,
- General Public Involvement - The first public meeting is scheduled for October 5, 2010. This public meeting with be an open house style meeting. There will be one more public meeting down the road as we get closer to a finished product,
- Planning Commission – An update to the Planning Commission was held on August 11, 2010. Four additional update meetings will be provided to the Planning Commission,
- City Council – Three update meetings with City Council will be held throughout the master plan process with this meeting being the first of those meetings. Additionally, up to two meetings will be held as City

Council reviews and adopts the final plan and report.

Department Review:
This report has been reviewed by City Manager, Planning, Public Works, Sustainability and Legal. All comments have been integrated into this report.

Significant Impacts:
The analysis and preparation of the master plan will not have significant impacts other than the time required by staff members in assisting the development of the master plan. The funds for the consultant's contract have already been appropriated, and there are no budget impacts which the Council hasn't already considered in the FY2010 budget. The master plan will be developing a capital improvement plan as a deliverable which most likely have a financial impact in future budget years.

Recommendation:
This report is informational. The Traffic and Transportation Master Plan study is entering its fifth month and staff would like to provide City Council with an update of our progress and our future direction with the study.

City Council Staff Report

Subject: For Hire Vehicles
Author: Shelley Hatch
Department: Finance Department
Date: September 30, 2010
Type of Item: Informational

Summary Recommendations: Council should affirm staffs plan to release a revised request for proposal to conduct a study on for-hire vehicles. Funding for this study exists in the Transit Fund.

Topic/Description: Park City Municipal Code, title, 4, chapter 15 Business license for transportation companies.

Background: In 1998, Park City council adopted an ordinance regulating the taxi and shuttle industry in Park City. The Ordinance largely mirrored Salt Lake City's For Hire Vehicle ordinance, but did contain some changes to reflect Park City's unique resort community. Franchising the taxi industry was discussed, but ultimately was rejected. The discussion in 1998 led to the requirements of identification stickers and vehicle inspections for For-hire vehicles.

In May of 2002, after receiving complaints from local transportation companies City Council made the following policy decisions and corresponding revisions to the City's taxi ordinance:

1. Require application of taxi stickers to the vehicle in the presence of the business license clerk.
2. Inspect all vehicles for permanent business name decal for taxi identification.
3. Verify all drivers have a class z endorsement on a Utah driver license.
4. Implement an enforcement policy and strategy that did not negatively impact tourist and customers. This limited police from pulling over and citing taxi cabs with passengers when there was only a sticker/For-hire license violation.
5. Combine the three previous license categories: Taxi, shuttle and combined taxi/shuttle into a single license per the transportation company's request

On March 27, 2009 and May 12, 2009, staff held meetings with the For-hire Vehicle business owners to discuss their concerns. The For-hire industry requested that the City limit licenses to locals only which is not legally permissible. The For-hire Industry was unable to reach a consensus on what changes they would like to see in For Hire regulation and Staff was unable to get a clear direction from the meetings.

On October 1, 2009 staff went to Council to discuss modifications to the Code for the For-hire Industry based on the variety of suggestions made at the March and May meetings. See exhibit A- Staff report from October 1, 2009.
Discussion items were:

1. Separate Black Shuttle (limousine) service from taxi service (In May 2002 this was changed per the transportation company's request)
2. Conduct a market study to determine if limiting the number of cabs within the Park City limits would improve service. (Staff recommend this item)
3. Ban the payment of referral fees to hotel concierges. (Staff did not recommend this approach as it would be extremely difficult to enforce).
4. Change the Municipal code to require stickers for Drop offs. (Staff did not recommend this approach as it is not legally permissible)
5. Require a For-hire Vehicle business to have an office within Park City limits.(Staff did not recommend this approach as it is not legally permissible)
6. Create a central referral phone system (Staff did not recommend this approach).
7. Set up staging areas.(Staff did not recommend this approach)
8. Increase enforcement. (Staff did not recommend this approach)
9. Franchise the industry (Staff recommended this should be studied)
10. Prohibit Idling. (Staff recommended this prohibition)
11. Do nothing.(Staff did not recommend this approach)
12. Complete a Transportation Study. (Staff recommended this approach)

Council expressed that the problems appear to be from the industry not from the general public. Council felt that an internal task force should be formed to analyze and recommend options from the scope of the RFP study. Council directed Staff to develop a proposal for an in-depth RFP study of Park City's taxi/ground transportation (see Exhibit B- Minutes October 1, 2009).

Analysis:
Staff members from Code Enforcement, Special Events, Transportation, Police, Public Works, Economic Development and Business Licensing formed a task force to analyze and recommend options. This task force contacted three companies to submit a proposal to study the For Hire Industry in Park City, and reviewed the many suggestions made by the for-hire industry listed above. The task force also compared Park City's For-hire situation with other resort towns.

Three companies responded to the RFP proposal on a taxi regulatory and service model study, which would accomplish four objectives:

1. Assist the City's year-round local transportation companies, providing greater stability to their ability to serve both peak and off peak demand, through either a franchise requirement or amendments to the City's current ordinance.
2. Ensure that the supply of taxi and other ground transportation services are adequate to serve peak season demand including special occasions such as the Sundance Film Festival.
3. Develop a stronger local taxi/ground transportation ordinance that leads the industry toward the use of alternative fuels and idle free zones.
4. Develop an appropriate license fee structure that captures all city costs involved in the regulation of taxis and all public/private ground transportation services.

Proposals from Rosenthal & Associates Inc., Wikstrom Economic & Planning Consultants, and Dr. Ray Mundy were received. The three proposals Staff received included cost proposals ranging from $8,000 to $32,000. Two of the three proposals contained cost proposals in the $31,000-$32,000 range. Staff thinks a comprehensive and effective study, that will achieve the four objectives outlined above, will cost at or near the higher end of the range of $32,000. The wide range of cost, and associated study approaches, indicates the need for Staff to more clearly define the required deliverables of the study.

No funds have been specifically budgeted to complete this study. However, sufficient funds exist in the Transit Fund to complete the project. Staff recommends re-issuing a refined request for proposal to complete this study to include specific information about road impact, taxi specifications, evaluating current operations, simulation of vehicles necessary to service demand, curb prioritization, fees, analysis of administrative regulatory options, and requirement for special events developments. Once this has been accomplished and a decision is made on the selection of a contractor, Staff will return with a discussion of funding alternatives, staffing impacts and request for authorization to enter into a contract with successful proposer.

The task force reviewed For-hire practices in the following towns: Aspen, CO., Jackson, WY, Ketchum, ID., Vail, CO. and Lake Tahoe, CA.

- Aspen, Co
  Aspen employs a total of six taxi stands throughout the City. Shuttles and busses are employed on a reservation status only. This means that shuttles and busses must be called by a fare and have a reservation before picking up their client(s). They stated that they have worked out the taxi stands personally with the taxi companies. They also stated that taxis are regulated by Colorado State Statute. These statutes were very complicated and the county issues the licenses.
- Jackson, Wy.
  The town of Jackson does not have an ordinance related to regulation the hiring of taxis (i.e. nothing regarding pick up and drop off locations). They only regulate vehicle markings, licensing, and fare rates. They stated that the Jackson airport has its own set of regulations in regards to picking up passengers.
- Ketchum, Id
  Ketchum has taxi zones that exist on each side of Main St. These zones reserve two spots solely for Taxis. Taxis must also adhere to all regulations dictating vehicle regulations (i.e. time restriction for parking, handicap zones, double parking, etc.) They indicated that they have had the best success when they implemented stiff fines, had clear taxi stand signs, and stepped up enforcement.
- Vail, Co.
  Vail regulates taxis during the day. They do not allow taxis into identified "pedestrian zones". However, they do allow taxis to pick up passengers at the edges of the pedestrian zones. These regulations become more lax during the night.
- South Lake Tahoe, Ca

Lake Tahoe has 86 licensed taxi drivers. (Park City has 127 For-hire business licenses, and each business license may have several vehicles within that license.) The Police Department regulates most of the taxi business licenses. The business license department regulates "owner's permits." The owner's permit regulation requires taxi drivers to have 5 years livery experience in town, be up to date on all fees, and place permanent logos on taxis. Under the owner's permit, an operator can not be convicted of any felony or crime involving driving under the influence of alcohol or other controlled substance; any crime involving the sale, use of, or transportation of narcotics; any crime involving reckless driving; any suspension of driver's license; a criminal assault; and crime involving theft or embezzlement; or any child annoyance or sex-related crime. To obtain an Owner's permit an applicant must provide South Lake Tahoe regulatory staff with the number of vehicles to be operated or controlled by the applicant, the description of each vehicle, giving the model, serial and license number, the seating capacity and the name of the manufacturer, and the location of proposed depots and terminals (if any). If independent taxi drivers want to drive a taxi within the City limits and do not have the 5 years of in town taxi experience, drivers can operated under someone else's existing Owner's Permit. Once drivers have the 5 year experience they can apply for an Owners permit themselves. No permit shall be issued for a term longer than 10 years.

The task force also examined Salt Lake City's taxi situation. Salt Lake City conducted a study July 31, 2005. This study was to provide analyses to support revision of the licensing, administrative, operational and enforcement system for the taxi industry. Based on that study, Salt Lake City changed their operation of licensing. Despite those changes, Salt Lake is still experiencing significant problems with the present system. Salt Lake City's left with no doubt that their present system is broken and in need of significant structural changes in order to stop the infighting between metered and non metered sedans and shuttles operating as taxicabs. (see Exhibit C- Salt Lake Tribune article on taxi complaints September 21, 2010).

The task force found that reviewing other City's approaches was not particularly helpful in determining next steps. Each community has its own unique character, transportation network and transportation challenges that have defined the communities approach to the For-hire industry. These subtle differences make it risky to simply apply another communities approach to Park City's For-hire industry.

In particular, Salt Lake City's experience indicates that simply conducting a study and then tweaking the ordinances regulating the taxi industry does not guarantee that those actions will solve all the industry's problems. However, the task force does think a study is required for the City to adequately understand it's For hire industry and the outcomes and industry impacts that regulatory changes for the taxi industry are likely to deliver. Armed with this clearer understanding Staff can then develop a well reasoned action plan regarding the City's taxi ordinances.

Sayre Brennan with Public Works studied taxi zones on Main Street and other location on three separate occasions:

- For each study, he drove either north (turning at 9th street) or south bound (turning at Swede Alley) along Main Street documenting the following details: travel times, areas of congestion, and other significant factors relating to traffic on Main Street.
  1. During peak traffic, the average time to travel south bound (up Hill) was 4-6 minutes and 5-7 minutes to travel north bound (downhill). During non- peak traffic, both north bound and south bound travel lanes averaged 2-3 minutes.
  2. The major areas on Main Street that caused congestion were: Wasatch Brew Pub, Harry O's, Side Car, 350 Main St., and DC Clothing. One of the major factors for congestion in these areas were:
     a. Taxi cab companies illegally parking into the road, thereby obstructing the flow of traffic (violation of PCMC Parking Code 9-2-2 and 9-2-3).
     b. Double Parking (violation of PCMC Code title 9-2-3 and 9-2-6).
     c. Unloading of Passengers from larger taxis (i.e. mini vans, suv's).
     d. The time for a vehicle's operator to parallel park on Main Street averaged anywhere from 10 to 40 seconds. The longer it took an operator to Parallel Park, the greater the increase in congestion.
  3. Although not directly related to traffic congestion, a number of taxi companies were idling their vehicles. A number of taxis were legally in parking spaces along Main Street but they were nonetheless idling with the operator inside the taxi cab waiting for customers to hire the cab.

On March 27, 2010 Deb Wilde from code enforcement and Jeremy Eaton from Police conducted a taxi enforcement shift. They worked from 9pm to 2am. During the shift they made contact with several taxis. During these contacts every taxi was in compliance with having a business license and the drivers having a Utah taxi endorsement. The main problems that were encountered included taxis blocking traffic while waiting for their turn for fares on the corner of 5th and Main St., and taxis sitting in red zones (No Parking areas). They also noted taxis double parking and blocking traffic as they waited for fares. There were 15 parking problems addressed and several others that were not logged during that shift.

The task force felt that the traffic circulation issues identified during the brief traffic study and enforcement shift should be more closely monitored over the winter of 2010-11. The City's Transportation division has agreed to conduct this monitoring and return to Council for further direction in the summer of 2011 if increased enforcement is warranted.

The Task Force has reviewed the following issues:

1. **A driver photo badge from Park City is not needed**. This Park City badge would need to be visual for the riders at all times. This badge would be an extra cost to the City of $1.00 per badge, and staff's time to produce the badge. Jeremy Eaton from Police stated that anytime that a taxi is pulled over

they will ask to see their Utah Z endorsement drivers license anyway. Staff discussed that the ordinance for a Utah Z endorsed drivers license is all ready in place. The task force felt the photo ID card would just be an added expense. The task force does not recommend this approach.

2. **Set a limit on age of vehicle**. It was suggested for the safety and the well being of the community requires all vehicles to be no more than 6 years old, and require 4 wheel drives on all For-hire vehicles under a 10 passenger limit from December through April. How ever the task force was concerned that putting an age limit on the vehicles could have a financial hardship on the For-hire business, and was not addressing a known problem. The task force recommends this approach is reviewed as part of a study.

3. **Require drivers to provide us with a criminal background check.** This will have minimal costs but will provide increased safety for passengers. The task force recommends this approach.

4. **Have yearly meeting with the For-hire business community**. Discuss issues and educate them about our policies and procedures. We would be revisiting the ordinance rules with the For Hire Business owners we also felt that some of the complaints that we received could have been prevented with education. The task force team felt over all, the problems only exists during Sundance. The task force recommends this approach.

5. **Educate Taxis on No Idle resolution.** The City Council of Park City adopted an 'Idle-Free City' resolution in November, 2009. The resolution encourages fellow employees and community to turn off their vehicles when idling. In the educational meetings with the For-hire business we could give them a handout of the Cities Idle-Free policy. The task force recommends this approach.

6. **Educate Special Event visitors.** Have festival organizer's include an education piece in their flyers about what questions rider's need to ask before getting into a taxi. Require the For-hire businesses to have 24/7 service. Look at the policy and procedures to change our ordinance to require the 24/7 service. The task force recommends this approach.

7. **Institute Owners Permit.** Consider requiring businesses to have an Owner's Permit. The task force didn't talk about the owners permit in detail however Staff believes this option should be included in the study.

8. **Monitor For-**hire industry impacts on Main Street traffic circulation over the winter of 2010-2011. The task force recommends this approach.

9. **Conduct a study to determine the optimum regulatory framework to address the issues identified by the task force.**

ALTERNATIVES

A. **Approve The Recommendation.** Council should direct Staff to release a revised RFP to conduct a study on for-hire vehicles. Funding for this study exists in the Transit Fund

B. **Deny The Recommendation**. Council could deny Staff's request.

C. **Defer the item to a later date.** Council could defer decision on this item to a later date. Staff does not recommend this alternative.

D. **Do Nothing**. Council could do nothing on this request. Staff does not recommend this alternative.

Department Review:
City Manager, Finance, Legal, Police, Sustainability, Public Works, Building

Consequences of not taking the recommended action:
This issue will remain unresolved.

Recommendation:
Council should affirm staffs plan to release a revised request for proposal to conduct a study on for-hire vehicles. Funding for this study exists in the Transit Fund.

City Council
Staff Report

Subject: For Hire Vehicles
Author: Shelley Hatch, Analyst II
Department: Finance Department
Date: October 1, 2009
Type of Item: Informational

Summary Recommendations: This report is for information only. No action is required. Staff recommends that Council solicit input from the For Hire Vehicle industry, and the public. Staff recommends that Council concur with Staff plan to develop a proposal for an in-depth study of Park City's taxi/ground transportation service.

Topic/Description:
Discussion of how to address issues raised by licensed transportation companies and For-Hire Vehicles

Background:
In 1998, Park City Council adopted an ordinance regulating the Taxi and Shuttle industry in Park City. The ordinance largely mirrored Salt Lake City's For Hire Vehicle ordinance, but did contain some changes to reflect Park City's unique resort community. Franchising the Taxi Industry was discussed, but ultimately was decided against. The Taxi Industry did not support a franchise system at that time. The 1998 discussion led to an ordinance that required the use of identification stickers and vehicle inspections for For-Hire Vehicles.

In May of 2002 after receiving complaints from local transportation companies, City Council directed Staff to examine possible solutions to enforcement and administration concerns related to the City's taxi ordinance. In sum, the complaints generally concerned enforcement, identification stickers and licensing procedures. To address these concerns, in October 2002, City Council made the following policy decisions and corresponding revisions to the ordinance:

1. Require application of taxi stickers to the vehicle in the presence of the business license clerk. This would help the enforcement to identify the licensed taxis.
2. Inspect all vehicles for proper permanent identification.
3. For all new applications, verify all drivers have the proper Class Z endorsement.
4. Create an enforcement policy and strategy that did not negatively impact tourist and customers.
5. Limit police from pulling over and citing taxi cabs with passengers when there is only a sticker/for hire license violations.
6. Combine the three previous license categories: taxi, shuttle, and combined taxi/shuttle into a single license per the transportation company's request. This resulted in the present license structure which bunches all three types of service into the For-Hire License ("FHL") category and there will be one single fee.

On March 27, 2009, Donnie Novelle owner of Park City Transportation e-mailed the Mayor and Council with her concerns of the high number of "For Hire Vehicles" that conduct business in the City during the peak times. Ms. Novelle expressed concern for the welfare of citizens, guest, surrounding businesses, neighborhoods and wildlife. Ms. Novelle also expressed concern about unlicensed companies known as "gypsy cabs" that operate within the City and licensed companies that only operate during the peak/special event periods. Ms Novelle saw several gypsy cabs on Main Street during Sundance with handwritten signs in the window saying "Taxi" and no business license sticker in the rear window. Ms. Novelle's concerns include the reliability of the cabs, whether they carry the proper insurance, are paying taxes on their revenue, parking in residential zones and on the streets, and causing traffic congestion.

On May 12, 2009 staff held a meeting with the For Hire Vehicle Business owners to discuss their concerns and find a way to address those concerns. The following issues were discussed:

- Separate the Black Car Service from the Taxi service.
- Restrict the number of For Hire Vehicles
- Ban Payola: Payments to individuals such as doormen for calling a specific company.
- Require Taxi stickers for drop offs
- Require Office space to be in the city limits
- Set up a central phone system
- Setting up a Staging area
- Additional Enforcement
- Franchise the Taxi Industry
- Prohibit Idling

Attendance

JOHN DELONG	POWDER FOR THE PEOPLE
ROBERT OBRIEN	649-TAXI
CHUCK VERNSEY	PARK CITY DIRECT SHUTTLE
SPIKE	PREMIER
ZAFOD	MUSIC TAXI
ROB TAYLOR	P.C. PREMIER TRANS.
CHRIS ONEILL	P.C. PREMIER TRANS.
STUART ROSEN	ACE LIMO
RANDY CURTIS	EXPESS SHUTTLE
VICTOR SOLIZ	A-LINE TRANS.
DONNIE NOVELLE	PC TRANSPORTATION
DIANIA TURNER	DEEP POWDER TRANS
RYAN APPEL	SKI TAXI
KYLE GERVUIS	PEAK TRANSPORTATION
ALAN POWELL	PEAK TRANSPORTATION

SPENCE PECHT	FREESTYLE TRANS
BOB GARCIA	CITIRIDE
GORDON CUMMINS	ALL RESORT
MIKE WILHUH	ALL RESORT
DAVE DAVIS	P.C.T.
RYAN PETTY	ELITE LIMOUSINE
MAE TERBURG	VIP LIMOUSINE

The For-Hire Industry was unable to reach a consensus as to which issues to pursue. The For-Hire Industry generally wants to protect their business from unlicensed transportation and licensed transportation that only operates during the busy time such as Sundance and the Ski Season.

The For-Hire Industry was informed that the City can not restrict competition. The City can only implement ordinances and licensing requirements that are for the health, safety and welfare of the citizens and visitors of Park City.

The For-Hire Industry contains a mix of differing interests. Increasing the license requirements was viewed by some as helpful and other as any increased burden on legitimate companies. Limiting the number of licensed companies by freezing the number of licensed taxi companies was discussed, but would prevent companies that aspire to expand from growing. A Franchise system would allow a company(ies) the exclusive right to the Park City market and would ease enforcement issues, but would not allow the large number of licensed companies that currently operate in the City to stay in business.

As Staff was unable to get a clear direction from the meeting, a follow up meeting was scheduled for June 16th, 2009. The industry was asked to see if a consensus or majority view could be reached concerning any of the proposed suggestions.

On June 16, 2009, an additional meeting with the For-Hire industry was held. At the end of the meeting Staff distributed a survey to asses whether there was a consensus as to which issue(s) to pursue. Staff presented a survey with five topics for the For-Hire Business. In this survey, For Hire business owners were asked to number their preferred action from one to five, one being the highest priority. Of the # of people at the meeting, # filled out the survey. The proposed alternatives were to separate Black Car Service, conduct a Franchise Study, Additional enforcement, restrict the number of For-Hire Vehicles, and finally other (write in).

1. Separate Black Car service
    - 3 was marked 1
2. Franchise Study
    - 2 was marked 1
3. Restrict the Amount of Vehicles
    - 3 was marked 1
4. Extra Enforcement
    - 1 was marked 1

5. Other
    - 1 was marked 1 (comment) “At this point I would say leave it as is.”

Staff was unable to find a clear direction from the For Hire Vehicle Industry. Staff and Council have attempted to address this further regulation of the industry in the past, but have been unable to develop a satisfactory regulatory scheme. Staff approached Dr. Ray Mundy for information on conducting a Transportation Study. Dr. Mundy is the Director of the Tennessee Transportation & Logistics Foundation. He has worked with Salt Lake City and the Salt Lake City Airport and many others in developing Transportation Studies to address customer service and taxi industry issues.

Dr. Ray Mundy met with the City. During that meeting Donnie Novelle’s letter as well as information gathered from the two public meetings with the For Hire Vehicle Industry was discussed. Dr. Mundy has submitted a proposal to conduct a transportation study for the City based on these discussions. He identified four goals of such a study. These goals would be to (1) assist our year-round local transportation companies by providing greater stability to their ability to serve both peak and off peak demand: (2) Ensure that the supply of taxi and other ground transportation services are adequate to serve peak season demand including special occasions such as the Sundance Film Festival: (3) To develop a stronger local taxi/ground transportation ordinance that leads the industry toward the use of alternative fuels and greater services to the transportation disadvantaged: and finally (4) an appropriate fee structure that captures all city costs involved in the regulation of taxis and all public/private ground transportation services.

The proposed goals can be modified if Council desires. The estimated cost of a study, is roughly $32,000. If staff intends to go forward with a transportation study and a request for proposal will be done.

Analysis:
Staff was unable to find a clear consensus from the For-Hire Industry on what modifications to the code they would like to have. The For-Hire Industry contains a variety of differing interests and no consensus as to a direction to take could be reached. Because of this, Staff recommends holding a public hearing to consider public input from the For-Hire Industry and the public. Below is a summary of different topics that were discussed at the meetings with Staff and transportation companies.

1) Separate Black Shuttle Service from Taxi Service: Presently, the Municipal Code groups together all shuttles, taxis, and transportation services. This change was made in 2002 to make enforcement easier. For example, presently if a drop off is made without a sticker that drop-off was likely a violation of the municipal code. If services are separated, it would be difficult to tell whether a drop off was done by a Black Shuttle Service or by a un-stickered Taxi Cab.
2) Conduct a market study and limit the number of cabs within the Park City limits: A market study will help determine the demand for the For Hire Vehicle industry in Park City. This information would help to determine if Park City

market is oversupplied, and also evaluation the level of service customers are receiving. This market study would also be a prerequisite to capping the number of FHV licensed or Franchising the Industry. Although this study is a prerequisite to Capping or franchising the system, conduction a study does not mean that the City will have to pursue either path. The study may also contain other suggestions that have not been considered. After a study provides information on the needs of Park City, the City may consider capping the number of Cabs at a level that meets those needs. Capping the number of For Hire Vehicles may have the unintended consequence of creating a system where the license to operate a For Hire Vehicle in Park City is bought and sold in the private marketplace.

3) Ban the Payment of Referral fee: Referral fees or Payola is paid by a For Hire Business to a hotel doorman or other individual for using that Company. If enacted this ordinance would be very difficult to enforce.
4) Change the Municipal Code to require stickers for Drop-Offs: Legal has reviewed this request. Such a requirement is prohibited by interstate commerce law. No Utah municipality has such a requirement.
5) Requiring a FHV business to have an office within Park City limits: Legal has reviewed this request. Park City unable to enact such a requirement as Utah Code prevents the City from favoring local businesses.
6) Central referral phone system: Only the FHV Industry can implement this option, the City can not set up a central referral phone system.
7) Set up staging areas: Staging areas have been investigated in the past and found that numerous taxi companies do not like the concept and would not voluntarily use it. Taxi operators generally feel it is important to be close to where their customers are (i.e. on Main Street). Staff does not think a taxi staging area, by itself, will be successful. Kent Cashel has been working with the Historic Main Street Business Alliance subcommittee since summer 2008 to determine:
    - If taxi, hotel shuttle and bus activity on Main Street was significantly impacting traffic circulation.
    - What mitigation factors, if any, should be implemented?

   This committee was not clear on the level of impact taxis, shuttle buses and buses were having on Main Street Circulation. The committee recommended Staff gather data over the winter of 2008-09 to determine the location, nature and level of traffic impacts. Staff gathered this data and is in the process of analyzing this and determining what, if any Mitigation measures are appropriate. Once this is complete Staff will meet with the HMBA subcommittee and the taxi industry to discuss these findings and make recommendations. Staff expects that a staging area program will require the implementation of stricter taxi licensing requirements, code modifications, enhanced enforcement and most likely a consumer education program. These program elements will represent increased administrative and enforcement burden for the City and bring with it significant associated costs.
8) Increased Enforcement: Presently, all licensed For-Hire Vehicles (FHV) are required to have a Park City Transportation Sicker. This sticker allows the

driver to pick up individuals with Park City limits. No sticker is required for dropping off individuals within City limits. Council has previously directed the Police not to stop vehicles that make a pick up without a sticker. This was done because of the negative impact stopping a FHV has on the innocent passengers who usually are tourists. The only time that the Police can stop an unlicensed For Hire Vehicles in the City for soliciting business is in between a stop and a pickup. Business licensing has a complaint form which the For Hire Vehicle industry can use to submit reports of unlicensed For Hire Vehicle activity. Code enforcement actively follows up on these complaints. Staff will continue to actively enforce the Municipal Code, but recognize the licensed FHV industries frustration that the lack of immediate consequences creates. The FHV industry requested increased enforcement. Staff explained the complaint procedure and the reason for the current system.

9) Franchise the Industry: After the study provides information on the needs to Park City, the Council may consider franchising the FHV industry. This would allow Park City to exercise greater control over the FHV industry. It would also allow FHV to earn a fair wage. It is likely, however, that any franchise agreement would be limited to a few companies. In all likelihood many of the existing licensed companies would not receive the franchise.

10) Prohibit Idling: The City wants to continually improve the efficient use of vehicle fuels in an effort to reduce operating costs and emissions. Park City has an internal staff directive that only applies to City Vehicles. The current City policy is as follows: When the City Vehicles are not in traffic lanes, idling is prohibited (except under the limited conditions listed below):

    i. When the ambient temperature is below 32 degrees F, vehicles and equipment will not be idled more than 3-5 minutes. This applies to start and warm up, waiting on jobsites and at material suppliers and end of day cool down.
    ii. For the health and safety of operators, there will be occurrences when vehicles may be left running. Examples include idling during traffic control operations when overhead lights are in operation for safety, additional idling at first startup to build safe operating air pressure and protection from the elements or for the use of the vehicle safety features (including the use of air conditioning in street sweepers to keep dust out of the cab).

In addition to prohibiting the idling of City vehicles, Park City restricts the idling of delivery vehicles on Main Street and/or Swede Alley (see ordinance 9-8-3). City Council has directed the Environmental Sustainability Staff to assess the resources needed for implementation and enforcement of a City-wide anti-idling ordinance and Staff is currently in the process of investigating these requirements.

11) Do nothing. No action would result in no changes to the problems expressed by the For Hire Vehicle Industry, and will perpetuate the continuing existence of gypsy taxis and licensed vehicles that only operate during peak season.
12) Do a Transportation Study: Staff discussed with the For Hire Vehicle Industry doing a transportation Study. Such a study would determine the severity of the problems expressed by the Industry. A Transportation Study can be tailored to meet different goals, but at present Staff and Dr. Mundy have identified the following goals for a Park City transportation Study: (1) Assist our year-round local transportation companies by providing greater stability to their ability to serve both peak and off peak demand: (2) Ensure that the supply of taxi and other ground transportation services are adequate to serve peak season demand including special occasions such as the Sundance Film Festival: (3) To develop a stronger local taxi/ground transportation ordinance that leads the industry toward the use of alternative fuels and greater services to the transportation disadvantaged: and finally (4) An appropriate fee structure that captures all city costs involved in the regulation of taxis and all public/private ground transportation services. The estimated cost of such a study is roughly $32,000. Staff will explore the potential for funding of this study with existing budget allocations, but it's possible that staff will request an operating budget adjustment for this study in the spring. However, if council were to ultimately adopt one of the recommendations resulting from the study, the cost of the study would be built into the new pricing structure for the next renewal fees.

Department Review:
City Manager, Finance, Legal, Police, Sustainability, Public Works

Significant Impacts:
If directed to develop a proposal for a Transportation Study that Transportation Study will require an expenditure by the City. Currently a Study is estimated to cost roughly $32,000. There are not funds budgeted for this Study. Once the request for proposal. are received Staff will return with a discussion of funding alternatives and Staff impacts.

Consequences of not taking the recommended action:
This issue will remain unresolved.

Recommendation:
Staff recommends that Council solicit input from the FHV industry, and public. Staff recommends that Council direct Staff to develop a proposal for an in-depth study of Park City's taxi/ground transportation service.

PARK CITY COUNCIL WORK SESSION NOTES
SUMMIT COUNTY, UT
OCTOBER 1, 2009

Present: **Mayor Dana Williams; Council members, Candace Erickson, Roger Harlan, Jim Hier, and Joe Kernan**

Tom Bakaly, City Manager; Mark Harrington, City Attorney; Shelley Hatch, Analyst II; Wade Carpenter, Chief of Police; Heinrich Deters, Trails Coordinator; Jonathan Weidenhamer, Economic Development Manager; and Matt Cassel, City Engineer

Donnie Novelle, PC Transportation; Rob O'Brien, 649-TAXI; Kyle Jesson, Comstock Drive resident, Shirin Spangenberg, Prospector resident; and Mark Olson, Comstock Drive resident

Absent: **Council member Liza Simpson**

1. Council questions/comments. Jim Hier discussed promotions and business presented at the HMBA meeting, and a Chamber reception planned at Little America on October 20 for the state legislature. Roger Harlan spoke about the trend of promoting bicycling in communities and pledged to use alternative transportation once a month to Council meetings rather than driving. He felt it important for members to lead by example and proposed encouraging high school students to use the free bus rather than driving to school. Joe Kernan thanked Diane Foster and others for their participation in the successful Save Our Snow event last night. The Mayor agreed and commented on meetings on Gambel Oak, EPA, and the Air Force held in Washington DC last week and added that he was honored to speak to the National Academy of Science on sustainable communities while there.

2. For-hire vehicles licensing. Shelly Hatch explained that on March 27, 2009 the Council received an email from a provider describing problems during peak times, specifically the high number of for-hire vehicles operating in town. In May, staff met with business owners to address their concerns and some approaches discussed included separating black tie service from taxi service, restricting the number of provider vehicles, banning payola, requiring stickers for drop-off, setting up a central phone system, increasing enforcement, franchising the taxi industry and prohibiting idling. She emphasized, however, that there was no consensus as to which to pursue. In June 2009, another meting was held to survey businesses to identify the preferred approach but staff was unable to garner clear direction. She proposed conducting a transportation study to reveal the needs of Park City and a way to cap the number of cabs at the appropriate level.

Ms. Hatch summarized the topics discussed at the meetings including (1) a separate black shuttle service from taxi service (enacted in 2002); (2) conduct a market study and limit the number of cabs within Park City; (3) ban payola (difficult to enforce); (4) change the Municipal Code to require stickers for drop-offs (prohibited by interstate commerce law); (5) require providers to have an office in Park City (prohibited by interstate commerce law); (6) implement central phone system (only industry can do); (7) set up staging areas (not favored by operators); (8) increase enforcement; (9) franchise the industry (limited to a few companies); (10) prohibit idling; (11) do nothing; and (12) conduct a transportation study.

She reported that the estimated cost of a study is $32,000, acknowledging the need to explore funding options and possibly requesting a budget adjustment for the study in the spring.

Candace Erickson suggested making applicants wait 90 days before receiving a license to avoid attracting renegade taxis during peak times like Sundance and it was pointed out that the Code has a ten day turn-around period once an application is complete. Mark Harrington interjected that the problem is that Sundance is in the winter but the idea can be explored. She felt the goals of the study outlined in the staff report fall under the role of the transportation companies not the City and she did not support enforcing stronger ordinances. Roger Harlan stated that he shares Ms. Erickson's reservations and discussion ensued on the sticker program and level of enforcement. Chief Wade Carpenter spoke about monitoring taxies and not confronting taxi drivers about violations until the passenger is dropped off. Unfortunately, business license information is not in a database officers can access on-site. Ms. Hatch explained the significant effort on behalf of the City to get all vehicles licensed as a matter of equity.

Donnie Novelle, Park City Transportation, emphasized that they have been in business for 30 years, 365 days of the year. As of 2003, there were 20 for-hire companies and six years later, there are 84 in Park City. She spoke about not requiring businesses to operate from an office and companies not contributing to Park City in the way of property taxes. The high number of licensed vehicles contributes to congested traffic conditions and pollution in town for the small price of a business license and the public would be better served with fewer vehicles operated by several companies. Ms. Novelle stated that she is very supportive of the study and feels the cost could be covered by increasing the business license fee for the 84 or more 2010 for-hire taxi companies.

Rob O'Brien. 649-TAXI, relayed that the City can't show favoritism toward businesses with offices in town but 84 companies seem like over-kill and he acknowledged that the issues have been on-going problems for 15 years. He admitted that he was surprised by the $32,000 price for the study and wasn't sure if it is worth it. The City can continue to license businesses or the service can be franchised. He continues to be interested in learning about the criteria to qualify for a franchise.

Ms. Novelle again expressed her support for a study and having it done now, not waiting until the spring. Tom Bakaly interjected that action is not requested on the study tonight but pointed out the longevity of the issues. The amount is an estimate and the

City would solicit requests for proposals and if a study is greater than $20,000, Council approval is required. He believes some expertise is needed that would allow the City to use its current system and perhaps benefit local companies more. Mr. Bakaly felt that proceeding with a RFP would be helpful. There was discussion about the goals of the study outlined in the staff report. Jim Hier didn't feel these issues are of interest to the general public. The problems are from the industry, of the industry and the City has tried to arrive at solutions in a void and for these reasons, it may be wise to hire a qualified consultant to provide options. Mr. Hier did not feel comfortable legislating an answer and collecting more data is probably prudent. He personally does not use the service and has not heard complaints about taxis from his constituency. The Mayor agreed. Joe Kernan expressed interest in regulating unreasonable fares and would like more information on problems the Council can solve.

The Mayor summarized that all members are supportive of proceeding with a RFP. In response to a question from Joe Kernan, the City Manager stated that if the study provides solutions, it will save a significant amount of staff time spent on these issues. It was pointed out that fares must be posted inside the cab. Jim Hier suggested that a task force be formed to analyze and recommend options from the study

3. Comstock Drive sidewalk project. Heinrich Deters explained that Comstock is bordered by residential and commercial zones and provides an important pedestrian corridor for the nearby schools. For the past several years, the neighborhood has been working with staff to find a balance with traffic calming and walkability measures and the culmination of these efforts lead to the passage of the walkability bond in November 2007. On February 21, 2008, members of WALC held a Prospector neighborhood meeting to better gauge needs and at WALC's meeting of February 25, public input was taken and possible walkability measures were presented. WALC recommended $400,000 for traffic calming features and $540,000 to recrown the roadway, narrow travel lanes and install a sidewalk. Mr. Deters stated that at Council's May 22, 2008 meeting, WALC presented its recommendations and members deferred the $540,000 sidewalk project on the east side of Comstock Drive in favor of an incremental approach. Council directed staff to return in a year to evaluate the success of the five foot at-grade pedestrian lane adjacent to the bike lane.

He continued to explain that in February 2009, the City entered into a contract with Fehr & Peers to perform an evaluation of traffic calming measures associated with WALC recommendations and specifically evaluate the five foot at-grade pedestrian zone. He indicated that a lot of data was collected and based on technical information, Fehr & Peers recommended a sidewalk being installed on the east side of Comstock. On April 21, an open house was held by the consultants to assess public opinion of the different recommendations and on June 18, the consultants addressed Council seeking direction on traffic calming measures, including the sidewalk on the east side of Comstock, and members provided direction to proceed with the improvements.

Cab drivers blitz Salt Lake City Council with complaints

By Derek P. Jensen

The Salt Lake Tribune

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Yes, it would hinder hotel guests, airport travelers, and folks trying to flag a cab in Salt Lake City. And yes, it would cost jobs — in a recession. But taxi drivers' biggest fear is that City Hall is poised to punish their families.

That is the message from drivers representing Yellow Cab, Ute Cab and City Cab, who mobbed the City Council chamber Tuesday to protest a proposal to eliminate one company and 68 taxis.

"You're killing me here," Yellow Cab's Charles Free admonished the council during a lengthy public hearing. "You're going to take one of these companies and take their capital investment and flush it right down the crapper."

George Eichert, who has managed at all three companies over three decades, argues the cab industry has done everything the city has asked, but received nothing in return but more rules. That includes annual fingerprinting, biannual car inspections and hefty insurance requirements. Making one go away and hurting 68 families as a result, he says, is "absurd."

"We're out there in the snowstorms when UTA doesn't run. We're out there on the holidays when UTA doesn't run."

Seven years in the making, the city's taxi-service overhaul calls for slimming three companies to two and capping the number of cabs at 200 — down from the current 268. The proposal is a byproduct of a 2005 independent study that was revalidated by airport officials, who stand to manage the city's taxi services.

But Council Chairman J.T. Martin insists keeping two to four companies still is an option. And Councilman Luke Garrott argues the plan still has much shaping to be done. "The council is definitely going to get its hands all over it," he said.

No action was taken Tuesday. But after an hour-and-a-half of testimonials, the council voted 4-3 to close the hearing. Members Garrott, Soren Simonsen and Van Turner dissented.

The proposal also calls for more cabs to be wheelchair accessible, and for all cabs to be five years old or newer. Drivers say there is no way they could afford such frequent upgrades. They also fret working for the airport authority rather than the city.

But research suggests many cars are run down, background checks are spotty and that 200 is the appropriate number to ensure sound city service. Airport officials took the lead in drafting the plan.

The real villain, drivers maintain, is the so-called “gypsy cabs,” meaning the unregulated ground-transportation services ranging from vans and sedans to unmarked cars that look like cabs. Why should they get the best access to fares and get to charge any amount they want, cab drivers asked.

“Let’s play by the same rules,” cabbie Corey Larkin said.

Such “shuttle” providers also were on hand Tuesday, defending their businesses, and arguing they can coexist with the cabs.

Annie Fitzgerald is the director of guest experiences at the Grand America Hotel. Transportation demand is growing, not shrinking she said, pleading the council not to cut either the cabs or private providers.

“You’re not just hurting jobs, you’re hurting families,” added Leslie Smith. “Let’s not work to hinder an already hard-shipped economy. Let’s work to build it and preserve jobs.”

Martin predicts the council will take action next month.

PARK CITY COUNCIL WORK SESSION NOTES
SUMMIT COUNTY, UTAH
SEPTEMBER 16, 2010

Present: **Mayor Dana Williams; Council members, Alex Butwinski, Candace Erickson, Joe Kernan, Cindy Matsumoto, and Liza Simpson**

Tom Bakaly, City Manager; Mark Harrington, City Attorney; Dave Gustafsen, Project Manager, Jason Glidden, Business Development Manager, Jon Pisty, Operations Manager; and Phyllis Robinson, Public Affairs Manager

Sara Pearce, Exective Director Sundance; and Spence White, consultant for The Boyer Company

Absent: **Council member Lisa Simpson**

1. Council questions/comments. Candace Erickson discussed being introduced to some good ideas on City Tour and shared information from the ULCT conference. The annual Native Plant Sale will be held at Recycle Utah this weekend. She stated that the Recreation Advisory Board met and there was public input prompted by an article in *The Park Record* about the Library and Education Center campus becoming a dog park. She explained that RAB has been dealing with the issue and was planning to request direction from Council members when appropriate. Adjacent residents are concerned about conflicts with the variety of users and felt they already funded a dog park at Quinns Junction. Alex Butwinski believed the City Tour to Montana was very informative and reported on the Transportation Summit hosted by the City. He also attended the ULCT conference and a couple of special sessions.

Joe Kernan requested that the legal training for City boards and commissions be scheduled for a work session discussion because of feedback he received from a concerned board member. Mr. Kernan felt it would be helpful to keep Council in the loop. Alex Butwinski was familiar with the situation and agreed. Mark Harrington was agreeable to holding a work session but emphasized that those questions need to come to the Legal Department and not Council members. Mr. Butwinski explained that Art Board members felt that the legal advice given regarding interaction with the public was so strict that there was no point bringing their concerns to the Legal Department. He felt that a work session is appropriate and the City Manager relayed that a work session will be scheduled.

Mayor Williams expressed his appreciation of the MIDA meeting held during the week on the proposed air force hotel. He extended his sympathy to the families of Bea Kummer and Bruce McGowen who recently passed away.

2. 2011 Sundance Film Festival. Dave Gustafsen reported that staff has been working with Sundance on the upcoming Festival and a meeting was held today on an enhanced transportation plan. Sara Pearce emphasized that Sundance is looking further than 2011 and is strategically planning for the long-term. Transportation has some short term fixes but longer term solutions are being explored. She reported on the Telluride and Toronto Film Festivals which she attended, pointing out that each festival has its own personality. She discussed Toronto's newly built Film Festival headquarters and the need to remain ahead of the competition. Sundance competes with these festivals for films and industry and visitor attendance. Ms. Pearce explained the importance of unique programming and described last year's Sundance Festival USA Program, involving a number of cities, which will be continued this year.

She pointed out that Sundance is always looking for ways to improve the audience experience with improved transportation, lodging/skiing packages, and access to films. Ms. Pearce stressed that losing the Racquet Club was a huge hit, representing five screenings a day with 600 seats each. An alternative could not be identified so this year the Festival will operate without it. Sundance started using the Racquet Club in 2005. Redstone Theaters have been added as well as midnight screenings at The Yarrow. Transportation service to Kimball Junction will be supplemented to encourage riding the bus. She spoke about the use of Miners Hospital for the artists workshops previously held at the Main Street Mall which is not available this year. Sundance is proposing to use Miners Hospital in the future and creating a campus including the Recreation Building and the Library Building. This venue would be open to the public. A more detailed operational plan will return to Council, but she was eager to share this new information.

Candace Erickson felt that the hours of operation of Miners Hospital seems reasonable and Ms. Pearce indicated that her staff will meet with the neighbors as soon as there are more details. All members were supportive.

3. Ice Arena update. Jason Glidden explained that the rink has been operating for four years with the mission statement *to effectively utilize resources to provide an enjoyable recreational experience that exceeds the expectations of our customers.* Staff accomplishes this through public program development by offering a variety of the right programs. There is an effort to look for new areas to promote the rink in Summit and Wasatch Counties, reaching out to the Kamas School District and soon Heber City. The team has worked hard on addressing fiscal issues. The reorganization last year resulted in some savings and the budget is carefully monitored to minimize the subsidy. He stated that the ice arena is considered an economic development tool attracting tournaments and special events.

Jon Pisty commented that last year was strong and the subsidy was cut substantially by the implementation of a reorganization and budget cuts as part of the 5% reductions. The subsidy was reduced from $370,000 to $231,000 which is a significant savings. Some of the savings were moved to operations which helped generate more revenue. He emphasized that last September revenues were $39,000 and this year are $99,000 while expenses totaled $117,000 and $114,000 respectively. The discontinued hockey camp was discussed.

Ms. Matsumoto asked if the revenue projection of $574,000 next year is realistic. Mr. Glidden acknowledged that staff is still learning and as there is more history, it will be easier to project revenues. Ways and programs to attain goals were discussed as well as the new banners. Mr. Pisty discussed painting the arena floor rather than the ice and improvements made for parties. Mr. Glidden discussed initial and evolved programs and the growth in adult hockey. User groups have continued to grow at a rate of 89%.

Jason Glidden detailed the pricing of ice time over the years and the growing demand for ice, which especially impacts youth programs because of odd hours. Staff is working on filling the mid-morning slot, which is the most difficult to schedule. Within the next two years, there will be less than 10% of ice time available for scheduling. This is the facility's biggest issue and staff feels it is time to look at the possibility of a second sheet of ice. From 2010 to 2014, youth hockey is projected to grow 67% and adult hockey at 37%. Mr. Glidden spoke about developing high altitude training programs, consistent with Council's goal of developing a world-class multi-seasonal resort community; there are opportunities to partner with a variety of organizations.

In response to a question from Joe Kernan about seasonal demands, Mr. Glidden explained that from September through April, the facility is maxed out and during the summer months, it is busy. He continued to describe the growth of youth hockey. Cindy Matsumoto asked about marketing the rink to tourists. Mr. Glidden noted that marketing targets visitors and the rink averages about 1,600 people a week of which about half are guests during the winter. The Mayor asked what use brings in the most revenue. Jason Glidden responded that during the holidays, public skate sessions are the most profitable but generally, adult hockey produces the most revenue.

The Mayor asked if there is a relationship to the level of subsidy and the timing of the new sheet. Tom Bakaly stated that Council provides a subsidy to keep the user rates affordable and subsidies for other rinks could be compared. Most subsidies for ice arenas average in the $300,000 to $350,000 range and the City subsidy relates to our policy on user rates. Jon Pisty shared information on subsidies of other public rinks including Peaks in Provo at $500,000, Steiners at $380,000, Breckenridge at $370,000, Vail at $50,000 to $70,000 and Steamboat at $11,000. Some types of special events can not be held at the Park City Ice Arena because of deed restrictions on the property.

Candace Erickson didn't believe the subsidy will necessarily double because of a second sheet however more staff may be needed and Mr. Glidden acknowledged that costs need to be investigated. Ms. Erickson emphasized that funding was made possible through a voter approved bond with some money from the County. Alex Butwinski believed that the subsidy would more than double initially with a second sheet and he needs more information before supporting expansion, especially in consideration of the subsidy for the Recreation Center. Joe Kernan encouraged formulating an hourly cost per user and a subsidy cost per user associated with a second sheet. This data could be compared to other recreation programs to determine if the subsidy is reasonable. In response to a question from Cindy Matsumoto, Mr. Pisty explained that the SBSRD contributes $50,000 toward the capital replacement fund. Candace Erickson pointed out that if a second sheet is built, it may be on property not encumbered with deed restrictions making the new addition available for more types of special events.

4. Park City Heights Project. Phyllis Robinson stated that in July and August, the pre-MPD process on the Park City Heights Project was conducted by the Planning Commission who found compliance with the General Plan. The MPD process is scheduled next week and prior to that meeting, she wanted to affirm some policy issues and to familiarize members with modifications to the site plan based on input received from the Planning Commission.

She referred to five policies outlined in her staff report. Some of the issues have been driving design site planning for the project, the first of which is the repayment of the $5.5 million land investment from the project. A second goal was reducing the overall density which was accomplished through the annexation process. The maximum density was 200 and reduced to 160 units. The Council also wanted to be proactive in participating in the design of the project and address some affordable housing requirements. Affordable housing consists of three separate pieces, the first of which is the transfer of the IHC units to the Park City Heights Project. There are market units associated with the CT Zone and the third component is the additional affordable housing to be constructed by Talisker. Part of the property within the MPD is land dedicated by Talisker to the City, receiving AUE credits. She reiterated that the site plan has changed based on Planning Commission recommendations from the pre-MPD hearings.

Spencer White referred to the rendering of the project made a part of the annexation agreement. The evolution of the design changed the entry to the project. The Planning Commission wants a mix of housing units throughout the project, an open entrance, and the affordable units integrated with market rate units. The Rail-Trail provides connectivity to the City and he pointed out the park area and clubhouse on the plan near the entrance. He relayed that the Planning Commission is still contemplating some sort of commercial element which is indicated at the mailbox kiosk area. Neighborhood amenities include community gardens, a splash pad, tot lots, and an outdoor seating area. The Rail-Trail crossing will be improved with a linear park along the old dump road. Boyer is considering donating the park to Park City and having the City maintain it.

Mr. White pointed out the resort-style entrance with a round-about. The units are mixed and housing styles differ with some houses facing green space. He described the alley plan with rear garages including affordable and market units. Some market units could be in the same price point as some of the affordable stock making it a cohesive neighborhood. Trail connection options make the project pedestrian friendly and transit stops are located at the clubhouse and across the street. The entrance is green and the plan is based on Planning Commission direction.

Cindy Matsumoto liked the idea of the alley houses but pointed out that garages still face a street and she felt they are situated incorrectly. Mr. White explained that as you enter the project and head toward the cottage lots, you don't see garages until you get further into the project. This works when the topography is relatively flat and this plan is in its preliminary stage. Discussion ensued on some houses facing green space rather than each other. Mr. White pointed out that the houses still face the trail which will have users. Candace Erickson pointed out the importance of the information from the housing needs report which will be helpful when Council reviews this project. Alex Butwinski believed that the houses facing open space contradicts the neighborhood concept and asked if a grid design was considered.

The Mayor disagreed with Mr. Butwinski, and in his opinion, the design meets new urbanism design trends and creates a neighborhood. The alleyways are limited in purpose and are not streets. Mayor Williams believed the plan is very creative and the project presents a rare opportunity of providing housing in an affordable price range. Mr. Butwinski believed that the alley houses are as visually impactful as garages in the front and again spoke about a grid layout. Joe Kernan felt it will be a great neighborhood and asked about the ratio of for-sale and rental units. Phyllis Robinson responded that the recommendation will be based on the housing needs analysis but the intent was to provide for-sale product. IHC employees will receive preference on associated housing which will be rental properties. Mark Harington explained that Council, in its capacity as the Housing Authority, will finalize the affordable housing plan. Joe Kernan supported mixing the affordable and market stock. He pointed out that owner-occupied homes are usually better maintained than rentals and encouraged that they be integrated. Mr. Kernan felt this will be a wonderful place to live.

Cindy Matsumoto agreed with Mr. Butwinski that the houses should face each other and some commercial may be appropriate. Mr. White stated that Boyer has been looking at this but acknowledged the failure of commercial in residential projects. It sounds great and the Planning Commission continues to suggest it, but for the number of people it would serve, the commercial component would have to be subsidized. It can not make it on its own and Spence White added that his experience is based on much bigger projects. Candace Erickson interjected that there is no guarantee that these units are not going to be second homes.

Prepared by Janet M. Scott, City Recorder

PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
SEPTEMBER 16, 2010

I ROLL CALL

Mayor Dana Williams called the regular meeting of the City Council to order at approximately 6 p.m. at the Marsac Municipal Building on Thursday, September 16, 2010. Members in attendance were Dana Williams, Alex Butwinski, Candace Erickson, Joe Kernan, and Cindy Matsumoto. Liza Simpson was absent and excused. Staff present was Tom Bakaly, City Manager; Mark Harrington, City Attorney; Brooks Robinson, Transportation Planner; and Kirsten Whetstone, Planner.

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

None.

III PUBLIC INPUT *(Any matter of City business not scheduled on agenda)*

1. Residency requirement for Planning Commission – Roger Durst, architect and Salt Lake City resident, referred to an article in *The Park Record* about his application to serve on the Planning Commission. His application was rejected because he doesn't meet the residency requirement. As an architect, he serves on the Historic Preservation Board which has different membership criteria. Mr. Durst suggested appointing one design professional to the Planning Commission and the position should be open to qualified people outside the City limits. He suggested that there may be potential for more conflicts on Planning Commission matters with an designer living within the City limits is appointed.

Mayor Williams thanked Mr. Durst for his contributions to the HPB. In his opinion, the Planning Commission is directly accountable to the citizenry and he felt members must be citizens. Joe Kernan stated that he could support appointing a design professional outside the City limits if a resident does not apply. Alex Butwinski stated that he agrees with the Mayor and is concerned about the precedent this change would set for other boards and unintended consequences.

2. Ironhorse transit project – unpaid subcontractors – Steve Shaw, subcontractor, stated that he has tried to contact Jacobsen who will not return his calls and he is not allowed on the construction site anymore to talk to anyone.

Tom Bakaly responded that based on Council direction two weeks ago, the Legal Department has been working on filing a notice against the performance bond and staff is in discussions with Jacobsen. He announced that Dave Gustafsen will provide them with updates. Mark Harrington relayed that they can also initiate their own legal actions simultaneously with the City's.

IV WORK SESSION NOTES AND MINUTES OF MEETINGS OF AUGUST 26, 2010 AND SEPTEMBER 2, 2010

Alex Butwinski, "I move we approve work session notes and minutes of the meetings of August 26th and September 2nd". Candace Erickson seconded. Motion carried.

Alex Butwinski	Aye
Candace Erickson	Aye
Joe Kernan	Aye
Cindy Matsumoto	Aye
Liza Simpson	Absent

V CONSENT AGENDA *(Items that have previously been discussed or are perceived as routine and may be approved by one motion. Listed items do not imply a predisposition for approval and may be removed by motion and discussed and acted upon under "Additional Discussion – Agenda Items")*

Cindy Matsumoto understood that the contract with J-U-B is for the intersection at Park City Heights and asked if The Boyer Company would be sharing costs. Brooks Robinson acknowledged that at one time Talisker was involved and pointed out that the project qualifies for federal funding. Alex Butwinski interjected that the engineering work is in anticipation of a signal being installed to handle the increase in traffic flow. Candace Erickson understood the federal funding to be 80/20 and our share is the land, so there is no cost to the City.

With regard to Item 1, Joe Kernan mentioned that he initially felt that more consideration should be given to the local company until he learned of the technical expertise of Gardner who should be awarded the solar project.

Cindy Matsumoto, "I move to approve Consent Agenda Items 1 through 3". Joe Kernan seconded. Motion carried.

Alex Butwinski	Aye
Candace Erickson	Aye
Joe Kernan	Aye
Cindy Matsumoto	Aye
Liza Simpson	Absent

1. Consideration of award of a Construction Agreement with Gardner Engineering Alternative Energy Services for installation of a solar PV array on the roof of City Hall in an amount not to exceed $155,000 and in a form approved by the City Attorney – See staff report.

2. Consideration of Service Provider/Professional Services Agreement with J-U-B Engineering for engineering services related to the design and construction of

intersection improvements at SR-248 and Richardson Flats Road in an amount not to exceed $138,939 – See staff report.

3. Consideration of a Contract for historic preservation consulting services with Preservation Solutions in the amount of $33,818 and a contract for additional specified preservation services with CRSA in the amount of $6,850 – See staff report.

VI NEW BUSINESS *(New items with presentations and/or anticipated detailed discussions)*

1. Consideration of plat amendment for 50 Shadow Ridge, Park City, Utah – The Mayor opened the public hearing and with no comments, closed the hearing.

2. Consideration of plat amendment for 29 & 39 Silver Strike Trail, Park City, Utah – The Mayor opened the public hearing and with no public input closed the hearing and requested a motion to continue Item 1 and Item 2 to a date uncertain. Alex Butwinski, "I move that we move Items 1 and 2 under New Business to a date uncertain". Joe Kernan seconded. Motion carried.

Alex Butwinski	Aye
Candace Erickson	Aye
Joe Kernan	Aye
Cindy Matsumoto	Aye
Liza Simpson	Absent

3. Consideration of an Ordinance approving a rezone from Estate (E) to Historic Residential Low Density (HRL) and a change to the east boundary of the Sensitive Lands Overlay (SLO) zone for the properties located at 310 - 350 McHenry Avenue, Park City, Utah – Planner Kirsten Whetstone explained that the McHenry Avenue subdivision (Item 4) is contingent on the zone change being adopted. Residents are asking that the zone be changed from Estate to the HRL and that the sensitive lands ordinance overlay be applied. The HRL was created in 1983 and it was always intended that these four properties would be included but they inadvertently were omitted and remained in the Estate Zone. If approved, the zoning boundary will coincide with property lines and the zoning map will be amended.

With regard to the subdivision, Ms. Whetstone explained that the parcels are large enough to build more than one home, but a note on the plat will declare that each lot is created for one house and the lots can not be subdivided. The Mayor opened the public hearing; there were no comments and the public hearing was closed.

Joe Kernan, "I move we approve New Business Item 3". Candace Erickson seconded. Motion carried.

Alex Butwinski	Aye
Candace Erickson	Aye

Joe Kernan	Aye
Cindy Matsumoto	Aye
Liza Simpson	Absent

4. Consideration of an Ordinance approving the Rossi Hill Subdivision located within Lots 1-9 of Block 61 of the Park City Survey and nine parcels of land located in the Southwest Quarter of Section 15, Township 2 South, Range 4 East, Salt Lake Base and Meridian, 310 - 350 McHenry Avenue, Park City, Summit County, Utah – Kirsten Whetstone relayed that approval of the subdivision of four lots of record will clean up lot lines and right-of-way. The Mayor opened the public hearing; there were no comments. In response to a question from Cindy Matsumoto, Ms. Whetstone relayed that the house size can be increased but setbacks must be met. The HRL zoning is more restrictive than Estate. The Mayor opened the public hearing; there were no comments from the audience and the hearing was closed. Candace Erickson, "I move to approve an Ordinance approving the Rossi Hill Subdivision located within Lots 1-9 of Block 61 of the Park City Survey and nine parcels of land located in the Southwest Quarter of Section 15, Township 2 South, Range 4 East, Salt Lake Base and Meridian, 310 - 350 McHenry Avenue". Alex Butwinski seconded. Motion carried.

Alex Butwinski	Aye
Candace Erickson	Aye
Joe Kernan	Aye
Cindy Matsumoto	Aye
Liza Simpson	Absent

5. Consideration of City Council determination to refer any Appeal regarding Park City Heights Master Planned Development to an independent Appeal Panel, to be appointed at the time of any such Appeal – Mark Harrington referred to his staff report and explained that this measure assures the public that in the event an appeal is filed Park City Heights will be analyzed by an independent party and City projects will not be treated differently than private sector projects. The Mayor invited public input, but there was none.

Alex Butwinski, "I move that the City Council refers any appeal regarding the Park City Height MPD to an independent appeal panel and a hearing panel would be appointed only and if an appeal is filed". Candace Erickson seconded. Motion carried.

Alex Butwinski	Aye
Candace Erickson	Aye
Joe Kernan	Aye
Cindy Matsumoto	Aye
Liza Simpson	Absent

VII ADDITIONAL DISCUSSION – AGENDA ITEMS

VIII ADJOURNMENT

With no further business, the regular meeting of the City Council was adjourned.

MEMORANDUM OF CLOSED SESSION

The City Council met in closed session at approximately 3:30 p.m. Members in attendance were Mayor Dana Williams, Alex Butwinski, Candace Erickson, Joe Kernan, and Cindy Matsumoto. Liza Simpson was absent and excused. Staff present was Tom Bakaly, City Manager; Tom Daley, Deputy City Attorney; Jason Christensen, Legal Intern; Diane Foster, Environmental and Sustainability Manager, Phyllis Robinson, Public Affairs Manager; Thomas Eddington, Planning Manager; and Mark Harrington, City Attorney. Alex Butwinski "I move to close the meeting to discuss property and litigation". Cindy Matsumoto seconded. Motion carried. The meeting opened at approximately 4:30 p.m. Candace Erickson, "I move to open the meeting". Joe Kernan seconded. Motion carried.

Alex Butwinski	Aye
Candace Erickson	Aye
Joe Kernan	Aye
Cindy Matsumoto	Aye
Liza Simpson	Absent

The meeting for which these minutes were prepared was noticed by posting at least 24 hours in advance and by delivery to the news media two days prior to the meeting.

Prepared by Janet M. Scott

Janet M. Scott, City Recorder

City Council Staff Report

Subject: Contract Change Order No. 4 to Construction Agreement for Sandridge Avenue Reconstruction
Author: Matthew Cassel, P.E., City Engineer
Department: Engineering
Date: September 30, 2010
Type of Item: Administrative

Summary Recommendations:
The Council should authorize the City Manager to execute Contract Change Order No. 4 to the construction agreement with Cody Ekker Construction, Inc for construction services related to the construction of Sandridge Avenue in the amount of $13,545.

Topic/Description:
City policy requires City Council to approve accumulated change orders exceeding 10% for contracts over $200,000. Contract Change Orders No. 1 to 3 totaled $24,230, which was a 10.2% increase. Due to a calculation error on my part when approving Change Orders #3, the total for Change Order #1 to #3 exceeded the 10% by $634. I did not recognize the error until processing Change Order #4. This Contract Change Order No. 4 with Cody Ekker Construction Company would increase the total contract amount of the project by another $13,545 for a total increase of 16.0% and thus requiring City Council approval.

Background:
On October 29, 2009, City Council approved a design and project management contract with Ward Engineering to prepare construction documents for the reconstruction of Sandridge Avenue. Over the winter Ward Engineering and staff members met with residents, affected utility companies, and the Snyderville Basin Water Reclamation District (SBWRD). Ward Engineering completed a design for Sandridge Avenue, which incorporates the needs of our water department and Questar Gas for the replacement of their utilities.

Sandridge Drive is part of the Phase II(a) group of OTIS projects and was scheduled to be designed and constructed in FY2009 but was pushed back to this year so Hillside Avenue could be constructed in 2009. Improvements to Sandridge include road removal and replacement, upgrade of existing water main, installation of hydrants, installation of new water services and/or meters, installation of a new gas line and landscaping the northwest corner of Hillside Avenue and Marsac Avenue.

To keep residents along Sandridge Drive informed and provide them with a venue to voice their issues and concerns, three public involvement meetings were scheduled to be held during the course of the project. The first public meeting was held on January 20, 2010 during the preliminary design phase of the project. Only one resident showed up for the meeting so we called every resident on the affected area of the street to discuss the project with them and to understand their concern and issues. Instead of holding a second meeting as the design neared completion, we again contacted every home owner to discuss the plans. The third and final public meeting was held on site June 24, 2010 to let the residents know construction will be starting and give them a chance to meet the contractor.

Bidding for the construction of Sandridge Avenue occurred in May/June of 2010. Cody Ekker Construction Company was the low bidder and City Council approved a construction contract with Cody Ekker Construction Company on June 17, 2010.

Analysis:
The original construction contract amount was for $235,957. Contract Change Orders No 1 to 3 increased the construction contract amount by $24,230 to a total of $260,187. This Contract Change Order No. 4 will increase the total contract amount from $260,187 to $273,732.

Contract Change Order No 1 was for change in cost for the UDOT permit required of the contractor in the bid documents. The bid documents required the contractor to obtain a UDOT permit, but the UDOT permit and its specific requirements were not available to the contractors at bid time. Contract Change Order No. 1 was fully executed on August 3, 2010. The increase due to Contract Change Order No. 1 was $3,722.50 (1.58% of original contract amount) for a total contract of $239,680.

Contract Change Order No. 2 was fully executed on August 10, 2010. This Change Order was for the excavation and removal of rock in the water line trench. This was an unknown and changed condition. The increase due to Contract Change Order No. 2 was $4,820 (2.04% of original contract amount) for a total contract of $244,500.

Contract Change Order No. 3 was fully executed on September 14, 2010. This Change Order was again for the excavation and removal of rock in the water line trench. This was an unknown and changed condition. The increase due to Contract Change Order No. 3 was $15,688 (6.65% of original contract amount) for a total contract of $260,188.

The changes that are part of this change order were created due to modifications to the landscaping plans for the project. The landscaped areas were modified by adding soils from the road construction to reduce the amount of soil that would have to be transported and disposed at Clean Harbor in Tooele. This **Contract Change Order No 4** includes the additional changes listed below:

- Adding additional retaining wall to the landscaping plan. The additional cost for this change is $7,210,
- Additional mulch required for the park strip between Marsac Avenue and the Sandridge Parking Lots. The additional cost for this change is $2,475,
- Additional edging was required for the park strip between Marsac Avenue and the Sandridge Parking Lots. The additional cost for this change is $1,600,

- A 3 foot extension was required for the existing sewer manhole located near the northwest corner of Marsac Avenue and Hillside Avenue. The additional cost for this change is $700,
- Changes to the irrigation were required due to the changes to the landscaping plan. The additional cost for this change is $1,500,

The increase due to Contract Modification No. 4 is $13,545 (5.74% of original contract amount) for a total construction cost of $273,733.

The remaining budget for this project is $428,733 which is more then adequate to complete the construction of this Sandridge Avenue project.

Department Review:
This report has been reviewed by City Manager, Public Works and Legal. All issues have been resolved.

Alternatives:

A. Approve the Request:
This is the staff's recommendation.

B. Deny the Request:
This would make it impossible to complete the landscape construction for Sandridge Avenue.

C. Continue the Item:
If the Council needs more information the item can be continued, but this could cause the final construction to be delayed and thus cause the City to miss the anticipated schedule of construction.

D. Do Nothing:
This option would make it impossible to complete the construction in a timely manner.

Significant Impacts:
The construction of Sandridge Avenue is nearly complete. This contract change order is for adjustments to the landscaping plan and thus not a significant impact to the residents of Park City.

Consequences of not taking the recommended action:
By not taking the recommended action, the landscaping for Sandridge Avenue would not be completed this year. Its affect will be felt by the nine home owners along Sandridge Avenue and the travelers along Marsac Avenue.

Recommendation:
The Council should authorize the City Manager to execute Contract Change Order No. 4 to the construction agreement with Cody Ekker Construction, Inc for construction services related to the construction of Sandridge Avenue in the amount of $13,545.

Exhibit A – Contract Change Order No. 4

Change Order

No. 004

Date of Issuance: August 13, 2010 | Effective Date: August 13, 2010

Project:	Owner:	Owner's Contract No.:
Sandridge Avenue Reconstruction Project	Park City Municipal Corporation	
Contract:		Date of Contract:
Contractor:		Engineer's Project No.:
Cody Ekker Construction, Inc.		2420-PCITY02

The Contract Documents are modified as follows upon execution of this Change Order:

Description:

Change 1. Additional quantities for Bid Item #5, Bid Schedule C. Unit Price shall be adjusted accordingly.

Change 2. Add Bid Item #23, 24, 25, 26, and 26, Bid Schedule C. Unit Price shall be adjusted accordingly.

Change 3. Add Bid Item #4, Bid Schedule D. Unit Price shall be adjusted accordingly.

Attachments (list documents supporting change):

Change Order 004 – Schedule of Values & Corresponding Bid Values

Landscape Proposal Plan – Drawing

CHANGE IN CONTRACT PRICE:	CHANGE IN CONTRACT TIMES:
Original Contract Price:	Original Contract Times: ☐ Working days ☐ Calendar days
	Substantial completion (days or date): NO CHANGE
$ 235,956.75	Ready for final payment (days or date): NO CHANGE
[Increase] [Decrease] from previously approved Change Orders No. 001 to No. 003:	[Increase] [Decrease] from previously approved Change Orders No. N/A to No. N/A:
	Substantial completion (days): N/A
$ 24,230.00 [Increase]	Ready for final payment (days): N/A
Contract Price prior to this Change Order:	Contract Times prior to this Change Order:
	Substantial completion (days or date): September 13, 2010
$ 260,186.75	Ready for final payment (days or date): September 28, 2010
[Increase] [Decrease] of this Change Order:	[Increase] [Decrease] of this Change Order:
	Substantial completion (days or date): NO CHANGE
$ 13,545.00 [Increase]	Ready for final payment (days or date): NO CHANGE
Contract Price incorporating this Change Order:	Contract Times with all approved Change Orders:
	Substantial completion (days or date): September 13, 2010
$ 273,731.75	Ready for final payment (days or date): September 28, 2009

RECOMMENDED:	ACCEPTED:	ACCEPTED:
By: [signature]	By:	By:
Engineer	Owner	Contractor
Date: 9-13-10	Date:	Date:

SANDRIDGE AVENUE RECONSTRUCTION PROJECT

Change Order 004 – Schedule of values & corresponding bid values

Item No.	Description	Unit	Estimated Quantity	Bid Unit Price	Bid Price
BID SCHEDULE C (Landscape Improvements)					
Add the following:					
5	Rock Retaining Wall (Extend Wall to Fire Hydrant - South Entrance to Parking Lot) 120 SQ FT	LS	1.00	$2,560.00	$2,560.00
23	Rock Retaining Wall (Upper Burm Area - South of South Entrance to Parking Lot) 100 SQ FT	LS	1.00	$2,160.00	$2,160.00
24	Rock Retaining Wall (Grade Change Next to Existing Garage - East of Lot 114 Garage)	LS	1.00	$2,550.00	$2,550.00
25	Mulch (Mulch/Planter Areas Replacing Seeded - Parkstrip Along SR-224/Marsac Avenue)	CY	45.00	$55.00	$2,475.00
26	Landscape Edging (350 LF for Planters - As Directed per Maria and Mike)	LS	1.00	$1,600.00	$1,600.00
27	3 FT Extension for Manhole (Existing Sewer Manhole - East of Lot 114 Garage)	EA	1.00	$700.00	$700.00
	BID SCHEDULE C Total Addition				**$12,045.00**
BID SCHEDULE D (Irrigation Improvements)					
Add the following:					
4	Irrigation Improvements (Add it 2 Zones for Grass/Seeded Areas - As Directed per Maria and Mike)	LS	1.00	$1,500.00	$1,500.00
	BID SCHEDULE D Total Addition				**$1,500.00**
	CHANGE ORDER GRAND TOTAL [Increase]				**$13,545.00**

Unit Prices are the same as those in the original bid submitted July 07, 2010.

Cody Ekker Construction, Inc.

412 E. 3200 N.
Lehi, UT 84043

Estimate

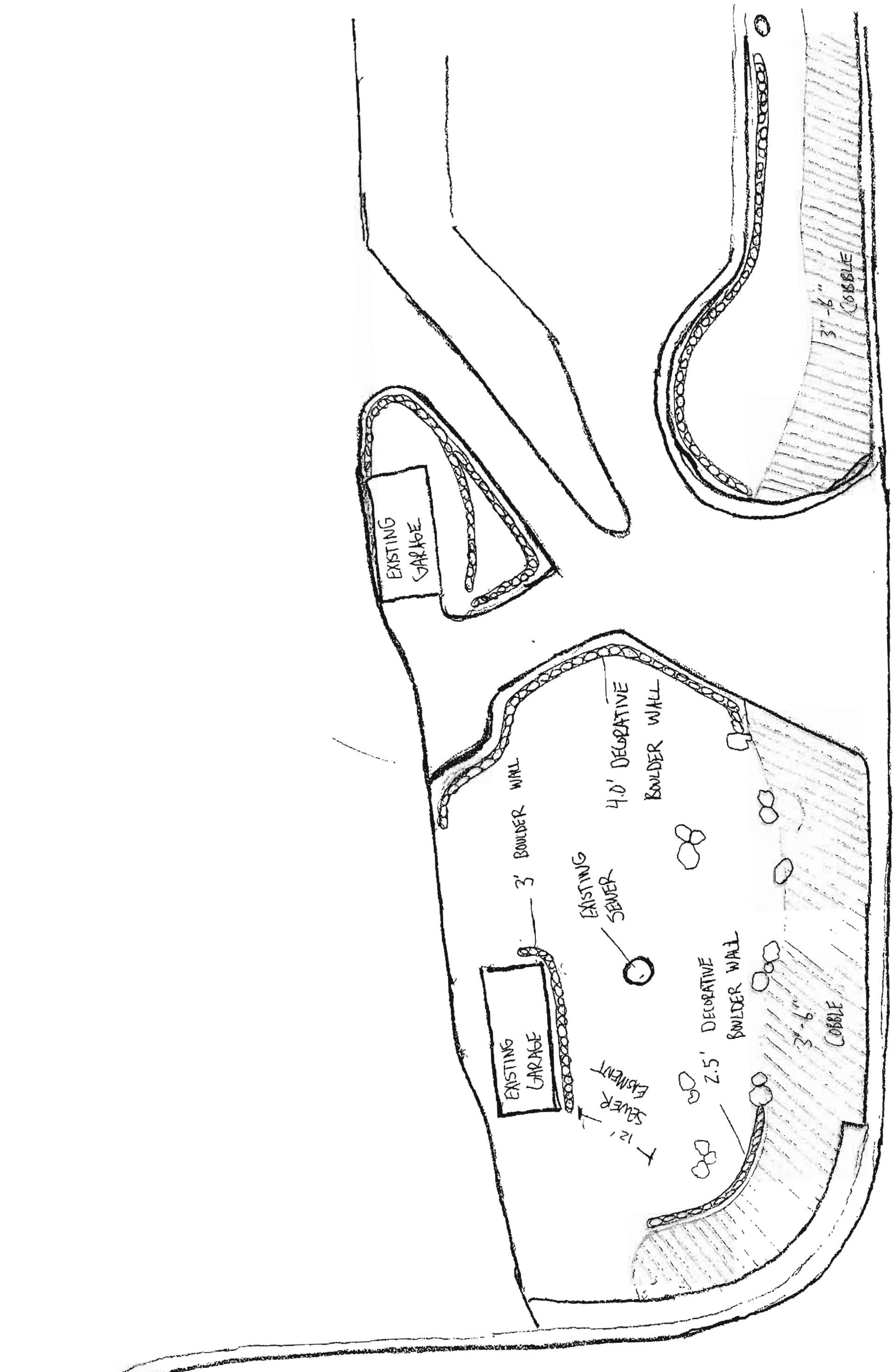
Date	Estimate #
9/7/2010	679

Name / Address
Park City Sandridge Ave

Project

Description	Qty	Rate	Unit	Total
LANDSCAPE CHANGE ORDERS				
1. ROCK RET WALLS- WALL EXT TO FIRE HYD(UPPER ENTRY)120 SQFT	1	2,560.00	LS	2,560.00
2. ROCK RET WALL (UPPER BURM AREA) 100 SQ FT	1	2,160.00	LS	2,160.00
3. ROCK RET WALL- (GRADE CHANGE NEXT TO EXISTING GARAGE	1	2,550.00	LS	2,550.00
4. MULCH- 45 YDS(MULCH/PLANTER AREAS REPLACING SEEDED	45	55.00	YD	2,475.00
5. LANDSCAPE EDGING (350 FT FOR PLANTERS)	1	1,600.00	LS	1,600.00
6. IRRIGATION IMPROVEMTS(ADDIT 2 ZONES FOR GRASS/SEEDED AREAS)	1	1,500.00	LS	1,500.00
7. 3FT EXT FOR MANHOLE	1	700.00	EA	700.00
			Total	$13,545.00

Phone #	Fax #	E-mail
801-768-0945	801-768-0928	rosanne_ekker@yahoo.com


EXISTING GARAGE
EXISTING GARAGE
3' BOULDER WALL
EXISTING SEWER
4.0' DECORATIVE BOULDER WALL
2.5' DECORATIVE BOULDER WALL
12' SEWER EASEMENT
3"-6" COBBLE
3"-6" COBBLE

City Council Staff Report

Subject: Consideration of a Resolution Changing the Police Complaint Review Committee Terms of Office
Author: Wade Carpenter and Claire Marlin
Department: Police
Date: September 21, 2010
Type of Item: Legislative

Summary Recommendations:
Consider approval of a resolution that will increase the Police Complaint Review Committee term of office from two years to three.

Topic/Description:
Police Complaint Review Committee

Background:
City Council established the Police Complaint Review Committee on December 11, 2003 and five members (three citizens and two city staff employees) were appointed to serve two-year terms. Each member's term expires on June 30th of the expiration year, except that a member shall serve until a successor has been duly appointed. Members shall not serve for more than two (2) consecutive full terms.

Analysis:
Since its inception in 2003, the Police Complaint Review Committee has had one citizen complaint that was elevated to the Committee for review. A considerable amount of time and money is invested in recruiting and training committee members. Extending the term an additional year would give the members more of an opportunity to function as a cohesive group. Committee members have expressed a desire to serve for more than two year terms.

Department Review:
The Resolution has been reviewed by the Police Department, City Manager and City Attorney.

Alternatives:

A. **Approve:**
Staff recommends that Council approve a resolution amending the Police Complaint Review Committee term of office to three years.

B. **Deny:**
Council may deny the request and direct the Police Complaint Review Committee to continue with the current two-year term.

C. **Continue the Item:**
Council may continue the item for further discussion.

Recommendation:
Consider approval of a resolution that will increase the Police Complaint Review Committee term of office from two years to three.

Resolution No. 10-___

RESOLUTION AMENDING THE POLICE COMPLAINT REVIEW COMMITTEE TERMS OF OFFICE AND REPEALING AND REPLACING RESOLUTION NO. 35-03 IN ITS ENTIRETY

WHEREAS, the Police Department is created by Municipal Code Section 2-4-13 to provide for the public safety of the residents and visitors of the City; and

WHEREAS, the City Council adopted Principles for 2003 to provide for "Cost-Effective City Services, Valued by Citizens" and "Preservation of the Park City Lifestyle with People Feeling Safe and Secure;" and

WHEREAS, the City Council adopted a Priority for 2003 to have "Open and Responsive Government to the Community;" and

WHEREAS, the City Council desires to set up a committee by which citizens may seek to appeal the disposition of complaints within the Park City Police Department; and

WHEREAS, the City Council wishes to balance the individual privacy rights of employees in personnel matters versus the public's ability to seek review of police actions; and

WHEREAS, the Citizen Satisfaction Survey demonstrated that the Police Department has a very high approval rating with the citizens of Park City, and City Council hopes that this committee will further enhance both the public's perception and confidence of the department;

WHEREAS, the committee decisions are advisory only, not administrative proceedings under UCA 10-3-703.7, and all final decision-making authority regarding any complaint remains with the Chief of Police and City Manager.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Park City, Utah that:

Section 1. Police Complaint Review Committee. The Park City Police Complaint Review Committee is hereby formed in accordance with Attachment A.

Sesction 2. Effective Date. This resolution shall be effective upon adoption.

PASSED AND ADOPTED this 30th day of September, 2010.

ATTACHMENT A

Park City Police Complaint Review Committee
Polices and Procedures

I. Purpose

The purpose of the Park City Police Complaint Review Committee (Committee) is to act in the capacity of an appeals body which will review complaint dispositions of complaints filed against police personnel and/or police procedure, if formally requested by the complainant and to provide recommendations to the Chief of Police on those complaints reviewed.

II. Organization

The Committee shall consist of five (5) members, three (3) citizens from the community at large, and two (2) City staff members consisting of the City Manager's designee, and a City staff member of the Management Team. An attorney from the City's legal staff will be assigned to act as a legal liaison to the committee by the City Attorney. The Chief of Police shall be an ex officio member and shall provide all necessary staff support and information to the committee.

The City Manager's designee, shall act as the Chairperson for the Committee and in the absence of the Chairperson, the Chairperson pro-tem shall perform the duties of the Chairperson.

The Chairperson pro-tem shall be elected by a majority vote of the members of the Committee at the first meeting of the Committee each calendar year.

III. Appointment of Committee Members

The Mayor and City Council shall solicit applications from interested members of the community. Each applicant shall apply for a specific ~~two (2)~~ **three (3)** year term of office. Each applicant will be interviewed by the Mayor and City Council. From the interviews, the Mayor and City Council shall select the three (3) citizen members to serve and shall appoint them to the Committee.

The City Manager shall appoint his designee and the City staff management team member and said appointment may rotate as determined in the sole discretion of the City Manager.

Police officers and all other City employees of the City are ineligible for appointment to fill the citizen member positions on the Committee.

IV. Voluntary Service

Members of the Committee shall perform their services on the committee without pay or other compensation, except for payment of reimbursement of expenses actually and reasonably incurred and as approved by the Chief of Police.

Citizen members shall be deemed volunteers as defined in Title 67, Chapter 20, Utah Code Annotated, as amended, or any successor statute.

Members shall be immune from any liability with respect to any decision or action taken in the performance of their duties and responsibilities on the committee as provided by Title 63, Chapter 30b of the Utah Code Annotated, as amended, or any successor statute.

V. Term of Office

The three (3) citizen members will serve ~~two (2~~) **three (3)** year staggered terms. One member shall initially be appointed for a one year term with subsequent appointments for two (2) years. Each member's term shall expire on June 30th of the expiration year, except that a member shall serve until a successor has been duly appointed.

Members shall not serve for more than two (2) consecutive full terms.

VI. Removal from Office

Any citizen member of the Committee may be removed from the Committee by the Mayor, with approval of Council, for cause, prior to the normal expiration of the term for which the member was appointed.

VII. Vacancy Filling

Any vacancy on the Committee shall be filled for the remaining term of the vacated member in the same manner as the member whose position has been vacated was appointed.

VIII. Members' Ethics

Members shall be subject to and bound by the provisions of the city's conflict of interest ordinance (Municipal Code of Park City Title 3). Any violation of its provisions shall be grounds for removal from the Committee.

IX. Eligibility for Membership

To be eligible for appointment to the Committee, a person shall be at least 21 years of age and shall reside within the incorporated limits of Park City.

X. Training

Within three (3) months after the commencement of a members term, each member shall receive training regarding the duties of the committee and police practices and procedures.

The Chief of Police shall specify the nature of the training and may include attendance at specific police training classes and participation in ride-along training in police vehicles during police shifts.

XI. Meeting Types

Review of Complaint Dispositions: The Committee will have meetings once a month as warranted. The committee shall meet only if there are appeals filed on complaint dispositions.

Emergency Meetings: The Chief of Police or the Committee Chair may call a meeting of the Committee if a circumstance exists in which an appeal has been requested and the complainant will be leaving the City without return or would be unavailable for an extended period of time. A minimum of seventy-two (72) hours notice will be given to the Committee members.

Meeting Location: The Committee shall meet in the City Council Chambers at City Hall unless scheduling conflicts prohibit use of the chambers. An alternative meeting site shall be announced well in advance of the meeting date.

Record of Meetings: Each meeting will be recorded by the Chief's Administrative Assistant, who will transcribe the recording and make a written record of the meetings. All proceedings of these meetings shall be classified as 'PROTECTED' and will be available only to those who meet the GRAMA standard for release.

The committee meetings will not be considered open or public meetings.

XII. Quorum and Vote

All actions of the Committee shall be presented for a vote to the members. A simple majority of the voting members present at a meeting which a quorum is present shall be required for any action to be taken.

The decision of the Committee is advisory only. The Chief of Police and City Manager shall have final decision authority regarding disciplinary action against police personnel.

XII. Scheduled Committee Meetings

Committee meetings will be held as prescribed in the 'Meeting Types' section.

The Committee shall meet to review documents with respect to citizen complaint dispositions against police personnel and/or policy and procedures and internal police investigations and their respective dispositions if formally requested by the original complainant.

At least 10 business days prior to a Committee meeting an agenda will be provided to each member outlining the content of the meeting. Attached to the agenda will be materials for review for each agenda item if appropriate.

Members of the Committee shall treat any police documents provided as confidential at all times, including after the conclusion of a review. All protected material provided to the committee shall not be removed from the meeting room once the meeting has concluded.

Documents provided to Committee Members shall not contain the names, addresses or identifying information of individuals involved. Except during committee meetings, individuals shall not be mentioned by name in any verbal or written statements by the committee or its members.

XIV. Committee Reports

After each committee meeting a report shall be prepared highlighting the committee's findings, conclusions and recommendations regarding the agenda items discussed and acted upon. This report shall be completed within thirty (30) days after the committee meeting.

The Chief's Administrative Assistant will prepare the report for distribution. A copy of the committee's report will be provided to members of the City Council. Each committee member will also receive a copy of the committee's report.

XV. Citizen Requested Review of Complaint Disposition

The Police Department will establish and publicize the processes by which a complaint disposition can be appealed to the Committee, and further will establish a "hot-line" phone number where information can be obtained and requests for complaint disposition review can be made. Development of brochures and written publicity materials for education of the public will be undertaken. As well, media exposure outside of the written media will be undertaken.

Any person, **other than a police officer who was the subject of a complaint**, who is dissatisfied with the disposition found by the police department regarding a complaint filed against a police officer or police policies and procedures may request a review by the committee of the complaint disposition.

A request for review may be filed in one of the following ways; in written form, through the "hot-line" phone number, in person or by mail. Requests may be delivered to either the office of the Chief of Police or the office of the City Manager, or directly to a committee member.

The request must be filed within 30 days after the person's receipt of the notice of findings and disposition by the police department. Extraordinary circumstances may be exempted for this deadline in the sole discretion of the City Manager.

The request must include; (1) the name, address, and telephone number of the person requesting the review; (1A) the name, address, and telephone number of the complainant if different from the requestor; (2) the approximate date the complaint was filed (if known); (3) the substance of the complaint and any supporting documents, and (4) the reason or reasons the complainant is dissatisfied with the police department's decision.

The Chief of Police will not have a vote in the review meetings, but will act as the department liaison, available to answer questions or obtain additional information as requested by the sitting committee members.

XVI. Complaint Review Process

When a review is requested, the Chief of Police, acting in the department liaison capacity, shall supply all the sitting committee members, all pertinent documents and investigative materials related to the original complaint and investigation. Any information furnished by the complainant shall be forwarded to the Committee.

All review meetings held by the Committee are confidential and closed to anyone but the committee members and staff liaison members.

Should the Committee believe it necessary to obtain additional information, facts or opinions of the investigator who conducted the investigation, a request to the Chief of Police may be made to have the assigned investigator attend the meeting to address questions relevant to the investigation.

After the review meeting, the committee shall reach a conclusion and provide an advisory recommendation. A report of the committee's conclusion(s) and recommendation(s) will be completed by staff.

Committee advisory recommendations may include; (1) further investigative action or review by the Chief of Police to clarify and/or to expand the investigation or review; (2) review of department policy or procedure for adjustment, revision or modification; or (3) both.

The committee advisory recommendation shall not involve specific recommendations regarding discipline of individual officers or police personnel.

The Chief of Police shall ensure that the individual requesting the review and the original complainant, if they are not the same person, will be notified of the conclusion(s) and recommendation(s) of the committee and the intended actions of the Chief of Police, if known at that time.

A copy of the conclusion(s) and recommendation(s) will be forwarded to City Council members.

All Committee documents will be maintained in the Administrative Offices of the Chief of Police in a secured location in accordance with Record Retention Schedules.

XVII. Cooperation and Coordination

The Chief of Police shall provide complete and prompt cooperation to the committee members in the discharge of its duties.

XVIII. Committee Actions

The recommendations of the committee shall not be deemed to bind the Chief of Police or the City Manager in their determination.

Nothing in this document shall be construed to be a delegation of the powers of the Chief of Police, City Manager or the Mayor and City Council.

XIX. Committee Attendance

Committee members should make every effort to attend scheduled meetings. The Committee can recommend to the Chair that a member be replaced if they miss three (3) or more consecutive meetings.

XX. Committee Requests for Information

All information requests from committee members will be directed to and authorized by the Chief of Police.

XXI. Committee Policy and Procedures Review

Policy and procedures for the Committee shall be reviewed for changes and updates on an annual basis.

Dated: September 30, 2010

City Council Staff Report

Subject: Brown and Caldwell Professional Services Agreement Amendment
Author: Thomas A. Daley, Sr., Deputy City Attorney
Department: Legal
Date: September 30, 2010
Type of Item: Administrative

Summary Recommendations:

Authorize the City Manager to execute an amendment to the Professional Services Agreement with Brown and Caldwell dated June 7, 2010 for environmental analysis services related to the Spiro and Judge Tunnels and the Prospector Drain. The amendment is for Brown and Caldwell to provide additional sampling and data services, in an amount not to exceed $35,500.

Topic/Description:
Amend contract with Brown and Caldwell to include additional services.

Background:
In July, 2009, the Region 8 office of the United States Environmental Protection Agency (USEPA) advised Park City by letter that Park City was required to obtain Utah Pollution Discharge Elimination System (UPDES) permits on three sources of water within Park City: The Judge Tunnel; the Spiro Tunnel; and the Prospector Drain Pipe.

A UPDES permit sets limits on the levels of different constituents that can be discharged from a water source into a water body. All three of the sources listed above discharge a variety of metals into Silver Creek and East Canyon Creek. Some of the metals are naturally occurring while others are products of Park City's many decades of mining operations.

On February 22, 2010, August 3, 2010, and September 8, 2010, Park City staff met with the Division of Water Quality (DWQ), which is a division within the Utah Department of Environmental Quality (UDEQ). DWQ is the state agency that administers UPDES permits. USEPA will not be directly involved in Park City's interaction with DWQ. USEPA has the authority to "overfile" and supersede DWQ's authority, but there is no indication that USEPA intends to do so.

Analysis:
Following the initial meeting with DWQ, it became clear to Park City staff that Park City would need someone with expertise in the area of UPDES permitting. Accordingly, Park City advertised a Request for Proposals and awarded the contract to Brown & Caldwell. Water sampling and analysis has been ongoing. More of the same type of work will be paid for with the additional $35,000. The attached scope of work does not change the work that Park City has already contracted with Brown & Caldwell to do.

Department Review:
The City Manager has reviewed this report.

Alternatives:

A. Approve:
This is my recommendation.

B. Deny:
If the City Council were to deny my recommendation, Park City staff would not be able to conduct the testing recommended by UDEQ.

C. Modify:
There is not much room for City Council to modify the proposed amendment. This is not a situation where something short of all the sampling and analysis helps Park City.

D. Continue the Item:
Staff has discussed with DWQ the proposed timeline for completing this work. DWQ has communicated that timeline to USEPA. Continuing this item would prevent Park City from conducting an important interval of sampling and leave Park City with incomplete data on which to base its UPDES permit application.

E. Do Nothing:
Doing nothing could result in Park City not being able to negotiate a favorable UPDES permit.

Significant Impacts:

The UPDES permitting process is one of the many steps that Park City is currently taking toward resolving the impacts of its mining history. The Judge and Spiro Tunnels account for 50% of Park City's water source capacity. Park City has recently completed an extensive investigation of the Judge Tunnel and has commenced a similar investigation on the Spiro Tunnel. The resolution of the UPDES permitting issue is a significant step in addressing the environmental issues that relate to those sources and the city's relationship with the owner of the tunnels, Talisker/United Park City Mines Company. Also, the resolution of the Prospector Drain Pipe's contribution of metals to Silver Creek and downstream properties is a necessary step in achieving Park City's goals in the Silver Creek watershed. To date, Park City Water Operations has paid Brown & Caldwell $35,974.73 from the general ledger account 051-40451-04520-000-100, titled Contract Services/Consulting Administration. The additional $35,500 would also come from this account, which has a balance of $184,600.

Consequences of not taking the recommended action:
Park City could face an enforcement action and be fined and/or be subject to a stringent and costly UPDES permit.

Recommendation:
Authorize the City Manager to execute an amendment to the Professional Services Agreement with Brown and Caldwell, in an amount not to exceed $35,500 and in a form approved by the City Attorney, for environmental analysis services related to the Spiro and Judge Tunnels and the Prospector Drain.

City Council
Staff Report

Subject: Letter of Credit for Summit Land Conservancy
Author: Diane Foster, Mark Harrington
Department: Sustainability and Legal
Date: September 30, 2010
Type of Item: Administrative

Summary Recommendations:
Staff recommends Council approve a Letter of Credit with Zions Bank for the benefit of the Summit Land Conservancy in an amount of $40,000 in a form approved by the City Attorney and authorize the City Manager to execute the necessary agreements and application requirements.

Topic/Description:
$40,000 Letter of Credit to be used in the case where Park City Municipal's conservation easements require legal defense.

Background:
At last week's meeting, the Council approved SLC's request for an irrevocable $40,000 Letter of Credit subject to two additional terms: 1) the LOC shall be terminated upon acquiring sufficient alternative funding; and 2) the LOC is conditioned upon the accreditation of SLC by the Land Trust Alliance.

Analysis:

Please refer to the prior report dated September 23, 2010 for prior analysis.

The Council approved a letter of credit in the amount of $40,000, as follows:

- The Letter of Credit would be issued to Summit Land Conservancy;
- The Letter of Credit would result in a legal requirement for the City to budget funds in the amount of the letter of credit just as if we sent the Conservancy cash, so yes, funds would be encumbered and an accounting liability created. The letter of credit would need to be renewed annually at a cost of 1% of the amount of the credit. The letter of credit would only be drawn upon if there was a legal challenge;
- The letter of credit provided by the City would *only* be drawn upon in response to a legal challenge on a City-owned property. The letter of credit could not be accessed to defend easements from other property owners. The City has filed an application for the LOC with Zions with the conditions specified by Council as Terms of Presentation/additional terms. Once approved, the City will incorporate the terms into a defense agreement with SLC. See attached Letter dated 9/27/10 and Zions Application;

- If Park City Municipal decided, in the future, to not renew the letter of credit prior to SLC securing alternative funding, the $40,000 funds guaranteed by the letter of credit could be drawn down by Summit Land Conservancy.
- The two additional terms will be added to the presentation terms of the LOC and a side agreement with SLC as necessary. Council is giving the City Manager the authority to execute the agreements in a form approved by the City Attorney because at the time of the report, Zions had not indicated which terms could be reflected in the LOC versus those which will need to be in a side agreement because the approval comes from an office outside of Park City. Due to SLC's timeframe, staff wanted to keep the process moving forward.

Department Review:
This report has been reviewed by the City Attorney's and City Manager's departments.

Alternatives:

A. Approve:
The City Manager would execute the necessary agreements for a Letter of Credit with Zions Bank for the benefit of the Summit Land Conservancy in an amount of $40,000.

B. Deny:
The City would not provide a Letter of Credit to the Summit Land Conservancy, but such action would be inconsistent with the September 23rd direction/approval and adversely effect SLC's accreditation effort.

C. Modify:
Council could recommend the City Manager provide a Letter of Credit to the Summit Land Conservancy in an amount or terms different than $40,000, but such action would be inconsistent with the September 23rd direction/approval.

D. Continue the Item:
Council could recommend further discussion of this item at a later date.

E. Do Nothing:
Doing nothing would have the same effect as denying the request.

Significant Impacts:
The Letter of Credit will be secured for by the City's existing operating account. The Open Space fund will be charged with the necessary costs and appropriation.

Recommendation:
Staff recommends Council approve a Letter of Credit with Zions Bank for the benefit of the Summit Land Conservancy in an amount of $40,000 in a form approved by the City Attorney and authorize the City Manager to execute the necessary agreements and application requirements.

Office of City Manager

September 27, 2010

Cheryl Fox
Executive Director
Summit Land Conservancy
P.O. Box 1775
Park City, Utah 84060

Dear Cheryl,

This letter shall confirm the City Council's approval of a Letter of Credit ("LOC") for the benefit of Summit Land Conservancy in the amount of $40,000 for use in a Legal Defense Fund subject to the Terms of Presentation attached.

On behalf of the Mayor, City Council and the residents of Park City, I would also like to take this opportunity to thank you, your Board of Trustees, and the Land Trust Alliance Accreditation Commission for your collective patience in this matter. With regard to the properties which the City purchased as deed restricted open space prior to placing the additional protection of the third party conservation easement, because endowment funds were not secured from the initial seller, and the limited Open Space Bond revenues are now exhausted, your request is complicated by the fact that the City must make general fund appropriations subject to its legal contract and procurement requirements. As you know, this request for legal defense funds comes outside the City's budget process and after a public process in which you were awarded a service contract for the direct costs of baseline and on-going monitoring services. We are grateful for the efforts of our staff, Deer Valley and your organization to work out a pragmatic solution which balances our community's concern for additional, unplanned appropriations in this time of unprecedented economic challenge. We sincerely hope the Accreditation Commission considers the LOC sufficient given these unique circumstances, and offer our sincere assurance that Park City is committed to a better long term solution. Our common goal remains to fulfill the public trust bestowed upon us to protect these natural resources.

Accordingly, the City Council further directed the City Attorney to work with Summit Land, the local legal community and the Attorney General's Office to explore alternative but equally forceful means of legal defense, such as we understand states such as

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Phone (435) 615-5007 • FAX (435) 615-4901

September 27, 2010
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Vermont and Massachusetts employ. Ideally, additional enforcement capability can be guaranteed which does not necessitate further expenditure of taxpayer funds nor indefinitely ties up precious open space funds until Summit Land's independent funding grows to a point where the LOC is no longer necessary.

Please contact me at 435-615-5009 with any questions or concerns.

Regards,

Tom Bakaly
City Manager

TERMS OF PRESENTATION

Irrevocable Standby Letter of Credit- Zions Bank, Park City UT (approval pending)

1. The appropriate Grant of Conservation Easement between Park City and Summit Land Conservancy ("SLC") is referenced;
2. Park City has defaulted or breached its responsibilities under the easement(s);
3. SLC has provided notice to Park City and Park City has not cured or made good faith efforts to cure such breach within thirty days of the notice;
4. Or, Park City has denied the default or breach and the default or breach has been the subject of mediation under Utah law and such mediation has resulted in a decision in favor of SLC.

The issuance and term of the LOC shall be conditioned upon the Land Trust Alliance Accreditation of SLC and shall be cancelled upon SLC securing sufficient alternative funds or legal defense to maintain said Accreditation without the LOC.

ZIONS FIRST NATIONAL BANK International Banking Group 1 South Main Street, 4th Floor Salt Lake City, UT 84133-1109	**APPLICATION AND AGREEMENT FOR STANDBY LETTER OF CREDIT** DATE: ADVISING / BENEFICIARY'S BANK and Address (If unknown leave blank)
APPLICANT Name and Address PARK CITY MUNIC. CORP. 445 MARSAC AVE PO BOX 1480 PARK CITY UT 84060-1480 Tel 435-615-5009 Fax 435-615-4901 Email TOM@PARKCITY.ORG	BENEFICIARY Name and Address SUMMIT LAND CONSERVANCY PO Box 1775 PARK CITY UT 84060 Tel Fax Email CHERYL@SUMMITLANDCONSERVANCY.ORG
AMOUNT & CURRENCY: $40,000	EXPIRATION DATE: ANNUALLY WITH AUTOMATIC RENEWAL
PLEASE ISSUE CREDIT BY [ ] SWIFT [ ] Airmail [X] Courier	PARTIAL DRAWINGS [X] ALLOWED [ ] NOT ALLOWED

REQUESTED WORDING: (Any attachments hereto must indicate attachment and each attachment must be signed and dated by applicant.)

SEE ATTACHED

BANKING CHARGES, OTHER THAN ISSUING BANK'S ARE FOR THE ACCOUNT OF: [X] APPLICANT [ ] BENEFICIARY

You are hereby authorized to debit our account # 98000706 for all transactions related to this Letter of Credit.

The actual wording of any Letter of Credit issued by Zions First National Bank must be agreed to by Zions First National Bank in its sole discretion.

The opening of this Standby Letter of Credit is subject to the terms and conditions as set forth in the Zions First National Bank Standby Letter of Credit Agreement appearing on pages 2, 3 and 4 of this application to which we agree. ACCEPTING THIS APPLICATION DOES NOT CONSTITUTE A COMMITMENT BY YOU TO ISSUE A LETTER OF CREDIT.

Company Name	Customer Signature	Name & Title	Date

BANK USE ONLY BELOW THIS LINE

Date:	Office Name	Office Number	Customer Signature Verified by	Officer's Signature:	Commitment Fee %:

7/1/09

STANDBY LETTER OF CREDIT AGREEMENT

To: Zions First National Bank

In consideration of your opening at our request a Stand-by Letter of Credit ("Credit"), the requested terms of which appear on page 1 hereof, we hereby agree (the "Agreement") with you as follows:

1. We shall pay you upon demand in immediately available funds and in United States currency all moneys paid by you or your correspondents or for which you or your correspondents become liable under or pursuant to said Credit, including under drafts paid by you or your correspondents, together with interest, commission and all customary charges thereon, and we agree to provide such funds at least one business day before same is due provided, however, that if any amounts paid or payable under or in respect of said Credit are in any currency other than United States currency, the amount payable or provided by us to you or chargeable by you hereunder may be, at your election, either in such other currency or the equivalent in United States currency computed at the rate you would at the time sell such other currency for United States currency. In the event you grant us a line of credit facility that includes a Credit component, you may pay amounts due hereunder from an advance of funds from the line of credit, if available, and reduce the amount available under the line of credit without prior notice to us. Past due amounts of any kind shall be payable with interest at the rate of six percent (6%) per annum above your 90 day LIBOR rate, which may not necessarily be the lowest rate charged by you to your borrowers. Your 90 day LIBOR rate is to be strictly interpreted and is not intended to serve any purpose other than providing an index to determine the interest rate used herein. Your LIBOR rate may not necessarily be the same as the quoted offered side in the Eurodollar time deposit market by any particular institution or service applicable to any interest period. As used herein, your LIBOR rate shall mean the rates per annum quoted by you as your 90 day LIBOR rate based upon quotes from the London Interbank Offered Rate from the British Bankers Association Interest Settlement Rates, as quoted for U.S. Dollars by Bloomberg, or other comparable services selected by you (the "Index"). If the Index becomes unavailable prior to payment of the amount due, you may designate a substitute index. You will tell us the current Index rate upon our request. The interest rate change will not occur more often than daily. NOTICE: Under no circumstances will the interest rate on any past due amount be less than 4.500% per annum or more than the maximum rate allowed by applicable law. You are authorized without prior notice to charge any or all of our deposit accounts with you for all required payments and reimbursements under this Agreement. Notwithstanding anything to the contrary herein, if you reasonably determine (which determination shall be conclusive) that quotations of interest rates referred to in the definition of your 90-Day LIBOR Rate are not being provided in the relevant amounts or for the relevant maturities for purposes of your determining your 90-Day LIBOR Rate, then you shall give notice thereof, to us, whereupon until you notify us that the circumstances giving rise to such suspension no longer exist, the interest rate hereunder shall be converted to the 90-Day Federal Home Loan Bank (FHLB) rate (as defined below), plus 6.0925% per annum. In no event, however, shall the interest rate ever be less than the minimum interest rate specified above. Federal Home Loan Bank (FHLB) rate is to be strictly interpreted and is not intended to serve any purpose other than providing an index to determine the interest rate used herein. The FHLB rate shall mean the rate per annum quoted by you as your 90 day FHLB rate based upon the FHLB Seattle rate as quoted in Bloomberg, or on the FHLB Seattle internet web site at www.FHLBsea.com, or other comparable service selected by you. You are authorized without prior notice to charge any or all of our deposit accounts for all required payments and reimbursements under this Agreement.

2. We understand that the commissions, fees and charges payable by us to you in connection with said Credit are established by you with regard in part to your costs in issuing and maintaining the Credit. If, prior to the expiry date of said Credit, any applicable law, rule or regulation is adopted or amended, or there is a change in the interpretation or administration of any existing applicable law, rule or regulation, which has the effect of increasing the taxes, duties, charges or other costs paid or incurred by you in connection with said Credit (including without limitation, deposit insurance assessments, reserve requirement costs, and the implied costs of additional capital), we shall pay you upon demand in United States currency the amount of any such increase or increases. We will comply with all foreign laws, rules and regulations now or hereafter applicable to the transaction underlying the Credit or relevant to the execution, delivery and performance by us of this Agreement.

3. As security for the fulfillment of our obligations hereunder, we hereby grant to you a security interest in the "Collateral". As used herein, the term "Collateral" shall mean the balance of every deposit account or credit balance account, now or hereafter existing, of ours with you, and any other claim of ours against you, now or hereafter existing, direct or indirect, and all money, goods, instruments, securities, documents (including the goods covered thereby) chattel paper, credits, claims, demands, goods, inventory, equipment and any other property, rights and interest of ours which at any time shall come into your possession or custody or under your control or any of your agents, associates or correspondents for any purpose, and shall include any of the foregoing from time to time made available to us by you pursuant to a trust receipt, and shall also include the proceeds, products, and accessions, if any, to each of the foregoing. We agree at any time upon your demand to deposit with you as further security for the fulfillment of our obligations hereunder such cash or other collateral as you may request, and you may, at any time, take control of our Collateral with you as security for our obligations under this Agreement. We will at any time on your request sign financing statements, security agreements or other agreements with respect to the Collateral. You are authorized as our agent to sign any such statements or agreements. We agree to pay all filing fees and to reimburse you for all costs and expenses of any kind (including legal fees) incurred in any way in connection with the Collateral, including costs of collection, storage and sale.

4. In the event of default in respect of any payment due under this Agreement, or in the event of the death, insolvency, dissolution or termination of the existence of any of us, or should any bankruptcy or similar proceeding be filed by or against any of us, the amount of said Credit, as well as any and all other amounts then or to become payable to you hereunder ("Other Amounts"), together with interest thereon, shall, to the extent not theretofore paid to you, become immediately due and payable; and if at the time of any such event said Credit is still in effect and not completely drawn against or Other Amounts are not paid, we shall, upon demand, pay to you, for application to drawings under said Credit or payment of such Other Amounts, the entire amount which has not been drawn or paid, but represents your potential liability under the Credit. Any amount so paid shall be repaid to us without interest when it is finally determined by you that we have fully discharged our obligations hereunder. We agree that a default by us of any other agreement between us and you, either now existing or entered into at any time in the future, shall also constitute a default of this Agreement.

5. You and your correspondents shall be entitled to make payments under said Credit if the documents presented thereunder appear on their face to be in accordance with the terms and conditions of said Credit; and neither you nor your correspondents shall be liable or responsible for the form, sufficiency, accuracy, genuineness, falsification or legal effect of any documents, or for the authority of any persons signing the documents, or for the good faith or acts or omissions, solvency, performance or standing of the beneficiary or any other person whomsoever, including performance of the underlying contract or other transaction between us and the beneficiary. Furthermore, you and your correspondents shall not have any liability or responsibility for the consequences arising out of delay or loss in transit of any messages, drafts or documents, or for any delay, interruption, mutilation or other error arising in the transmission of any telecommunication, or for errors in translation or interpretation of any message or documents relating to said Credit. You and your correspondents shall not be liable for any failure to pay or accept any draft under the Credit resulting from any law or restriction exercised by any domestic or foreign government, any court order, or any other cause beyond your control. Any and all claims by us for improper payment, dishonor or other actions or inaction by you shall be made by written notice within sixty (60) days of the contested action or inaction or such claim is waived. Any and all proceedings to recover from you or your correspondents must be made within one (1) year from the date of said notice or said claim shall be deemed waived.

6. We shall pay upon demand in United States currency all expenses, including reasonable attorney's fees (including any such fees incurred in bankruptcy or similar proceedings), incurred by you or your correspondents in connection with or related to the Credit, or the preservation or enforcement of any right granted hereunder. In addition, we shall indemnify you and your correspondents against any and all liabilities, losses, damages, settlements and expenses, including reasonable attorneys' fees (including any such fees incurred in bankruptcy or similar proceeding), which you or your correspondents may incur in

connection with any claim or controversy with the beneficiary or any other third party relating to said Credit except for such matters constituting your own gross negligence or willful misconduct, and, in the event any suit or other proceeding is brought against you or your correspondents regarding such dispute, you or your correspondent named in such suit or proceeding may elect either to defend such suit or proceeding at our expense or to require that we assume the defense thereof employing counsel acceptable to you or such correspondent. Attorney's fees shall include the reasonable cost of in-house counsel

7 In the event of any extension of the maturity or time for presentation of drafts, acceptance of documents, or any other modification of the terms of said Credit, at the request of any of us with or without notification to the others, or in the event of any increase in the amount of said Credit at our request, this Agreement shall be binding upon us with regard to said Credit so increased or otherwise modified, to drafts, documents and property covered thereby, and to any action by you or any of your correspondents in accordance with such extension, increase or other modification

8 You may, in your discretion, arrange for the direct or indirect participation by other financial institutions in the issuance of said Credit or provide for the assignment or transfer to and assumption by other financial institutions of all or some portion of your liability under said Credit; and you may assign or transfer this Agreement or all or any portion of your rights hereunder, and any instruments(s) evidencing all or any portion of your liability under said Credit, and you may deliver all or any of the property then held as security for our obligations hereunder, to the assignee(s) or transferee(s), who shall thereupon become vested with all the powers and rights in respect thereto given you herein or in the instruments(s) assigned or transferred, and you shall thereafter be forever relieved and fully discharged from all liability or responsibility with respect thereto, but you shall retain all rights and powers hereby given with respect to any and all instrument(s), rights or property not so assigned or transferred

9 If the Application and Agreement for Stand-by Letter of Credit is signed by one party, terms in the plural shall be read in the singular, as appropriate If signed by two or more parties, this Agreement shall be the joint and several agreement of such parties.

10 You shall not be liable for any failure by your correspondents to pay or accept any draft under the Credit resulting from any law or restriction exercised by any domestic or foreign government or from any other cause beyond your control or your correspondents', and we agree to indemnify and hold you harmless from any claim, loss, liability or expense arising by reason of any such failure to pay.

11. This Agreement is to continue in force and be applicable to all transactions, notwithstanding any change in the individuals composing any firm, parties to, or concerned in this contract, whether such change shall arise from the acquisition of one or more new partners or from the death or secession of any partner or partners.

12 If any other person signs this Agreement as Applicant's Bank (including any bank which procures issuance of the Letter of Credit on our behalf as Applicant's Bank), that person shall be jointly and severally liable for all obligations and shall otherwise be treated as the Applicant under this Agreement, including with respect to all warranties hereunder. Without limiting the foregoing, each Applicant shall be bound by any notice from you to any other Applicant Each Applicant shall be bound by any authorization or waiver from any Applicant to you that supports the extension, increase or other amendment of the Letter of Credit, your amendment of this Agreement or your settlement or release of any obligations or your release of any Collateral. Each Applicant shall be bound by any Applicant's settlement or release of any claims against you arising under this Agreement Each Applicant shall be bound by any event of default attributable to any Applicant or to any guarantor of any Applicant's obligations hereunder Each Applicant signing this Agreement accepts that its obligations are primary We hereby grant you a security interest in any collateral (not including real property or fixtures) given as security for our obligations under this application and in any deposit account with Applicant's Bank for the Credit and for any of Applicant's Bank obligations entered into on our behalf for issuance of the Credit At your request, you may take control of and direct disbursement of such deposit accounts without notice or further direction from us

13. If this application is directed through Applicant's Bank, the Applicant's Bank, by its execution of this Agreement. (a) requests and appoints you as its agent to establish in your name or through a correspondent the Credit; (b) authorizes you and/or your correspondent(s) to pay drafts drawn against the Credit as specified in this Agreement and to exercise all rights, powers and privileges conferred by this Agreement without reference to Applicant's Bank, (c) agrees to make payments to you in amount, time and manner as required of us under this Agreement whether or not Applicant's Bank has received payment from us; (d) assigns to you as security all its rights, including rights of payment and to security (not including real estate or fixtures), under this Agreement and agrees to deliver to you, upon demand, such additional security as you may request and also agrees to give you a lien on all our property, including deposit accounts, now or hereafter in its possession, for the amount of any liability of Applicant's Bank to you hereunder; and (e) agrees that if it fails to make any payment or provide any security as requested, all its obligations and liabilities to you shall immediately, without notice, become due and payable at your sole option

14 Except as otherwise provided herein, any notice from you to us, if mailed, shall be deemed given when mailed postage paid, addressed to us at our address set forth herein or such other address of which you are notified in writing at your designated office. All notices to you shall be sent as indicated below and shall be deemed given when received Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement

15 If the Credit provides for automatic renewal without amendment, we shall notify you of our desire not to renew such Credit in writing at least thirty (30) days prior to the last day specified in the Credit by which you must give notice of your intent not to renew the Credit. If we fail to provide timely notice to you as provided for in the preceding sentence, you may renew the Credit in your sole and absolute discretion, and all of our liabilities and obligations as to the Credit and under this Agreement will continue in full force and effect Any decision whether to renew a Credit will be in your sole and absolute discretion, and notwithstanding any notice from us to you requesting the renewal of the Credit, you may elect not to renew the Credit. If you notify the beneficiary or transferee, if any, that you have elected not to renew the Credit, the Credit may be drawn on, if permitted under the terms of the Credit. In such case, we will reimburse you for all amounts paid or payable by you in respect of the Credit. We will have no claim against you and no defense against payment of your obligations under this Agreement as a result of your renewal or non-renewal of this Credit.

16 We understand and agree that you shall rely, and are entitled to rely, on information from us with respect to the terms and wording of the Credit We will promptly examine the Credit and will immediately notify you in writing of any discrepancies or other irregularities. We agree that our approval of the Credit format binds us irrevocably, and we hereby waive any and all claims or liabilities we may have with respect to such terms and wording **We further understand and agree that the acceptance of this Agreement and application does not constitute a commitment by you to issue a Credit.** This Agreement, together with the application and any other loan document provided in connection herewith, constitutes the entire agreement of the parties hereto, and supersedes all prior discussions, negotiations and agreements with respect thereto

17 To the extent not inconsistent with this Agreement, this Agreement shall be subject to the UCP or ISP98, as provided in the Credit, and subject to such limitation, shall be governed by the laws of the State of Utah, United States of America, in all respects, including (without limitations) matters of title, construction, validity, performance and discharge, and shall be binding upon us and our successors, assigns, and legal representatives and shall not be waived, altered, modified or amended as to any of its terms or provisions, except as you may consent thereto in writing. No assignment or other transfer of all or any of our rights hereunder or under said Credit, whether with regard to any property or otherwise, may be made without your prior consent in writing We agree to

submit to the jurisdiction of the state or federal courts located in Salt Lake County, Utah, and waive our right to contest the jurisdiction or venue of such courts We agree to waive our right to assert to the court that a change in jurisdiction is required based on the convenience of the parties

As permitted by applicable law, **WE AND YOU WAIVE OUR RESPECTIVE RIGHTS TO A TRIAL BY JURY, AND AGREE THAT ANY COURT PROCEEDING SHALL TAKE PLACE BEFORE A JUDGE OR MAGISTRATE SITTING WITHOUT A JURY. If a court determines that this jury waiver is not enforceable for any reason and at any time prior to trial of a dispute, but not later than 30 days after entry of the order determining this provision is unenforceable, any party is entitled to move the court for an order compelling arbitration and staying or dismissing such litigation pending arbitration.**

> **ARBITRATION. Any claim or controversy between or among the parties shall be resolved by binding arbitration in Salt Lake City, Utah, only if a jury waiver is not permitted by applicable law or ruling by a court, in accordance with the applicable arbitration rules of JAMS or National Arbitration Forum, as selected by the initiating party. The arbitrator(s) shall award recovery of all attorneys' fees and costs, arbitration administration fees and costs, and arbitrator(s)' fees. Judgment on the arbitrator(s)' award may be entered in any court having jurisdiction thereof.**

CLASS ACTION WAIVER. WE AND YOU WAIVE THE RIGHT TO LITIGATE IN COURT OR ARBITRATE ANY CLAIM OR DISPUTE AS A CLASS ACTION, EITHER AS A MEMBER OF A CLASS OR AS A REPRESENTATIVE, OR TO ACT AS A PRIVATE ATTORNEY GENERAL.

18. In these provisions:

1. "We", "Us" means the undersigned party or parties identified and signing this Agreement as Applicant.
2. "Applicant" means all of the undersigned party or parties
3. "You", "Your" means Zions First National Bank
4. "Applicant's Bank" means the undersigned party or parties identified and signing as such
5. "Credit" means the irrevocable standby letter of credit issued by Zions First National Bank at its option pursuant to this Application, as such letter of credit may be modified or amended from time to time
6. "UCP" means the Uniform Customs and Practice for Documentary Credits (1993 Revision), International Chamber of Commerce Publication No 500, and any subsequent revisions thereof approved by the International Chamber of Commerce
7. "ISP98" means the International Standby Practices, International Chamber of Commerce Publication No. 590, and any subsequent revisions thereof approved by the International Chamber of Commerce

In consideration of your issuing the Credit and for other consideration, the receipt and adequacy of which is hereby acknowledged, we agree to be bound by this Agreement, including but not limited to the payment obligations therein set forth, and including being jointly and severally liable for all indebtedness and obligations of any other Applicant, if any, arising under or pursuant to this Agreement

APPLICANT

NAME DATE

AUTHORIZED SIGNATURE, TITLE

AUTHORIZED SIGNATURE, TITLE

CONTACT NAME

TELEPHONE NUMBER

APPLICANT'S BANK (This section must be completed by Applicant's Bank if application is being submitted through another bank)

NAME DATE

AUTHORIZED SIGNATURE, TITLE

AUTHORIZED SIGNATURE, TITLE

Co-Applicant agrees to be bound by the terms and conditions of this Agreement (as Applicant) and Applicant and Co-Applicant agree that each shall be jointly and severally liable for all indebtedness and obligations arising under or pursuant to this Agreement

CO-APPLICANT

NAME DATE

AUTHORIZED SIGNATURE, TITLE

ADDRESS ____________________

____

TELEPHONE ____________________

All notices to Zions First National Bank shall be sent to

International Banking Group
1 South Main Street, 4th Floor
Salt Lake City, UT 84133-1109

7/1/09

ATTACHMENT TO APPLICTION AND AGREEMENT FOR STANDBY LETTER OF CREDIT

TERMS OF PRESENTATION

Irrevocable Standy Letter of Credit- Zions First National Bank

1. The appropriate Grant of Conservation Easement between Park City and Summit Land Conservancy ("SLC") is referenced;
2. Park City has defaulted or breached its responsibilities under the easement(s);
3. SLC has provided notice to Park City and Park City has not cured or made good faith efforts to cure such breach within thirty days of the notice;
4. Or, Park City has denied the default or breach and the default or breach has been the subject of mediation under Utah law and such mediation has resulted in a decision in favor of SLC.
5. The drawing amount is limited to actual litigation and attorney fees and costs encumbered by SLC pursuant to the defense of the Grant of Conservation Easement.
6. The term shall automatically renew annually. If Park City/Applicant fails to renew, SLC/Beneficiary may withdraw the total amount of credit upon receiving notice on non-renewal from the bank.
7. Notwithstanding irrevocability and automatic renewal, the Letter of Credit shall be jointly terminated by the prior, written consent of Applicant/Park City and SLC/Beneficiary upon either of the following events:
   a. SLC is not accredited by the Land Trust Alliance Accreditation of SLC; or
   b. SLC secures sufficient alternative funds or legal defense to maintain said Accreditation without the Letter of Credit.

Applicant:

____

Tom Bakaly, City Manager   Date

City Council
Staff Report

Author: Jonathan Weidenhamer
Subject: Treasure Hill - Letter of Intent between Park City and the Sweeney Family (MPE, INC.)
Date: September 30, 2010
Type of Item: Administrative

Summary Recommendations
Authorize the City Manager to enter into a Letter of Intent with the Sweeney Family (MPE) to pursue two alternatives to reduce density from Treasure Hill.

Topic

Treasure Hill negotiations

Background
On April 22, 2010, the City Council elected to appoint a hearing appeal panel as the appeal body for the pending Treasure Hill CUP application. This enabled the Council to explore other roles beyond the traditional regulatory/appeal role, including negotiating project goals beyond the framework of regulatory criteria, consideration and negotiation of sale and the purchase and/or transfer of density rights.

The initial meeting of the Treasure Hill applicants and City representatives took place on Wednesday, May 26, 2010 in Park City. The parties have met regularly since the initial meeting, and include: Mike and Ed Sweeney representing the Treasure Hill project, Mayor Dana Williams and Councilperson Liza Simpson representing the City Council, and City Manager Tom Bakaly, Jonathan Weidenhamer, Economic Development Manager, and Thomas Eddington, the Planning Director representing City Staff.

The Sweeney's CUP proposal is still pending review by the Planning Commission. The application was put on a six-month stay pursuant to the March 23, 2010 letter from Planner Katie Cattan, acknowledgement executed March 30, 2010 by MPE. MPE formally requested the pending CUP application be stayed an additional six months through April 30, 2011 due to on-going diligence to redesign the project, and the updates provided to the Planning Department during the initial 6 month stay. The Planning Director informed the Planning Commission that he agreed to the extension at the September 22, 2010 Planning Commission meeting.

<u>Public Open Houses Co-hosted by Sweeneys & Park City</u>
The Sweeney Family and Park City Municipal co-hosted two public open houses on July 6 and July 13, 2010. The open houses were designed to provide project history, information about the current proposal as well as to gauge public sentiment on a range of options up to and including a "no density" option. Approximately 200 people attended. We received 166 surveys on the options provided (68 in-person and 98 online).

There was a good mix of community participation at the open houses. The majority of respondents (76%) selected the “no density” option. Comments on many of the surveys indicate that respondents would be willing to consider development with reduced height and more aesthetically pleasing buildings that fit the Park City atmosphere. Others commented that they chose the “no density” option because they did not like the design of any of the other options presented. Finally, the majority of survey respondents indicated they would “definitely” or “most likely” be willing to support a property tax increase to remove density from the site. Experience on other bond initiatives has shown the level of support may be affected by the proposed bond amount and financial impact on the home or business owner.

Policy Goals

As part of this process, the City Council set policy goals to define its preferred future for the project:

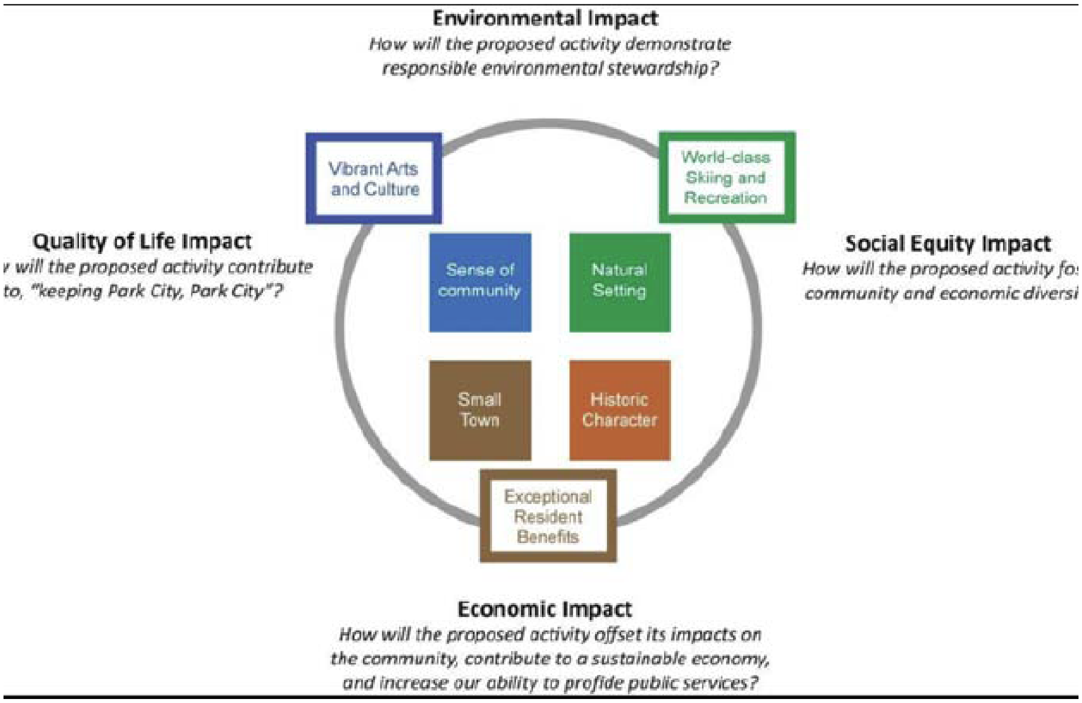
Core Principles & Possible Goals

(these are not mutually exclusive, nor is this intended to be an exhaustive list)

Possible Negative Impacts	**Possible Positives Outcomes**
Neighborhood Impacts	Affordable housing on site
Safety	Four Season Resort Economy
Traffic	redevelopoment & tax base
Construction	skier improvements & connect to PCMR
Parking	mine ride attraction
Bulk, Massing & Height	critical mass of people in downtown
site grading & excavation	minimize traffic impacts in downtown
environmental	secure sundance long term

Community Visioning Framework

The recent Community Visioning process developed an evaluative framework which identified multiple criteria essential to Park City’s long term sustainability: economic impact, environmental impact, quality of life impact and social equity impact. The community visioning filter is the framework for negotiations with MPE.



Staff has identified three key areas that need to be balanced during this process:

1. **Community Impacts** – Significant concerns have been raised relative to community impacts on historic, old town character. Staff believes the three major concerns are: 1) height, massing and visual impact; 2) the compatibility of the actual look/design of the buildings, and 3) the potential traffic and safety impacts on the neighborhood.

2. **Economics** -- The economic impacts of the project could be classified into three sub-categories: 1) Direct cost to city residents via a General Obligation bond (or open space bond); 2) opportunity cost of potentially forgone revenues, and 3) the impact of a low commercial growth development policy on the real value of the City's property tax revenue stream.

   General Obligation (GO) Bond: Should Council choose to pursue a buyout option, a GO bond of $50 million at a rate of 3.5 percent for 15 years would require $4.5 million in annual debt service. Presently, this would cost a primary resident about $250 per year in additional property tax.

   Foregone Revenue: The Sweeney's have completed an economic impact analysis, available through their website: http://www.treasurehillpc.com/subdocs_d.html (exhibit A.10). It estimates annual creation of $763,000 in tax revenue for Park City. The analysis relies on full occupancy, high spending and a healthy multiplier effect, which we believe is overly optimistic. In comparison, the Montage study conducted by Park City, estimates an annual impact of $437,000. In any event, there is some amount of direct tax revenue for Park City which would be forgone if the City pursues the buyout option.

Property Tax Growth Rate: As was discussed during the most recent budget process, the City faces a challenge in the future in its property tax revenue stream. As the City approaches build out, the growth of sales tax and new development should level off and could potentially create a situation where the loss of purchasing power in the property tax revenue stream is no longer being mitigated. Council should consider the effect that an overall low-growth development policy has, and will continue to have on the City's ability to fund core services with property taxes in the long run.

3. **Environmental Balance** – Preserving the 110 acres of open space is a significant community benefit. It is balanced with the impacts of development of the 11.5 acre development site including excavation, disturbance of native vegetation, potential mining and soil issues. There will be a significant carbon footprint increase resulting from the development and ongoing operations of the development.

Analysis

Staff and the Sweeney family have co-authored a Letter of Intent (Exhibit A) that identifies two parallel tracks to pursue. This approach is based on the outcomes of the meetings between the City and the Sweeney family, input at the public houses, and internal staff analysis.

1. Complete Buyout or Density Transfer of Unit Equivalents (UEs)

Within the MPD, the maximum allowed unit equivalents (UE) for residential is 197 (1 residential UE = 2,000 square feet) and the maximum allowed UE for commercial are 19 at 1,000 square feet per UE, for a total of 216 EUs.

Treasure Hill Entitlement summary	
	UE's
residential	197
commercial	19
total	216

<u>Potential Funding – City General Obligation Bond</u>

A rough estimate based on the analysis for the recent property tax increase is that a $50 million bond would cost a primary resident with a home valued at $800,000 approximately $250 a year for a 15 year bond.

The City will likely engage in a statistically more comprehensive survey or other measures to assess the level of citizen support for additional bonding, including different amounts.

The attached LOI expires on April 30, 2011 to track with the stay of the Planning Commission regulatory process. While both can likely be extended, the Sweeneys are anxious to resolve this issue.

2. Balanced Approach: removal of approximately 50 percent density option

Option 3 at the public open house(s) identified removal of buildings 1 and 5; which essentially left the hotel, 2 floors of private residency, affordable housing and support commercial. MPE has intimated that removal of density beyond this option is not an alternative, with the exception of zero density and a complete buy-out of the project. .

Due to the amount of money and time invested in the current proposal to date, the Sweeney family is strongly vested in their current design. Based on the comments received at the open house and survey, the community seems to understand the Sweeney's have vested rights, but considered the options presented at the open house to be inappropriate.

Staff recommends that the City participate financially in a redesign process in order to gain some ownership. The LOI identifies participation from staff, in particular the Planning Director, as part of a redesign team. Financial participation will allow the City to set parameters for the redesign at the outset to ensure that the project is in keeping with Council goals and objectives. It also ensures that the City has a seat at the table during the design process and able to provide input and feedback rather than react to a completed proposal.

The redesign process, as the phases identified in the LOI evolve and present more detail, will provide an opportunity to address concerns related to commercial impacts, back of house size, and an appropriate overall limitation of gross square feet. The parties reserve the express right to directly negotiate on these and other items.

Regulatory Process
Neither option precludes or limits the Planning Commission's role or authority. Any redesigned project will have to go through the applicable CUP review per the parameters of the existing MPD. Should the redesign process necessitate substantive modifications to the MPD, the Sweeneys may cancel the LOI and proceed with the pending CUP, rather than have to submit an entirely new MPD process.

Moving Forward
Components to be addressed moving forward include but are not limited to:

1. Redesign (Sept./Oct)
2. TDR/ Purchase Process (Sept. – December)
    a. Unit Equivalent's (amount/value)
    b. Open space purchase (amount/value)

c. Receiving Zones
    i. Identify where compatible and consistent with General Plan/Zoning
    ii. Identify how (Mechanism)
    iii. Identify gaps (process/ code changes)

3. Planning Commission approval process (Nov. – April)
4. Public involvement (Sept. – April)
    a. Open House on redesign
    b. Public meetings including as Planning Commission worksessions
    c. Survey and/or ballot vote

Department Review

Alternatives:
Approve the Request: Direct the City Manager to enter into the LOI with the Sweeneys. **This is Staff's recommendation.**

Deny the Request: Council may deny the request. The terms of the LOI will have to be renegotiated any may affect the timeline.
Continue the Item: Council may request additional information which may affect the timeline.
Modify the Request: Council may modify the request. This will have the same impact as denying the request.

Significant Impacts
The LOI represents alternatives to the pending Treasure Hill CUP application. While many details would still need to be addressed, the alternatives identified may have significant resulting impacts including but not limited to: taxes from open space bonds, density transfer, the ongoing connection of Main Street to Park City Mountain Resort, the City's tax base, and hot beds in the downtown. Alternatively, development on Treasure Hill may have impacts related to views, construction, traffic, and the fabric of Old Town.

Consequences of not taking the recommended action:
The parties would have to renegotiate terms of the LOI. This may put more pressure on the Sweeney's to pursue their pending CUP application.

Recommendation
Authorize the City Manager to enter into the Letter of Intent with the Sweeney Family (MPE) to concurrently pursue two alternatives to remove density off of Treasure Hill.

Exhibits
Exhibit A – Draft LOI

Letter of Intent between Park City Municipal Corporation ("Park City") and MPE, Inc, ("MPE") the ("Parties")

September 30, 2010

Purpose

Per the ongoing MPE and City Council discussions throughout June – September 2010 the Parties intend to focus on negotiating possible modifications to the Hillside Portion of the Sweeney Properties Master Planned Development ("MPD") and revise the Conditional Use Permit ("CUP"). Prior to submittal of formal modifications to the current MPD and pending CUP revision for Planning Commission review, the Parties believe the framework for additional terms should be agreed to. The purpose and goal of this Letter of Intent ("LOI") is to use a combination of various financing options, but not limited to, bond, transfer and/or sale to move density off of Treasure Hill approximately 50% of the Treasure Hill unit equivalents and development rights granted in the 1986 Sweeney Properties MPD (including unit equivalent density); while keeping the remaining resort and residential related density, infrastructure and tax base in a lower height/spread out, compatibly redesigned hotel/facilities and associated whole ownership residential with ski and pedestrian connections to PCMR and Main Street. Park City and MPE agree in concept to the following terms contingent upon further discussion and finalization. These concepts and ideas are not binding on the Parties, however they do set the direction and intent of a redesign of the hotel/facilities and associated whole ownership residential, ski-to ski-from configuration and any transaction that might take place, including a complete buyout of the remaining Hillside Portion of the Sweeney Properties MPD between the Parties:

General Terms

1. LOI expires April 30, 2011, consistent with the MPE suspension of the current Planning Commission review of their pending CUP application.
2. Park City acknowledges that MPE also represents the landowners, Sweeney Land Company and Park City II, LLC and any agreement will have to be agreed to by the landowners.
3. Both parties agree to jointly release media and public statements in mutually agreed upon written press releases, unless otherwise previously agreed upon in writing, provided nothing herein shall limit comments or presentations conducted in open public meetings.
4. Staff, MPE and Council Liaisons shall conduct all negotiations. General meetings with board members, other City elected officials or other affected parties such as Park City Mountain Resort or owners of potential density receiving zones are to be considered only informational. Such participation may be subject to a confidentiality agreement.
5. The parties agree to exchange confidential information through a series of "draft" agreements that will continue to be modified until the Parties agree in writing to a "final" agreement.
6. The parties shall identify and support a preferred alternative prior to expiration of the LOI.

7. Should the Planning Commission not approve the CUP by April 30, 2011, the LOI shall be null and void unless amended and or extended in writing by both parties. MPE reserves the right to pursue its currently pending CUP application in accordance to the terms of the approved MPD.
8. The parties agree to pursue in good faith the means and mechanisms needed to facilitate sale, purchase and/or transfer of the Treasure Hill unit equivalents and development rights granted in the 1986 Sweeney Properties MPD (including unit equivalent density) that includes a complete buyout option of the remaining Sweeney Properties MPD Hillside rights between the Parties.
9. It is the intent of the parties to negotiate terms of using less of the Treasure Hill unit equivalents and development rights granted in the 1986 Sweeney Properties MPD (including unit equivalent density), while keeping the remaining resort and residential related density, infrastructure and tax base of the Hillside Portion of the MPD on the Treasure Hill Site and revisions to the CUP that address the items below.
10. Confidentiality – unless otherwise agreed, all negotiations and draft documents shall remain confidential until both parties agree to public release of such terms and plans. Both parties shall cooperate to periodically engage and inform the public regarding negotiated alternatives and provide timely and meaningful opportunities for public input.

Ongoing Discussion Points

These are subject to change and renegotiation at the discretion of both parties. These items include, but are not limited to:

1. Project Alternatives – The parties will pursue two project alternatives concurrently, establishing the value of each option. These options are: 1) a reduced density option; and 2) a zero density option. Park City shall research and take necessary steps to determine if a zero density option, with cost, terms, and mechanism (not limited to purchase, transfer, or sale) to reduce density, of the Sweeney Properties MPD Hillside rights, subject to Sweeney Land Company's and Park City II, LLC's obligation, under the 1981 Tram Agreement as amended is desired by Park City.
2. Unit Equivalents – reduce the current 216 UE's by approximately 50% through a combination of various financing options, but not limited to, bond, transfer and/ or sale of to move off of Treasure Hill approximately 50% of the Treasure Hill unit equivalents and development rights granted in the 1986 Sweeney Properties MPD (including unit equivalent density). A combination of the various financing options includes a proportional buyout of the remaining Sweeney Properties MPD Hillside rights between the Parties.
3. Square Feet – agreement to identify a maximum gross square footage and construction limits of disturbance allowed and other major parameters that affect the capital/development costs and sustainability of the hotel/facilities and associated whole ownership residential.
4. Redesign Cost & Participation – joint (financial) participation in a conceptual redesign process, with designers from Ritz Carlton, Elliott Work Group, and participation of City staff, including the Planning Director and Economic Development Manager. This conceptual redesign exercise will have the following phases, scope and estimated costs:

Phase	Scope	Total Cost (not to exceed)	Led by:
I	Analyze existing plan, isolate major conflicts, identify conceptual massing & site redesign consistent with City goals	$10,000	Elliott Work Group (EWG)
II	Bring Ritz to site, integrate initial Ritz design parameters into concept plan	$10,000	Joint - EWG & Ritz Carlton
III	Articulation of Phase II conceptual plan by Ritz and graphic representation of ideas to blend the proposed hotel into the landscape/townscape	$30,000	Joint - Ritz Carlton & EWG
IV	Further articulation of specific components within Plan, ie: gross sf, parking spaces, actual height, etc.	$30,000	Ritz with input from EWG

Park City agrees to an initial cash contribution of $10,000 for Phase I and a total cash contribution not to exceed $20,000 for phases I and II. Furthermore, Park City agrees to reimburse up to an additional $30,000 ($50,000 maximum total expense) for Phases III and IV. This reimbursement will occur as part of the final mechanism to remove density off of Treasure Hill, and only if the zero density option is pursued. Prior to agreeing to move into any new Phase after the first, the parties agree to formal progress reviews (by the entire City Council and MPE) to verify consistency with goals in this LOI.

5. Redesign Goals Approved by City Council – the remaining density should be redesigned with the goals of providing a sustainable project compatible with Historic Park City and reducing impacts of the proposed development including: height and/or final above grade massing and scale; final building aesthetics; traffic, excavation and site impacts while maintaining the proposed ski-to ski-from amenities including but not limited to beginner skiing into Historic Park City, new snow making, high-speed quad lift and cabriolet gondola people mover. The reduction of height will require spreading the hotel/facilities and associated whole ownership residential over the site including the locations of the One and Five Buildings.

Acknowledgment:

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Park City Municipal Corporation

Acknowledgment:

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MPE, Inc.

Acknowledgment:

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Sweeney Land Company

Acknowledgment:

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Park City II, LLC