PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
SEPTEMBER 26, 2002

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 26, 2002.

Closed Session

2:45 p.m. Property and personnel

Work Session

3:45 p.m. Council questions/comments
4:15 p.m. Ice facility update
4:45 p.m. RAP Tax application update
5:00 p.m. Review of meeting
- Pechnick remodel
- HMBA - business improvement district
- Sunnyside Subdivision zoning

Other meeting questions/comments
5:50 p.m. Break

Regular Meeting

6:00 p.m.

I ROLL CALL

II PUBLIC INPUT

III COMMUNICATIONS FROM COUNCIL AND STAFF

IV CONSENT AGENDA PUBLIC HEARINGS

1. Master Festival License for America's Opening to be held November 21 - 24, 2002 at the Park City

2. Ordinance approving 201 Heber Avenue Subdivision to combine a portion of Lot 8, all of Lots 9 through 13, and a portion of Lot 14 of Block 50 of the Park City Survey into one lot of record located at 201 Heber Avenue, Park City, Utah

V CONSENT AGENDA

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2. Ordinance approving 201 Heber Avenue Subdivision to combine a portion of Lot 8, all of Lots 9 through 13, and a portion of Lot 14 of Block 50 of the Park City Survey into one lot of record located at 201 Heber Avenue, Park City, Utah

3. Resolution adopting a substance abuse policy for transit safety-sensitive employees of Park City, Utah

4. Authorization to proceed with a professional services contract to assist the Mayor and City Council in recruiting a city manager

VI PUBLIC HEARING

Ordinance approving a rezone of the Sunnyside Subdivision from Residential Development to Single Family, excluding Lots 1, 2, and 4, and amending the official Park City Zoning Map

VIII NEW BUSINESS

1. Award of construction contract to Jeff Riehl Construction in the amount of $139,000 for the Pechnick House remodel

2. Resolution of intent to form a business improvement district in the Old Town core

3. Ordinance approving a rezone of the Sunnyside Subdivision from Residential Development to Single Family, excluding Lots 1, 2, and 4, and amending the official Park City Zoning Map

IX ADJOURNMENT

Posted: 09/23/02
See parkcity.org

PARK CITY WORK SESSION NOTES
SUMMIT COUNTY, UTAH
SEPTEMBER 26, 2002

Present: Mayor Dana Williams; Council members Peg Bodell, Kay Calvert, Candace Erickson, Jim Hier; and Fred Jones

Toby Ross, City Manager and Tom Bakaly, Assistant City Manager; Derek Satchel, Preservation Planner; Patrick Putt, Planning and Zoning Administrator; Kent Cashel, Transportation Director; Colin Hilton, Project Manager; Matt Twombly, Project Manager; and Mark Christensen, Grants and Budget Manager

1. **Council questions/comments.** Peg Bodell stated that she has received calls about neon lights on Main Street and the Images of Nature building being painted an non-historic color. Derek Satchel concurred that it is not an historic color but the Land Management Code does not require an exterior paint color review by staff which was the direction rendered by Council when the Code was being amended. Many owners have been cooperative by stopping by the Planning Department but there is no formalized process establishing compliance. He also received comments about this building and other structures painted unusual colors. This building has not been completed. Ms. Bodell suggested that when remodels are submitted that the colors be reviewed not just in the Historic District, but City-wide. Mr. Satchel discussed general guidelines for the Historic District which are encouraged by the planning staff. With regard to the subject building, staff expressed concerns about the color scheme. Pat Putt added that this issue was also raised by a Planning Commissioner about a residence in Park Meadows. In cases of new construction and remodels, the builder submits a materials board which usually identifies paint colors. The architectural section in the Code are guidelines and are not regulations. In subdivisions where there are active home owners associations, the architectural review committee usually regulates paint colors, but there is no City permit required to paint a house.

In response to a request from Peg Bodell, Mr. Putt updated the Council on the landscaping on Park Avenue in the 500 block. The City removed dead materials, planted more drought tolerant plants and connected into Wahso's irrigation system. He commended the cooperative efforts of Maria Barndt and adjacent property owners making this beautification project a success.

Candace Erickson pointed out that the School District has decreased its busing service based on distance and number of stops. As a result she has received citizen requests to reverse the Park Meadows route so that the PCMR stop is the last stop. It's difficult for kids to walk to school without sidewalks. Kent Cashel stated that staff will analyze the route and return to Council with options. He understood that there are also requests to expand the Park Meadows route which was considered in the past. However, it was discovered that the cost per ride was so prohibitive the seated Council decided not to expand the route. She referred to a letter regarding the difficulty in obtaining tent permits and stated that she will respond to the writer and has suggestions to make the process smoother, specifically with regard to the applicant providing site plans. She stated that she received a complaint about a dog bite occurring on upper Norfolk and reminded the public to keep their dogs on a leash.

Fred Jones reported that he attended the HMBA meeting this week where the topics of the special improvement district and paid parking were discussed. The HMBA decided to bring its concerns to the parking committee. Council concurred to hold a closed session next week to discuss Council's expectations of the Interim City Manager. Kay Calvert noted that she attended the Neighbors Helping Neighbors meeting in Old Town hosted by the Police Department which was not well attended but productive. She stated that the speaker at the Leadership session last week was excellent. She joined police officers last weekend on patrol around town and it was a very informative experience. Fred Jones added that the first meeting of the Olympic Legacy Task Force was well attended and many good ideas were generated. There will be three more meetings before recommendations are rendered to Council in late October. Ms. Erickson stated that she received a call from a pin trader who feels this activity should be accommodated this winter as there will probably be a lot of interest. The Mayor reported that he received a call from a resident at Brighton Estates who invited the Council to have lunch with them to discuss issues relating to SR224. He recommended translating the citizen guide into Spanish and possibly *Play Magazine*. The Mayor discussed the use of neon flags available to pedestrians to hold while walking in crosswalks in Salt Lake. Salt Lake also increased the fine from $70 to $350 up to $1,800. This may be an inexpensive means of making our crosswalks safer.

2. Ice facility update. Tom Bakaly reported that the scope of the project has changed, particularly after the Summer Tour, and a decision on behalf of the City and the Snyderville Basin Special Recreation District is to pursue an outdoor facility, constructed in such a way that it could be converted into an indoor facility in the future. Phasing it as an indoor facility would initially cost more, however both parties are reluctant to build a permanent structure for capital and operating reasons. It was decided to follow other resort towns' leads by developing a program and obtaining support before proceeding with a $6 million facility. The City currently has a letter of intent from the SBSRD which expires the end of December. The next step is entering into an interlocal agreement which would establish another entity, representing the City and the SBSRD which would operate ice and possess ownership of land which is anticipated to be in the lower Canyons Village area. He continued that possible components for uses in the summer have been identified and The Canyons and Resort Village Management Association are supportive of the scope and concept of the project.

Colin Hilton reported that the land in question in the lower Canyons area involves four or five different land owners and resolution is anticipated by December. Through illustration of a map, he described the location of the ice facility and a proposed site plan. At its meeting on September 17, the regional task force endorsed a phased-in structure. The project is described as an ice pavilion with a roof, with some indoor features like locker rooms, entryways, and a mechanical room to support Phase 1. Over time, the facility will be evaluated to assess the potential for a year-round facility. The initial intent of the bond was for a year-round indoor facility and Phase 1 is anticipated for use for ice for six months. There are other potential uses the remainder of the year to help assist in costs. Peg Bodell felt that the plan is improving over time and thanked everyone involved. Mr. Hilton added that once the interlocal agreement is executed, an architect will be hired to produce designs and cost estimates. As a member of the committee, Candace Erickson expressed her disappointment that an indoor structure was not financially realistic at this time, but felt this phased-in approach is a very good solution.

In response to a questions from Fred Jones, Colin Hilton advised that this plan does not contemplate a second outdoor rink. Since this property has not been formally platted, property lines can be adjusted to allow a different configuration. The letter of intent was limited to an indoor rink. It is not anticipated that the City will contribute to the cost of the land which will be owned by the third party entity. Cost sharing for the construction contemplates $2 million from the City and $2 million from SBSRD. Fred Jones added that the resort visioning group discussed the benefits of the ice facility having the ability for conversion to accommodate summer activities. In order for an event center to function, it needs to be near lodging and this location is somewhat remote. Although he understands the political realities, Mr. Jones felt that this discussion is essential to make sure the project is a long-term financial success. The work accomplished so far is good and we need to continue to work through the process with the County but is concerned that the SBSRD's focus is strictly recreation. All alternatives need to be explored with regard to economic benefits to the community, and not limiting our options. Mr. Jones stated that his final decision will be based on location and a multi-use standpoint. The Mayor understood that there will be a lot of lodging constructed on adjacent parcels. Colin Hilton added that the committee considered art and trade specialty shows, theater, films, etc. Mr. Jones reiterated that in order for these uses to be successful there must be a lodging hub nearby. Council member Erickson added that The Canyons is very excited about this facility and view it as an expansion of their convention area plans. In response to a question from Jim Hier regarding the construction of the road, Mr. Hilton explained that there is a County initiative to build the road by creating a special improvement district separate from the Association. Tom Bakaly explained that one of the reasons they are willing to do that is because of the public benefit of serving an ice facility. It is contemplated that the ice facility would be exempt from the special district because it is an public amenity as opposed to a privately owned facility.

3. **RAP Tax application update.** Tom Bakaly referred to the project list is the meeting packet and pointed out the suggested changes from the Parks and Recreation Board meeting last night. The Board recommended that the request for the Racquet Club be expanded beyond the slide and include rehabilitation of the pool facility,

increasing the request from $50,000 to $350,000 and move up trail and field improvements in priority. Contrary to Council's direction, the Board moved down ice as a priority and requested that the golf course improvements be generalized to enable other future golf opportunities like developing another course. There are six individual applications and unless there are substantial changes, staff feels confident that the October 1 deadline can be met.

He continued that he and Mark Harrington met with the County Attorney's Office to clarify the distribution of funds and accepting non-local applications. There is reliance of the interpretation of state statute and the ballot language, but what is missing are policies which the committee can develop. A policy could be instituted giving local organizations priority headquartered in Summit County. A policy may be adopted about how the funds are distributed. It is hoped that it be based on population which is reflected in the resolution adopted by the County.

With regard to the ice facility, the application is structured to apply for assistance in the conversion process as opposed to the first phase. Last week, Council encouraged partnering with other entities on applications. After speaking with the School District and Mountain Trails, a strategy was reach where individual entities would apply with a letter of support from others. The School District is pursuing a project for developing restrooms on the North 40 and restrooms adjacent to the SR248. In consideration of the history of the fields and concerns from adjacent neighbors, it is the recommendation of the Board not to render a letter of support for the restroom facilities on the North 40.

In response to a question from Fred Jones about specificity of the applications, Tom Bakaly explained that they are fairly general and are prioritized. Further details and clarification may be requested by the committee. The City will point out that many of these projects serve a population broader than Park City, in hopes of obtaining a larger share of funding. In response to a question from Kay Calvert, Mr. Bakaly explained that there will be one application for ice from the City and a letter of support from the SBSRD. In speaking with committee member Kris Beer, the Mayor advised that she relayed that policies need to be formulated to develop an approach. The Mayor and Council member Erickson thanked her for her valuable advice. Jim Hier stated his concern about the change in priorities, specifically placing the golf course in front of ice and the park and field improvements. In consideration of all County-wide requests, these may not be highly regarded by the committee. The golf cart path project, for instance, is not a far reaching benefit to the community and should be listed our last priority. Peg Bodell agreed and suggested that golf course improvements be eliminated entirely. Fred Jones stated that he favors moving golf down; it may not rank well for reasons stated, and it is an enterprise fund charging fees. Kay Calvert agreed to move golf course improvements down in priority but to keep it on the list.

Mr. Bakaly asked for clarification on Council's desire to apply for RAP Tax funds for phase one of the ice facility construction. Jim Hier felt the application should be for the conversion of the ice pavilion to an indoor rink, not phase one, and Peg Bodell and Fred Jones agreed. Council indicated its consensus to send a letter of support for the SR248 (not the North 40) restrooms for the School District.

4. Review of regular meeting.

Pechnik remodel. Matt Twombly explained that the City purchased the Pechnik property in 1995 using affordable housing funds, including the house and three parcels. In order to occupy the house, the Building Department determined that significant structural repairs were needed, i.e., roof and foundation, and mechanical and plumbing were not up to code. He reviewed the frequency of ads for the RFP, but Jeff Riehl Construction was the only bidder at $139,000 and staff's estimate was $147,000. If approved, the work can commence within ten days. However, if the lateral needs to be replaced, SR224 would have to be cut and this would proceed in the spring after determining the cost.

He explained to Peg Bodell, that the foundation work will not include a garage because it is located in the platted right-of-way and would be more costly. Other than employee housing, Fred Jones asked if there are other compelling reasons for the City to maintain ownership of the property. Toby Ross responded that the purchase was procured to protect the area and the acquisition was more for the land than the house. The basic benefit has been achieved and it could be sold. Other groups were approached to take on an affordable housing project on the property but it was not attractive as a one unit project. However, zoning potential is substantially more on the total land area. Platted Marsac Avenue would have to be vacated and another access determined. Council member Jones felt that rehabilitation will probably reach $150,000 and felt it may be better to sell the property and allocate those funds for affordable housing. The City Manager indicated that the property has never been marketed and Tom Bakaly noted that the City purchased it for $300,000. Cleaning up the lot lines and marketing it as a development would generate the most revenue. Jim Hier felt that the City should renovate the house before putting it on the market. Peg Bodell expressed reluctance for the City to renovate the house, but agreed with selling the property as is and placing funds toward a more viable affordable housing option.

The Mayor suggested that this discussion be continued until all options are analyzed. In response to a question from Council member Erickson, Mr. Twombly discussed possible phasing of improvements and she pointed out that realistically the house would not be ready for occupancy this winter. She agreed with the Mayor to postpone this discussion until there is more information available. There was discussion about returning to Council with information on the extent of sewer work once it is determined by the Sewer District. It was the consensus of Council to continue this item and not award the contract at the regular meeting.

HMBA business improvement district. Mark Christensen explained that according to state law, the Council is required to adopt the resolution of intent. This action will trigger a public hearing process and a formal public hearing will be held on October 31. At that time, it is at Council's discretion accept or deny the proposal. If it is supported, there will be a 15 day process to file objections and if 50% of business owners petition the City against the formation of the district, Council could abandon the creation of the district. The approach for assessment is to businesses not property owners. He pointed out the distinction between a list of support and the official petition included in the meeting packet. The Mayor requested information on the cost of administering the special district by the City. In response to a question from Peg Bodell about the boundaries, Mr. Christensen explained that the west side of Marsac and the flag pole lot are included because there is potential for businesses there. Council has the option of decreasing the boundaries before October 31 but to increase the area would require a new notification process. Ms. Bodell pointed out that it includes Swede Alley, Hillside and other residential areas, and encouraged the HMBA to reconsider boundaries so it only encompasses existing businesses. With regard to Swede Alley, Ms. Erickson added that there could feasibly be commercial in tandem with a parking structure. Mr. Hier didn't feel that this would impact residential unless there are home occupation businesses. Toby Ross explained that there may be nightly rentals as well. Mr. Hier didn't feel including them is a major problem. Mark Christensen stated that a portion of Park Avenue is identified to be included in the district and involve members of the HMBA. Peg Bodell explained her comments about residential relating to inviting potential opposition to this proposal. Fred Jones agreed with Mr. Hier's comments and Mark Christensen explained the time frame for making decision, which he recommended by October 31. Mr. Jones felt that a public hearing should be held prior to that date. Mark Christensen added that any written input will be part of the record of the public hearing, and the notification must be published every week for three weeks 21 days prior to the hearing date. Ms. Bodell suggested that there also be mailed notice and Jim Hier believed the HMBA should be responsible for that notification. Ms. Bodell commented that residences in the boundaries should receive the same noticing.

Sunnyside Subdivision zoning. Patrick Putt that the City was petitioned by ten individual property owners to change the underlying zoning in the Subdivision from RD to SF zoning. The request was prompted by perceived adverse effects of nightly rentals in the neighborhood, primarily associated noise, parking, and traffic. The zoning map was illustrated showing adjacent RD, RM, and Estate zoning which allow nightly rentals and ROS. The Sunnyside Subdivision was created in 1979 as RD with 18 lots and no formal home owners association has been formed. Fourteen of the lots are built and four vacant; 10 of the 14 are primary homes. There is one business license for the nightly rental. He continued that the City has received input from 11 property owners in support of the zone change which is approximately 61% and six property owners against, representing about 33%, and one property owner who has not submitted an opinion. Under state statue there is no minium requirement necessary to apply or receive a zone change. The Planning Commission reviewed this application on July 11, July 31 and September 11, 2002 meetings and is forwarding a recommendation to zone the Subdivision from RD to SF with the exception of three lots which are located directly on Deer Valley Drive, Lots 1, 2, and 4. In its deliberations, the Commission believed these lots should be excluded because they will be directly impacted by nightly rentals in the area and should enjoy a similar land use. He reviewed the significant impacts outlined in the staff report.

1. A rezone to SF would prevent new nightly rental licenses from being issued in this subdivision. This would eliminate the possible additional sales tax revenues (as nightly rentals) from any homes in the subdivision not presently licensed as nightly rentals (between $2,000 - $10,000 per home).

2. Whereas one or two individual subdivisions removing nightly rentals would not significantly impact the percentage of tourism based housing stock, if rezones to SF became a trend, it could have considerable, adverse impacts on the City's Resort Economy.

3. The impacts from adjacent nightly rental properties allowed outside Sunnyside will continue to affect residents in this subdivision without allowing them the option of enjoying the benefits.

4. A rezone to SF would alter the status of valid, existing nightly rentals in the subdivision to lawful non-conforming uses per LMC Chapter 9.

5. Denying the rezone would allow nightly rentals to continue as an allowed use as well as potentially allow more homes in the subdivision to be used for nightly rentals.

Council alternatives include:

1. Approve the application as modified by the Planning Commission based on the findings of fact and conclusions of law (this is Staff's recommendation);

2. Deny the application based on amended findings;

3. Approve the application as originally submitted (all lots in the Sunnyside Subdivision);

4. Modify the application in a manner different from alternatives A and C and approve; or

5. Continue the public hearing until a general plan update is completed or until potential nightly rental amendments to the LMC and Municipal Code are implemented.

Mr. Putt stated that staff recommends the City Council hold a public hearing and consider public input on the proposed rezoning application. Staff has prepared a draft ordinance to rezone pursuant to the Planning Commission's recommendation. Should the Council elect to pursue alternatives 1 - 5, it should direct staff accordingly.

See regular meeting minutes.

Prepared by Janet M. Scott, City Recorder

PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
SEPTEMBER 26, 2002

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 26, 2002. Members in attendance were Dana Williams, Peg Bodell, Kay Calvert, Candace Erickson, Jim Hier, and Fred Jones. Staff present were Toby Ross, City Manager; Mark Harrington, City Attorney; Eric DeHaan, City Engineer, Alison Butz, Special Events and Facilities Manager; Derek Satchel, Preservation Planner" and Patrick Putt, Planning and Zoning Administrator.

II PUBLIC INPUT

Board of Education update - Board member David Chaplin reported that enrollment will fluctuate throughout the year but the official total is 3,926. This is 22 fewer students than in October 2001. The District employs 537 people and the teaching staff numbers 179, including shared positions. The High School has 1,230 students which is 31 fewer than last year and the average class size is about 20. ESL is now referred to as English Language Learners, and there are 252 ELL students compared to last year's 274. He thanked the Council for its support of the School District's RAP Tax application for field improvements.

With no further comments, the public input session was closed.

III COMMUNICATIONS FROM COUNCIL AND STAFF

Questar gas line upgrade - Eric DeHaan reported on the natural gas project on Park Avenue and Heber Avenue, and Monitor Drive. He introduced Grant Pearcy, Questar Area Manager. The project involves a 6" intermediate high pressure gas line extending from Comstock along Kearns Boulevard up Monitor Drive. The gas line in the Main Street area is not adequate and the line will extend down from Lowell Avenue, Empire Avenue, Crescent Tram, 8th Street to Park Avenue to Heber and Main Street. Mr. Pearcy advised that Questar is taking a proactive approach in upgrading its infrastructure in Park City to meet growth demands. The Main Street area line was installed in 1964 and the Monitor line in 1972 and are simply not adequate; completion for both projects is projected by October 15. Fred Jones pointed out that the street work impacts the integrity of the streets and Mr. DeHaan explained that Questar is going to great expense to provide a better patch. Flow-able fill is a cement and stronger than typical asphalt material, however there is always some stress to the street. The long-term solution is coordinating with all of the utility companies in tandem with the City's capital projects so that pavement quality is preserved. Franchise agreements somewhat limit the City's ability in requiring coordination and this is more of a negotiation process.

IV CONSENT AGENDA PUBLIC HEARINGS

1. Master Festival License for America's Opening to be held November 21 - 24, 2002 at the Park City - Alison Butz stated that this event was not held last year because of the Olympics so holding a public hearing tonight is appropriate. This MFL is similar to previous events with a Friday night street dance on lower Main Street concluded with fireworks. The races will be held at Park City Mountain Resort from November 21 - 24 and the Transportation Department will provide enhanced service for a shuttle service from the Park City High School. The applicant has requested a partial fee waiver, which are not out-of-pocket expenses to the City. Peg Bodell asked about the $300 fee waiver for parking and Ms. Butz explained that that is a revenue source that the City would be foregoing. Ms. Bodell expressed reluctance in negatively impacting the parking fund. She added that the 1,500 to 5,000 projected attendance for the street dance seems low. Ms. Butz advised that the street can accommodate between 5,000 and 10,000 people and PCMC and the Police Department made sure the entertainment will not draw a greater attendance. Ms. Bodell felt staff should reconsider the projection. There was discussion about the street dance two years ago drawing 5,000 to 6,000 patrons.

With no further questions or comments from the Council or the public, the public hearing was closed.

2. Ordinance approving 201 Heber Avenue Subdivision to combine a portion of Lot 8, all of Lots 9 through 13, and a portion of Lot 14 of Block 50 of the Park City Survey into one lot of record located at 201 Heber Avenue, Park City, Utah - The Mayor recused himself from the meeting as he was involved in the sale of the property. Although he did not represent the buyer or was a party to the development plans, he was the listing agent on the property. Mayor Williams left the room, and Mayor Pro Tem Fred Jones then presided over this portion of the meeting.

Derek Satchel explained that the application is to subdivide existing portions of parcels into one lot of record. The metes and bounds parcel located immediately north of the lots would remain as a separate yet contiguous holding of the applicant. The subdivision is requested in order to accommodate the expansion and rehabilitation of the existing historic building located at 201 Heber Avenue, formerly known as the White Pine Touring Building. The applicant requested a waiver from the Planning Commission of Section 15-7.1-5(b)(2) of the Land Management Code, relating to requiring the inclusion of all contiguous holdings in the subdivision process. The Planning Commission considered this request at its meeting on September 11 and added a specific condition of approval, stating that no further development be allowed on any remaining parcel until additional plans are submitted and approved. The applicant has agreed to that condition and is planning to combine the parcels at a later date for further development. He explained that at this time, no finalized plan has been determined for the second phase of the project. The Planning Commission forwards a positive recommendation on this matter, and staff requests that the City Council hold a public hearing, consider public input, and approve the proposed subdivision to combine said parcels into one lot of record according to the findings of fact, conclusions of law, and conditions of approval outlined in the staff report. In response to a question from Jim Hier, Mr. Satchel explained that in order for the 500 foot expansion to occur, the lots must be legally combined. The existing building crosses two or three interior lot lines.

Hearing no further comments from Council, the Mayor Pro Tem opened the public hearing. Hearing no input from the audience, the public hearing was closed.

V CONSENT AGENDA

Mayor Pro Tem Fred Jones requested a motion to amend Item 4 on the Consent Agenda including the award of contract to Wilcox, Miller and Nelson in an amount not to exceed $25,000. Jim Hier, "I so move". Kay Calvert seconded. Motion unanimously carried. Mayor Williams then joined the meeting. Jim Hier, "I move approval of the Consent Agenda, as modified by the previous amendment". Peg Bodell seconded. Motion unanimously carried.

1. Master Festival License for America's Opening to be held November 21 - 24, 2002 at the Park City - See staff report and public hearing.

2. Ordinance approving 201 Heber Avenue Subdivision to combine a portion of Lot 8, all of Lots 9 through 13, and a portion of Lot 14 of Block 50 of the Park City Survey into one lot of record located at 201 Heber Avenue, Park City, Utah - See staff report and public hearing.

3. Resolution adopting a substance abuse policy for transit safety-sensitive employees of Park City, Utah - See staff report.

4. Authorization to proceed with a professional services contract to assist the Mayor and City Council in recruiting a city manager - See above motion.

VI PUBLIC HEARING

Ordinance approving a rezone of the Sunnyside Subdivision from Residential Development to Single Family, excluding Lots 1, 2, and 4, and amending the official Park City Zoning Map - Patrick Putt, Planning and Zoning Administrator, explained that the rezone was applied for by ten property owners within the subdivision. The property is located in the Residential Development Zone and the request is to zone it to Single Family. The primary reason for the request is prompted by the permitted nightly rental use in the RD District. The applicants assert that nightly rentals affect the neighborhood in a negative fashion with parking, traffic and noise impacts. The 18 lot subdivision was created in 1979 and established in the RD District. Fourteen of the lots are built upon and four are unimproved. Ten of the 14 homes are primary residences and one home is currently licensed as a nightly rental. There are 11 property owners in support of the rezone which constitutes approximately 61%; six against representing 33% and one property with an unknown position. He added that there is no official home owners association and state statutes do not address a minimum percentage either by number or land area to proceed with a rezone. The SF Zone was established in 1986 primarily to address nightly rental issues and does not allow multi-family commercial activity or nightly rental. The petitioners believe that SF is more consistent with the primary single family character in the subdivision.

The staff report contains an analysis of the purpose of the SF District and the General Plan sections addressing this application, including the land use, growth management and economic elements. The land use element of the General Plan states that modifications should be made to current zoning so that remaining development be more consistent with community desires and expectations. With regard to Deer Valley Drive, the General Plan speaks to increased future development and traffic and the need to recognize evolving neighborhoods. The growth management element of the General Plan offers LMC adjustment policies to reduce growth and minimize the impacts of growth. The economic element of the General Plan identifies a goal of providing a quality living experience for residents while remaining competitive in a changing recreation market. In order for Park City to continue to collect its resort cities sales tax, its transient room capacity must be greater than or equal to 66% of the permanent census population. Mr. Putt stated that one or two individual subdivisions eliminating nightly rentals would not significantly impact this percentage. However, if rezones to SF become a trend, it could affect our ability to collect this revenue source. OCM&B has conducted a limited study on taxes generated from nightly rentals with similar demographics with Sunnyside Subdivision and concluded that each home supplies between $6,000 to $10,000 per year in City and County sales tax. Staff used average gross income estimates from three local property companies and found the City and County taxes to be between $2,000 and $4,000. Different types of analyses were used to generate the two different estimates and accounts have varied results, but the estimate is based on the actual tax numbers. While the smaller number is the standard industry projection, OCM&B finds merit in both numbers and considers them both valid.

Pat Putt indicated that the Planning Commission held public hearings on July 11, July 31 and September 11, 2002. The Commission recommends modifying the application to exclude three lots, Lots 1, 2 and 4 because they are directly adjacent to Deer Valley Drive and would be impacted by existing nightly rentals while being prevented from the option of enjoying the benefits. He emphasized that if Council elects to act on the drafted ordinance, the findings would have to be amended to reflect the Planning Commission recommendation. He outlined Council's alternatives, including continuing the item until General Plan updates are considered by the Commission. Staff's recommendation is to hold the public hearing, consider public input, and approve the ordinance consistent with the Planning Commission recommendation. It was pointed out for the benefit of Jim Hier that two lots are combined into one and the City owns a lot in Sunnyside.

The Mayor invited the public to comment. Jim Hier interjected that he engaged in an exparte conversation with applicant Bill Thompson. The Mayor added that he believes that over the past several months, several Council members have discussed this proposal with the affected parties.

Bill Thompson, Lot 15, stated that they have been in the process for eight months and found that there are plenty of folks who would like to have the privilege to conduct nightly rental, but there are very few who want to live next door to a nightly rental. They have an outstanding majority consisting of 11 applicants who are willing to forego nightly rentals to ensure preserving a single family neighborhood. There is one exception though, and as recently as this last Saturday night a party held on Lot 8 had to be broken up by the police. He purchased a lot with a neighbor to combine two lots to reduce density and placed it in a conservation easement. Sunnyside is an historic single family neighborhood, except for the activity at Lot 8 and does not fit the description in the LMC for the RD Zone. If the Council supports the Planning Commission recommendation eliminating Lots, 1, 2, and 4, he urged Council to stipulate that Lots 1 and 2 be access from Deer Valley Drive rather than through Sunnyside.

Joan Thompson, Mellow Mountain Road, relayed that in 1986, the Single Family Zone was created and approved by the City Council. The main reason for its creation was the elimination of nightly rentals. Subdivisions that were developed that didn't have condos or duplexes were zoned Single Family. This was not a popular decision; there was opposition and a two-year phase-out period for nightly rentals. The Thaynes Canyon Subdivision residents didn't want to lose its nightly rental option, but the City designated it Single Family, believing that nightly rentals were inappropriate. She stated that she could find nothing on the record about discussions for Sunnyside Subdivision although six lots were developed at the time. There were no nightly rentals in Sunnyside then and there is only one nightly rental to date. She urged Council to consider their application.

Nick Nass, Mellow Mountain Road resident, stated that historically Sunnyside has been a single family neighborhood. He explained his background in tourism and business on Main Street. He selected Sunnyside to build his home because of its single family character and to get away from tourist activities. Mr. Nass discussed the nightly rental nuisances including 15 to 20 cars parked on the street at certain times. When he purchased the property it wasn't zoned nightly rental and the CC&Rs prohibited commercial use. He was relieved when nightly rentals were removed from the April Mountain application. The Planning Commission has become more sensitive to the concerns of residents and he hoped the City Council would listen to them and preserve their residential neighborhood.

Wendy Lavitt stated that she lives at 630 Mellow Mountain Road, which is directly opposite Lot 8 and believes that they have been impacted the most. On several occasions visitors of Lot 8 have disturbed them looking for the house. Last Saturday, she called the police because there were people screaming and yelling and some wandered up her driveway. She strongly believes the Council has to protect the neighborhood.

John Demcowicz, 602 Sunnyside - Lot 4, explained that he is the property owner of one of the lots excluded in the Commissions' recommendation. He supports the exclusion because he is totally impacted by surrounding nightly rental use and opposes rezoning his property to RD. It doesn't make sense for him to be restricted to SF. He clarified that in 1979 when Sunnyside was processed, it was zoned RM not RD and later zoned RD.

Eric Oldham stated that his father owns the home on Lot 8 and emphasized that last Saturday was the only occasion the police were called to the house. He added that he gave everyone in the room his phone number in the event there was any problem and he wished this would have been handled in a more neighborly fashion. He also gave his phone number to the Police Department with instructions to contact him. All check-ins are provided with the rules and regulations, i.e., not parking on the street, no noise after 10 p.m. It is unfortunate that last weekend, the four couples renting the house didn't follow the regulations and it is upsetting to him. However, the issue here is nightly rentals and there are tourists who want that product and it is becoming more difficult for business groups to find rental homes. Sundance is a huge part of Park City's economy and he hoped that these issues can be resolved.

Vicki Anderson, stated that she lives next door to the Oldham House and pointed out that even though Mr. Oldham informs guests of the rules, they are not followed and he doesn't have control over the situation. This is the reason that single family and nightly rental housing should not be mixed on one subdivision.

Jodi Hoffman, attorney for Oldhams, pointed out that this isn't a house by house question but the question is what is the right thing to do for the City. She endorsed responding to neighborhood problems but is concerned that the Planning Commission and Council has been asked to down-zone the property without any standard in place and are being asked to down-zone the neighborhood in response to the Oldham nightly rental. The zoning action will not affect this property because of non-conforming use standards the City has used for the last 20 years and the owners will still be able to operate. This step will not have the desired outcome. She added that they met with the neighborhood and proposed no street parking or implementing a resident parking pass system, but residents would not accept a compromise. Council needs to go through a process to determine when it is appropriate to deprive people of vested property rights. The resort suburban interface is important enough to step back and not to make decisions in a vacuum. The Planning decision was a 3-3-1, and at that meeting opponents to the zone change testified that they purchased their property because of the option for nightly rental. The City Council members are our legislators and should not be protecting people who don't protect themselves. Nightly rentals do not impact the schools and have zero impact on parks and recreation and not many people can maintain them as second homes without this income. She reiterated that down-zoning won't solve the problem, it takes away people's carefully researched rights without any standards. There is no downside in thinking about this issue more broadly.

Susan Monaham, Lot 9, relayed that the subdivision was platted for single family homes and never recalled RM zoning. The noise emanates away from their residence. She added, however, that the police have been at the Oldham House a number of times for noise and parking over the years. The residents were encouraged by the City Council to apply for a zone change in January and have shown continuity and cooperation in preparing and submitting a petition. They don't want to be the catalyst for a City-wide nightly rental policy as the subdivision is very small and doesn't really affect Park City's bed base. Ms. Monaham continued that she was never approached with a proposal to restrict parking on the street and regardless, activities in the neighborhood should not have to be monitored.

With no further comments from the audience, the public hearing was closed.

Fred Jones asked if parties can be prohibited in nightly rentals. Pat Putt described nightly rentals as rentals less than 30 days, permitted or conditional uses depending on the zoning, and no commercial use. Although lodging is commercial, there is a distinction for corporate, promotional, or special events and the Planning Commission will fine-tune this in October. Mark Harrington responded that the LMC does not prohibit parties, but limiting occupancy is a method to regulate parties and this is a big step in a comprehensive process. Although broad, the standards of the rezone are outlined in the packet. Council member Jones felt the definition of nightly rental could be rewritten to provide the City with enforcement powers or clarify its intent and suggested that licenses are pulled when there are violations. The City Attorney agreed that there could be a due process and revocation process and discussion ensued about the license holder being an entity not the property. Mr. Putt stated that a staff task force has been working on the framework of amendments to the LMC and the Municipal Code with the goal of having the amendments prepared before this winter season. The Planning Commission will have to make a decision on regulating the impacts or the use and is interested in hearing from all interested parties. Jim Hier emphasized that because of the magnitude of the lodging industry in Park City that an ordinance should not be passed before this winter season.

Additionally, reservations have been booked well in advance and would have to be precluded from this season's regulations in the event of changes in the Code. Whatever decision is made tonight should not be based on championing the nightly rental ordinance this season, but based on the petition before Council with the knowledge that it should be addressed. Mr. Hier added that the City needs to strengthen its enforcement abilities, but the process should be well thought out and timed.

Kay Calvert relayed that while riding with the police last Saturday night, she had the first-hand opportunity of observe the party at the Oldham residence. This is a very small neighborhood and it was a very dangerous situation with cars parked up and down the street obstructing the narrow road in a small neighborhood. It was a huge impact on a small number of people in a big way. In response to a comment from the Mayor about the ability for the Oldhams to continue nightly rental use indefinitely even with a zone change, the City Attorney concurred unless the Council explores phasing out of the use over time under a non-conforming use process. Jim Hier felt that rezoning the property prevents other houses from being converted to nightly rental and he continued that he agrees with the Planning Commission recommendation, including excluding the properties on Deer Valley Drive. He supports a strong bed base, but this neighborhood isn't convenient as rental property other than for parties. He is not in favor of determining access for undeveloped lots as it is premature without specific plans. Candace Erickson agreed with Mr. Hier's comments and emphasized that owners cannot control activities in rental units. She hoped that developing resort properties will build larger units and meet these demands as their locations are more appropriate. This is an evolving community and she supports the neighborhood. Ms. Bodell agreed and added that disorderly conduct is not allowed in any zone in the City. Fred Jones explained that he is not in total agreement with his colleagues and the issue for him is directly addressing nightly rentals and not from a zoning standpoint. The Code should provide the control needed to make them work or to shut them down. Changing the zone isn't going to do much for anybody, until the actual issues are investigated. He suggested continuing this item until the staff and the Planning Commission have an opportunity to study nightly rentals on a broader scale. Mr. Hier agreed that the problem needs to be solved but the more nightly rentals in an area, the more difficult to manage and there will always be violators. While changing the zone won't fix the existing problem, it will prevent future nightly rental issues in this small subdivision. The Mayor invited a motion. Jim Hier, "I move that we approve the ordinance as passed to us from the Planning Commission, and as modified". Kay Calvert seconded. The City Attorney pointed out that the motion is out of order because Council has not yet addressed Items 1 and 2 under New Business.

VIII NEW BUSINESS

1. Award of construction contract to Jeff Riehl Construction in the amount of $139,000 for the Pechnik House remodel - Jim Hier, "I move that we continue the award

of the construction contract to Jeff Riehl Construction". Candace Erickson seconded. Motion carried unanimously.

2. Resolution of intent to form a business improvement district in the Old Town core - This item was discussed after Item 3, but appears here for ease of reference. See staff report and work session comments. Mark Harrington informed Council that contrary to the work session discussion, a public hearing can not be held on October 17. He encouraged to stay with the October 31 public hearing date which triggers a protest period. Subsequent hearings can be scheduled before action is taken. The Mayor requested that the noticing to affected parties be comprehensive. The City Attorney stated that a courtesy notice can be mailed or delivered, and any inaccuracies resulting from the City's good faith attempt is not a legal deficiency. Fred Jones, "I move to adopt the Resolution of intent to form a business improvement district in the Old Town core". Candace Erickson seconded. Peg Bodell felt it important that the HMBA proceed with developing a strategic plan and there was discussion on the HMBA reporting specific annual information to the City before funds are disbursed. Motion unanimously carried.

3. Ordinance approving a rezone of the Sunnyside Subdivision from Residential Development to Single Family, excluding Lots 1, 2, and 4, and amending the official Park City Zoning Map - The City Attorney explained that the Planning and Zoning Administrator has suggested an amendment to the Ordinance, Section 2, *"The City Council adopts the findings and conclusions of law as attached as Exhibit J"*. Jim Hier, "I move that we approve the rezone application as modified by the Planning Commission and as amended by staff". Peg Bodell seconded. Motion carried.

Peg Bodell	Aye
Kay Calvert	Aye
Candace Erickson	Aye
Jim Hier	Aye
Fred Jones	Nay

IX ADJOURNMENT

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

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MEMORANDUM OF CLOSED SESSION

The City Council met in closed session at approximately 2:45 p.m. Members in attendance were Mayor Dana Williams, Peg Bodell, Kay Calvert, Candace Erickson, Jim

Hier, and Fred Jones. Staff present were Toby Ross, City Manager; Mark Harrington, City Attorney; and Tom Bakaly, Assistant City Manager. Fred Jones, "I move to close the meeting to discuss personnel and property matters". Peg Bodell seconded. Motion carried unanimously.

The meeting opened at approximately 4 p.m.

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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

Janet M. Scott, City Recorder