

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
SEPTEMBER 13, 2007**

PUBLIC NOTICE IS HEREBY GIVEN that the City Council and the Water Service District of Park City, Utah will hold their regularly scheduled meeting at the Marsac Municipal Building, City Council Chambers, 445 Marsac Avenue, Park City, Utah for the purposes and at the approximate times as described below on Thursday, September 13, 2007.

Closed Session - City Council Chambers

3:30 p.m. Property and litigation

Work Session - City Council Chambers

4:30 p.m. Council questions/comments

4:40 pm. Animal Control MOU and amendment

5:10 p.m. Review of regular meeting:

- Other meeting questions/comments

5:20 p.m. Interview PAAB applicants

5:50 p.m. Break

Regular Meeting - City Council Chambers

6:00 p.m.

I ROLL CALL

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

Swearing-in of Police Officer Ben Powers

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

IV WORK SESSION NOTES AND MINUTES OF MEETING OF AUGUST 16, 2007

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"*)

Award of contract to Curb-It Inc, in a form approved by the City Attorney for recycling services for the Main Street and City Park facilities in the amount of \$22,101

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

1. Consideration of an Ordinance approving a Condominium Conversion for Pod B1 in Empire Pass, Nakoma Condominiums

- (a) Public hearing
 - (b) Motion to continue to September 20, 2007
2. MFL amplified music Park City Oktoberfest on September 28 and 29, 2007 at the Town Lift Plaza
- (a) Public hearing
 - (b) Action
4. Consideration to authorize the City Manager to execute Addendum No. 1 to the Professional Services Agreement with Bowen Collins & Associates in the amount of \$144,000 for a total contract value of \$419,000
5. Consideration to authorize the City Manager to execute a Construction Contract, in a form approved by the City Attorney, to Action Snowplow and Lawn Care, Inc. in the amount of \$129,662
6. Consideration of an Ordinance amending Title 4, Chapter 2, of the Municipal Code regulating business licensing in general
- (a) Public hearing
 - (b) Action
7. Consideration of an Ordinance levying a tax of \$156 on all businesses within the boundaries of the Main Street Business Improvement District
- (a) Public hearing
 - (b) Action

VII ADDITIONAL DISCUSSION – AGENDA ITEMS

VIII 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.

**PARK CITY BOARD OF CANVASSERS
SUMMIT COUNTY, UTAH
SEPTEMBER 18, 2007**

PUBLIC NOTICE IS HEREBY GIVEN that the City Council acting as the Board of Canvassers of Park City, Utah will convene on Tuesday, September 18, 2007 at 10 a.m., in the Executive Conference Room at the Marsac Municipal Building, for the purpose of canvassing the Primary Election held on September 11, 2007.

Posted: 09/10/07

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

September 2007

- 11 *Primary election*
- 13 See agenda
- 18 *Board of Canvassers – Executive Conference Room – 10 a.m.*
- 20 **Marianne gone**
Appoint PAAB members
Wisnewski Neighborhood Park - work
Short range transit development plan – work/public hearing (no action)
8200 Royal Street East record of survey amendment - RM
Recommendation to deny a plat amendment for 255 Ridge Avenue, King Ridge Estates
Ordinance approving a Condominium Conversion for Pod B1 in Empire Pass, Nakoma Condominiums
MOU – Animal Control
- 27 **No meeting - Dana gone - Marianne gone**

October 2007

- 4 Short range transit development plan – work/continuation public hearing/action
2650 Deer Valley Dr, Comstock Lodge – Amendment to Rec of Survey SMA
260 Main Street – Condo Conversion KC
944 Lowell Avenue – Plat Amendment KC
953 Empire Avenue – Plat Amendment KC
1617/1621 Lakeside Circle – Plat Amendment KC
314 Daly Avenue-Plat amendment RM
2165-67 Monarch Drive – Condo Conversion RM
USSA conduit financing resolution
Marianne gone
- 11
- 18 **No meeting**
- 25 **Dana gone (10/13 - 10/29)**

November 2007

- 1 Police facility ribbon-cutting
- 8 Board of Canvassers
- 22 **Thanksgiving**
- 27 & 28 *Fam Tours*
- 29

Pending Items:

Addendum to the lease with Park City Historical Society for property located at 528 Main Street
Resolution - Trails Master Plan
Solid waste strategic plan

Market analysis – Phases 1 and 2
Tentative “no meeting” dates:
December 27

City Council Staff Report



Author: Chief Lloyd D. Evans, Sr.
Subject: Animal Control Policy Discussion
Department: Public Safety - Police
Date: September 13, 2007
Type of Item: Legislation

Summary Recommendation:

- 1 Staff requests City Council to provide direction to revise City Municipal Code, Title 7 Animal Control to be consistent with Summit County's Animal Control ordinance, 113-I, in order to allow Summit County to fully enforce the ordinance according to the Memorandum of Understanding.
- 2 Additionally, staff requests City Council to provide direction on the Memorandum of Understanding with Summit County on the provision of animal control services to the City of Park City.

Topic: Animal Control Services

Background:

In September 2006, Summit County delivered to Park City a Memorandum of Understanding (MOU) concerning provisions of animal control service within the incorporated limits of Park City with an attachment of the County's animal control ordinance. The attached Exhibit "B" is the current County Ordinance for Animal Control regulation and enforcement. Summit County asked the City to sign the MOU. Upon review of that request by the Police Department and the Legal Department, discussions between the attorney's offices were conducted and changes to the documents originally submitted by Summit County were made and resubmitted to the City.

The attached MOU, Exhibit "A" under Section 2 states; **"Summit County will provide animal control services to Park City according to Summit County's Animal Control Ordinance, 113-I, as amended. (See Exhibit A, attached to this Memorandum of Understanding) Summit County will provide these services at no cost to Park City and Summit County will keep any money collected from any fees as described in Ordinance 113-I, as amended. Only Summit County equipment and employees will be used for animal control services. Both parties understand that, despite this agreement, Park City's law enforcement officials will still enforce the Park City Municipal Code relating to animal control and will utilize Summit County equipment and employees as needed. Summit County will provide its own insurance to cover liability for animal control services provided by the county employees. Summit County's insurance will not cover Park City staff or activities."**

The Director of County Animal Control has assigned an enforcement officer to the Park City area for the last year, baring resource issues. That officer has taken primary enforcement responsibilities within the City Limits and has worked closely with the on duty police officers as well as using our radio channel to ensure contact with Police Dispatch while working in Park City. Although MOU does not directly provide for an enforcement officer in the Park City area, I am confident that we will continue to have an enforcement officer assigned to our area on a regular basis.

Analysis

Summit County wishes to solidify, with a memorandum of understanding, the relationship between the City of Park City and Summit County as it pertains to the County providing Animal Control Services to Park City and has asked that the Mayor sign the attached MOU, Exhibit "A".

The current City ordinance on animal control, Title 7 of the Park City Municipal Code, Exhibit "C" has not been updated for a number of years. When it was initially adopted many years ago it was consistent with the County Code. However, Summit County has updated their animal control ordinance which reflects some differences between the current City and County ordinance.

A number of these changes are due to operational changes within the Summit County government. Others were the result of Park City's suggested revisions. The responsibility of animal control services shifted to the Sheriff's Office from Public Works in 2006 and code adjustments have been made to address those changes and other operational issues. These adjustments in the County Code created the following differences with the City Code:

	Park City Animal Control Ordinance	Summit Country Animal Control Ordinance
DEFINITIONS		
"Director of Animal Control"	No DIRECTOR OF ANIMAL CONTROL definition in the PCMC	"Director of Animal Control: The director of the Summit County Department of Animal Control who is vested with the power and authority to enforce the provisions of this ordinance." §100-1-1(8)
"Guard Dog" definition expanded in County Ordinance	No provision in PCMC	"This restriction does not apply to service dogs for people and governmental entities and dogs used for agricultural purposes." §100-1-1(12)
DOG LICENSING		
Rabies vaccinations	"Rabies vaccinations and certificates therefore, must be obtained every two (2) years..." PCMC §7-2-1	"Rabies vaccinations and certificates must be obtained every three (3) years..." §100-1-5(3)
Late fee	The PCMC includes a late fee (in addition to the regular fee) of \$15.00	No additional late fee
Kennel permit required for four of	No kennel permit provision	"Any person owning, possessing or

more dogs		harboring four or more dogs must obtain a kennel permit from the Department of Animal Control." §100-1-5(6)
PLACES PROHIBITED TO DOGS		
Owners must obey "No Dogs Allowed" or similarly worded signs	No such provision in PCMC	"No owner or person shall cause or permit any dog owned by him/her or under his/her control or custody to enter any designated area where a sign or signs are posted bearing the legend "No Dogs Allowed", or other words to that effect." §100-1-12(3)
ATTACKING DOGS		
County ordinance removes wording that narrowly defines domestic animals, wildlife and domestic fowl	"It shall be unlawful for the owner or person having charge, care, custody, or control of any dog to allow such dog to attack, chase or worry any person, any domestic animal <u>having a commercial value</u> , or any species of <u>hoofed</u> protected wildlife, or to attack domestic fowl." PCMC § 7-3-6(A)	"It shall be unlawful for the owner or person having charge, care, custody, or control of any dog to allow such dog to attack, chase or worry any person, any domestic animal, or any species of protected wildlife, or to attack domestic fowl." §100-1-13(1)
VICIOUS ANIMALS AND VICIOUS DOGS		
Country ordinance removes wording which provides owner responsibility for any actions by such animal	"Every animal so vicious and dangerous that it cannot be controlled by reasonable restraints, and every dangerous and vicious animal not effectively controlled by its owner or person having charge, care or control of such animal <u>so that it shall not injure any person or property is a hazard to public safety</u> , and the Director of Animal Control shall seek a court order for destruction of or muzzling of the animal." PCMC §7-3-7	"The Director of Animal Control shall seek a court order for the destruction of or muzzling of any vicious animal that is under restraint as defined herein, yet cannot be controlled by reasonable restraints and cannot be effectively controlled by its owner or person having charge, care, or control of such animal." §100-1-14(2)
REVOCATION OF DOG LICENSE		
County ordinance provides additional authority to Director of Animal Control	Requires the Director of Animal Control to " <u>seek a court order</u> " to revoke a dog license. PCMC § 7-3-9	Allows the Director of Animal control to "revoke a license without a court order." § 100-1-16
RABIES VACCINATION REQUIRED FOR DOGS		
	"Any person permitting any such animal to habitually be on or remain, or be lodged or fed within such person's house, yard or premises shall be responsible for said	Not included in County ordinance

	vaccination." <i>PCMC §7-4-1</i>	
County ordinance increases interval time period for vaccinating dogs	"Unvaccinated dogs over four months of age acquired by the owner or moved into the jurisdiction must be vaccinated thereafter every <u>24 months</u> with a modified virus rabies vaccine approved by the Summit County Health Department." <i>PCMC §7-4-1</i>	"Unvaccinated dogs over four months of age acquired by the owner or moved into the jurisdiction must be vaccinated thereafter every <u>36 months</u> with a modified virus rabies vaccine approved by the Summit County Health Department." <i>§100-1-18(1)</i>
County ordinance increases interval time period for vaccinating cats	"Cats shall be vaccinated every <u>24 months</u> ." <i>PCMC §7-4-1</i>	"Cats shall be vaccinated every <u>36 months</u> ." <i>§100-1-18(1)</i>
QUARANTINING AND DISPOSITION OF BITING OR RABID ANIMAL		
Director may allow owner to quarantine animal		Found in County ordinance but not in the PCMC: "The Director of Animal Control has the discretion to allow the dog owner to secure the dog or to require the dog owner to surrender the dog to Department of Animal Control." <i>§ 10-1-18(6)</i> .
IMPOUNDING: DISPOSITION OF ANIMALS		
	"Any healthy dog may be sold to any person desiring to purchase such animal for a price to be determined by the Director of Animal Control but not to exceed <u>fee set by the County</u> ." <i>PCMC §7-5-3(C)</i>	"Any healthy dog may be sold to any person desiring to purchase such animal for a price to be determined by the Director of Animal Control but not to exceed <u>\$10.00</u> per animal" <i>§ 100-1-21(3)</i>
County ordinance allows for Director to order destruction of an animal that is at large and vicious	"When, in the judgment of the Director, it is determined that an animal should be destroyed for humane reasons or to protect the public from imminent danger to persons or property, such animal may be destroyed without regard to any time limitations otherwise established herein, and without court order." <i>PCMC §7-5-3(E)</i> .	"Director of Animal Control has the discretion to destroy an animal without regard to any time limitations otherwise established herein without court order under the following circumstances: a) in the judgment of the Director of Animal Control, the animal should be destroyed for humane reasons; b) in the judgment of the Director of Animal Control, the animal should be destroyed to protect the public from imminent danger to persons or property; or c) <u>in the judgment of the Director of Animal Control, the animal is a vicious animal and is considered either at large or abandoned by its owner or person having charge, care, custody or control</u> ." <i>§ 100-1-21(5)</i>
IMPOUNDING – REDEMPTION		
Impound fee schedule in County ordinance	No written impound fee schedule in PCMC	Fees shall be charged at the following rates:

		<u>Impound Fee</u> First confinement \$25.00 Second confinements \$50.00 Third or subsequent confinement \$75.00 <u>Board</u> Per calendar day of confinement \$6.00. §100-1-22
IMPOUND FEES FOR VOLUNTARY RELINQUISHMENT BY OWNER		
County ordinance allows for donations in lieu of fees	Requires a voluntary relinquishment fee to be paid by owner of "ten dollars (\$10.00) for each dog and/or for each litter of dogs and five dollars (\$5.00) for each cat and/or for each litter of cats so relinquished." PCMC § 7-5-5.	No fee required, rather " <u>a donation may be given by such owner for each dog, for each litter of dogs, for each cat or for each litter of cats so relinquished.</u> " § 100-1-22.1
CRUELTY TO ANIMALS PROHIBITED		
Additional language in County ordinance	Not included in PCMC	"Each offense shall constitute a separate violation. An exemption will exist for agricultural animals that are branded, ear marked, or otherwise marked for identification purposes." § 100-1-24(1)
KENNEL PERMITS		
County ordinance establishes fees for kennel permits	No Kennel license fees	<u>"License fees:</u> a. <u>Kennels, catteries, groomeries, pet shops, veterinary clinics, or boarding establishments. Class A kennel license, 4 to 30 animals - \$50.00.</u> b. <u>Late fee - \$25.00. §100-1-25(4)</u>
SUSPENSION OR REVOCATION OF PERMIT		
	No provision in PCMC	" <u>Revocation or Suspension.</u> Any permit granted under this ordinance may be suspended or revoked by the County Sheriff for violation listen in part (a) above." (§100-1-27(3)).
VIOLATION		
County code provides for civil remedies for violations of ordinances	No provision in PCMC	"In addition, Summit County may also pursue civil remedies for any violation of this Ordinance." (§ 10-1-30)
SEVERABILITY		
County code includes clause that provides continued enforceability of all codes not affected by specific claim or court ruling	No provision in PCMC	"If any provision, clause, sentence, or paragraph of this ordinance or the application to any person or circumstance shall be held to be invalid, such invalidity shall not affect the other provisions or applications of this ordinance which can be given

		effect independent from the invalid provision or application, and to this end of the provision of this ordinance are hereby declared to be severable. This ordinance shall take effect fifteen (15) days after its adoption and publication in a newspaper of general circulation in Summit County, State of Utah, and shall be deemed to repeal Ordinances 113 B,C,D,E,F, and G.”
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The effect of the code changes indicated above do not, in staff’s opinion, outweigh the value of the city having an ordinance consistent with the counties ordinance. There are no significant impacts on enforceability or effects on dog owners or the community as a whole by aligning the City’s ordinance with the County’s.

Adoption of Park City Municipal Code Title 7 to make it consistent with the County’s current ordinance, 113-I, and execution of the accompanying MOU will provide this Community with adequate laws to protect and govern pet owners and non-pet owners alike.

Department Review:

Legal, Budget and Grants, Public Works and the City Manager.

Alternatives:

Approve the Request:

Staff would proceed with amending the City’s ordinance to conform to the current County Ordinance on Animal Control and proceed with the MOU with Summit County for animal control services provisions in effect after Council review and discussion.

Deny the Request:

Council could choose to deny staff’s recommendation and choose another direction. However, this action would result in the existence of inconsistent ordinances being enforced by the two law enforcement agencies.

Continue the Item:

Council could continue the item and direct staff to return with more information.

Do Nothing:

This would be the same as denying the request.

Significant Impacts/Consequences of not taking the recommended action:

The impacts of this change is unlikely to be significant in that the County is not asking for funding nor are the differences between Park City’s ordinance and Summit County’s current ordinance significant.

Recommendation:

- 1 Staff requests City Council provide direction to revise City Code, Title 7 Animal Control to be consistent with Summit County's Animal Control ordinance, 113-I, in order to allow Summit County to fully enforce the ordinance according to the Memorandum of Understanding.
- 2 Additionally, staff seeks direction on the Memorandum of Understanding with Summit County on the provision of animal control services to the City of Park City.

Attachments

Exhibit "A" Memorandum of Understanding w/Exhibit

Exhibit "B" City Municipal Code Title 7, Animal Control (current code)

EXHIBIT “A”

MEMORANDUM OF UNDERSTANDING CONCERNING ANIMAL CONTROL WITHIN SUMMIT COUNTY

This agreement is made and entered into this ____ day of _____, 2007, between SUMMIT COUNTY and PARK CITY, an incorporated municipality of the State of Utah.

WHEREAS, the parties have the authority to provide animal control services to their respective citizens through the establishment and operation of an animal control department; and,

WHEREAS, Summit County has been providing animal control services to Park City; and,

WHEREAS, pursuant to U.C.A. Section 11-13-101 et. seq., the “Interlocal Cooperation Act,” the parties may enter into an agreement to make the most efficient use of their powers by enabling them to cooperate with other localities on the basis of mutual advantage in order to provide services and facilities in a manner that will address geographic, economic, population and other factors influencing the needs and development of the local communities; and,

WHEREAS, Park City desires to use Summit County’s animal control services because Summit County already has the facility and personnel;

NOW, THEREFORE, in consideration of the fulfillment of the mutual promises, terms and conditions set forth, the parties agree as follows:

1. Purpose of the Agreement. The purpose of this Memorandum of Understanding is to have a written understanding that Summit County will provide animal control services for Park City.
2. Agreement to Provide Services. Summit County will provide animal control services to Park City according to Summit County’s Animal Control Ordinance, 113-I, as amended. (See Exhibit A, attached to this Memorandum of Understanding) Summit County will provide these services at no cost to Park City and Summit County will keep any money collected from any fees as described in Ordinance 113-I, as amended. Only Summit County equipment and employees will be used for animal control services. Both parties understand that, despite this agreement, Park City’s law enforcement officials will still enforce the Park City Municipal Code relating to animal control and will utilize Summit County equipment and employees when deemed necessary. Summit County will provide its own insurance to cover liability for animal control services provided by the county employees.
3. Administration. Both parties agree that there is no separate entity created by this Agreement to carry out its provisions and to the extent that this

Agreement requires administration as set forth herein, it shall be administered by the governing bodies. There shall be no real or personal property acquired jointly by the parties as a result of this Agreement.

4. No Third Party Beneficiary. This Agreement shall not be construed as or deemed to be an agreement for the benefit of any third party or parties, and no third party or parties shall have any right of action for any cause whatsoever.

5. Entire Agreement. This Agreement contains the entire agreement between the parties and shall not be modified or changed in any manner except by an instrument in writing executed by both parties. If any term or provision of this Agreement or application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

6. Notices. All notices, demands, requests and other writings required or permitted to be given shall be deemed duly given if delivered or if mailed by registered or certified mail, postage prepaid, if addressed to the following:

Summit County
Attn: Anita Lewis
P.O. Box 128
Coalville, Utah 84017

Park City Municipal Corporation
Legal Department
P. O. Box 1480
Park City, Utah 84060

7. Duration. This Agreement will continue without expiration until one or both parties notify the other in writing to terminate the Agreement. If a party desires to terminate the Agreement, the party shall provide sixty days advance written notice as provided for in paragraph 6. However, pursuant to Utah Code Annotated §11-13-216, this Agreement shall not extend for a term exceeding fifty years.

SUMMIT COUNTY

Robert Richer, Chairperson
Board of County Commissioners

Attest:

Kent Jones
Summit County Clerk

PARK CITY MUNICIPAL CORPORATION

Mayor Dana Williams

Attest::

Janet M. Scott, City Recorder

Approved as to form:

Mark D. Harrington, City Attorney

MOU EXHIBIT A

ORDINANCE NO. 113-I

AN ORDINANCE AMENDING ORDINANCE 113-H

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SUMMIT COUNTY, STATE OF UTAH, AS FOLLOWS:

100-1-1: DEFINITIONS

1. Animal Boarding Establishment: Any establishment that takes in animals for boarding for profit.
2. Animal Grooming Parlor: Any establishment maintained for the purpose of offering cosmetology services for animals for profit.
3. Animal Shelter: A facility owned and/or operated by a governmental entity or any animal welfare organization that is incorporated within the State of Utah and used for the care and custody of seized, stray, homeless, quarantined, abandoned, or unwanted dogs, cats, or domestic animals.
4. At Large: Any domesticated animal, whether or not licensed, not under restraint as defined below.
5. Bite: An actual puncture, tear, or abrasion of the skin inflicted by the teeth of an animal.
6. Cats: Any age feline of the domesticated types.
7. Cattery: An establishment for boarding, breeding, buying, grooming, or selling cats for profit.
8. Director of Animal Control: The director of the Summit County Department of Animal Control who is vested with the power and authority to enforce the provisions of this ordinance.
9. Dog: Any canis over four months of age. Any canis under four months of age is a puppy.
10. Domesticated Animals: Animals accustomed to live in or about the habitation of man, including but not limited to cats, dogs, fowl, horses, swine, goats, and cattle.
11. Stray: Any animal at large as defined herein.

12. Guard Dog: A working dog which must be kept in a fenced run or other suitable enclosure during business hours, or on a leash or under absolute control while working, so it cannot come into contact with the public. This restriction does not apply to service dogs for people and governmental entities and dogs used for agricultural purposes.

13. Holding Facility: Any pet shop, kennel, cattery, groomery, animal shelter, humane establishment, or any other such facility used for holding animals.

14. Kennel: An establishment having four or more dogs for the purpose of boarding, breeding, buying, grooming, letting for hire, training for fee, selling, or agricultural use such as stock herding and guarding.

15. Leash or Lead: Any chain, rope, or device used to restrain an animal.

16. Pet: A domesticated animal kept for pleasure rather than utility, including, but not limited to birds, cats, dogs, fish, hamsters, mice, and other animals associated with man's environment.

17. Pet Shop: Any establishment containing cages or exhibition pens, not part of a kennel or cattery, wherein dogs, cats, birds, or other pets for sale are kept or displayed.

18. Quarantine: The isolation of an animal in a substantial enclosure so that the animal is not subject to contact with other animals or unauthorized persons.

19. Vicious Animal: Any animal which is dangerous or aggressive, including, but not limited to, any animal which has bitten or in any other manner attacked any person or animal.

20. Vicious Dog: (a) Any dog, which in a vicious or terrorizing manner, approaches any person in apparent attitude of attack upon the streets, sidewalks, or any public grounds or places; (b) Any dog with a known propensity, tendency, or disposition to attack, to cause injury or to otherwise endanger the safety of human beings or animals; or (c) Any dog which bites, inflicts injury, assaults, or otherwise attacks a human being or domestic animal on public or private property.

21. Neuter: A surgical procedure performed on male animals in which its testicles are removed.

22. Spay: A surgical procedure performed on a female animal in which its ovaries and uterus are removed.

23. Under Restraint: Any animal under the control of its owner or person having charge, care, custody or control. A dog shall be considered under control of the owner when on a leash or lead, confined within a vehicle, or within the real property limits of the owner.

100-1-2: DEPARTMENT OF ANIMAL CONTROL

The Department of Animal Control is created in accordance with this ordinance.

100-1-3: POWERS OF ANIMAL CONTROL OFFICIALS

1. The Director of Animal Control or any person employed by the Department of Animal Control as an animal control officer shall take the oath of office and shall be vested with the power and authority to enforce this ordinance.
2. The Director of Animal Control, his deputies, assistants, and animal control officers are hereby authorized and empowered to apprehend and take with them and impound any animal found in violation of this ordinance and including licensable dogs for which no license has been procured in accordance with this ordinance, or any licensed or unlicensed dogs for any other violation.
3. In the enforcement of this ordinance any peace officer or the Director of Animal Control or his assistants are authorized to enter onto the open premises of any person to take possession of any dog in violation of this ordinance.

100-1-4: DUTIES OF ANIMAL CONTROL OFFICIALS

1. The Director of Animal Control shall:
 - a. Enforce this ordinance and perform other responsibilities pursuant to this ordinance;
 - b. Supervise the animal shelter(s) under this jurisdiction;
 - c. Keep adequate records of all animals impounded and all monies collected;
 - d. See that all animals and animal holding facilities in his jurisdiction are licensed, controlled and permitted in accordance with any applicable ordinance and/or regulations; and
 - e. Establish, in cooperation with the Summit County Health Department and other interested governmental agencies, adequate measure for rabies immunization and control.
2. Each animal control officer shall:
 - a. Enforce this ordinance in all respects pertaining to animal control within the jurisdiction including the care and impounding of animals and prevention of cruelty to animals; and

- b. Carry out all duties prescribed or delegated by the Director of Animal Control.

100-1-5: DOG LICENSING

1. All dogs must be licensed each year, except as otherwise provided, to a person of the age of 18 years or older.
2. Any person owning, possessing, or harboring any dog within Summit County shall obtain a license for such animal within 30 days after the dog reaches the age of four (4) months, within ten (10) days of the acquisition of such dog or presence of such dog within Summit County. For a dog under the age of six months, the Department of Animal Control may accept certification from a licensed veterinarian that the owner has deposited funds for spaying or neutering, then the dog may be licensed at the reduced fee. Said initial license shall be effective for one year from the date of purchase and must be renewed annually thereafter.
3. License renewal applications must be submitted annually to the Department of Animal Control, utilizing a standard form which requests name, address and telephone number of the applicant and the breed, sex, color, and age of the animal; the form also asks for pertinent information regarding rabies vaccinations. The application shall be accompanied by the prescribed license fee and by a current rabies vaccination certificate. Rabies vaccinations and certificates must be obtained every three (3) years, either from a licensed veterinarian or an authorized animal control officer.
4. Dog licenses will be issued in accordance with the following fee schedule:

Female dog	\$ 18.00
Male dog	\$ 18.00
Spayed or neutered dog	\$ 6.00

No dog shall be licensed as spayed or neutered without satisfactory proof that such surgery was performed on said dog.

5. The license shall be effective one (1) year from the date of purchase. Licenses for the following year may be purchased within 30 days prior to the expiration date.
6. No person or persons at any one residence within the jurisdiction shall at any one time own or license more than three (3) dogs in any combination except as otherwise provided. Any person owning, possessing or harboring four or more dogs must obtain a kennel permit from the Department of Animal Control.

100-1-6: LICENSE TAG

1. Upon payment of the license fee, the Department of Animal Control shall issue to the owner a certificate and a tag for each dog licensed. The tag shall have stamped on the

license number corresponding with the tag number on the certificate. The owner shall attach the tag to the collar or harness of the animal and see that the collar and the tag are constantly worn. Failure to attach the tag as provided shall be in violation of this ordinance, except dogs which are kept for show purposes are exempt from wearing the collar and tag.

2. Dog tags are not transferable from one dog to another. No refunds shall be made on any dog license fee for any reason whatsoever. Replacements for lost or destroyed tags shall be issued upon payment of \$1.00 to the Department of Animal Control.

3. Any person removing or causing to be removed, the collar, harness, or tag from any licensed dog without the consent of the owner or keeper thereof, except a licensed veterinarian or animal control officer who removes such for medical and other reasons, shall be in violation of this ordinance.

100-1-7 LICENSING EXEMPTIONS

1. The provisions of sections six and seven herein shall not apply to:

- a. Licensed dogs whose owners are non-residents temporarily (up to 30 days) within the jurisdiction; licensed dogs whose owners remain within the jurisdiction longer than 30 days may transfer to the local license upon payment of \$1.00 fee and proof of current rabies vaccination; and
- b. Individual dogs within a properly licensed dog kennel or other such establishment when such dogs are held for resale or for agricultural use.

2. The fee provisions of section six shall not apply to:

- a. Seeing eye dogs properly trained to assist blind persons if such dogs are actually being used by blind persons to assist them in moving from place to place;
- b. Hearing dogs properly trained to assist deaf persons if such dogs are actually used by deaf persons to aid them in responding to sounds; and
- c. Dogs especially trained to assist officials of government agencies in the performance of their duties and which are owned by such agencies.

3. Nothing in this section shall be construed so as to exempt any dog from having a current rabies vaccination.

100-1-8: UNLAWFUL TO HARBOR STRAY DOGS

It shall be unlawful for any person, except an animal welfare society incorporated within the State of Utah to harbor or keep any lost or stray dog. Whenever any dog

shall be found which appears to be lost or strayed, it shall be the duty of the finder to notify the Department of Animal Control within 24 hours, and the Department of Animal Control shall impound the dog.

100-1-9: DOGS RUNNING AT LARGE

1. It shall be unlawful for the owner or person having charge, care, custody, or control of any dog to allow such dog at any time to run at large. The owner or person charged with responsibility for a dog found running at large shall be strictly liable for a violation of this section regardless of the precautions taken to prevent the escape of the dog and regardless of whether or not he knows that the dog is running at large, deemed "at large" unless personally controlled by leash or lead in condo common areas, public parks, parking lots open to public, ski areas, golf courses and shopping centers.

100-1-10: DOGS ON UNENCLOSED PREMISES

It shall be unlawful for any person to chain, stake out, or tether any dog on any unenclosed premises in such a manner that the animal may go beyond the property line unless such person has permission of the owner of the affected property.

100-1-11: FEMALE DOGS IN HEAT

Any owner or person having charge, care, custody, or control of any female dog in heat shall, in addition to restraining such dog from running at large, cause such dog to be constantly confined in a building or secure enclosure so as to prevent it from attracting by scent or coming into contact with other dogs and creating a nuisance, except for planned breeding.

100-1-12: PLACES PROHIBITED TO DOGS

1. It shall be unlawful for any person to take or permit any dog, whether loose or on a leash or in arms, in or about any establishment or place of business where food or food products are sold or displayed, including but not limited to, restaurants, grocery stores, meat markets, and fruit or vegetable stores.

2. It shall be unlawful for any person keeping, harboring, or having charge or control of any dog to allow said dog to be within the following described area:

a. Any water shed area so designated by ordinance or otherwise legally appointed, either now existing or to be defined in the future.

b. Any construction site of a building, building improvement, road, utility, or other construction site during any time when actual construction or excavation activity is taking place.

3. No owner or person shall cause or permit any dog owned by him/her or under his/her control or custody to enter any designated area where a sign or signs are posted bearing the legend "No Dogs Allowed", or other words to that effect.
4. This section shall not apply to dogs provided for in Section 100-1-7(2) of this Ordinance.

100-1-13: DOGS ATTACKING PERSONS AND ANIMALS

1. Attacking dogs. It shall be unlawful for the owner or person having charge, care, custody, or control of any dog to allow such dog to attack, chase or worry any person, any domestic animal, or any species of protected wildlife, or to attack domestic fowl. "Worry" as used in this section shall mean to harass by tearing, biting, or shaking with the teeth, or without provocation to chase any animal or person or approach any person in an apparent attitude of attack when such person is in a place where he/she has a right to be.
2. Owner liability. The owner in violation of number one above shall be strictly liable for violation of this section. In addition to being subject to prosecution under number one above, the owner of such dog shall also be liable in damages to any person injured or to the owner of any animal(s) injured or destroyed.
3. Defenses. The following shall be considered in mitigating the penalties or damages or in dismissing the charge:
 - a. That the dog was properly confined on the premises; or
 - b. That the dog was deliberately or maliciously provoked.
4. Dogs may be killed. Any person may kill a dog while it is committing any of the acts specified in number one above or while such dog is being pursued thereafter.

100-1-14: VICIOUS ANIMALS AND VICIOUS DOGS

1. It shall be unlawful for the owner of any vicious animal or vicious dog, as those terms are defined herein, to permit such animal to go or be off the premises of the owner unless such animal is under restraint and properly muzzled so as to prevent it from injuring any person or property.
2. The Director of Animal Control shall seek a court order for the destruction of or muzzling of any vicious animal that is under restraint as defined herein, yet cannot be controlled by reasonable restraints and cannot be effectively controlled by its owner or person having charge, care, or control of such animal.

100-1-15: NUISANCE

Any owner or person having charge, care, custody, or control of an animal or animals causing nuisance as defined below shall be in violation of this ordinance and subject to the penalties provided herein. The following shall be deemed a nuisance:

1. Any animal which:

- a. causes damage to the property of anyone other than its owner;
- b. is a vicious animal as defined herein and kept contrary to Section 14 above;
- c. causes unreasonable fouling of the air by odors;
- d. causes unsanitary conditions in enclosures or surroundings;
- e. defecates on any public sidewalk, park, or building, or on any private property without the consent of the owner of such private property, unless the person owning, having a proprietary interest in, harboring, or having care, charge, control, custody, or possession of such animal shall remove any such defecation to a property trash receptacle;
- f. barks, whines, or howls or makes other disturbing noises in an excessive, continuous, or untimely fashion;
- g. attacks other domestic animals; or
- h. is determined by the Department of Animal Control or the City/County Health Department to be offensive or dangerous to the public health, welfare, or safety.

2. Animals which, by virtue of the number maintained, are determined by the Department of Animal Control or the City/County Health Department to be offensive or dangerous to the public health, welfare, or safety.

100-1-16: REVOCATION OF DOG LICENSE

If the owner of any dog is found to be in violation of this ordinance on three or more different occasions during any 12-month period, the Director of Animal Control may revoke for a period of one year any dog license(s) such person may possess and providing for the Department of Animal Control to pick up and impound any dog kept by the person under such order. Any dog impounded pursuant to such an order shall be dealt with in accordance with the provisions of this ordinance for impounded animals except that the person under the order of revocation shall not be allowed to redeem the dog in any circumstances.

100-1-17: BITES, DUTY TO REPORT

1. Any person having knowledge of any individual or animal having been bitten by an animal of a species subject to rabies shall report the incident immediately to the Department of Animal Control.
2. The owner of an animal that bites a person and any person bitten by an animal shall report the bite to the Department of Animal Control or the City/County Health Department within 24 hours of the bite, regardless of whether or not the biting animal is a species subject to rabies.
3. A physician or other medical personnel who renders professional treatment to a person bitten by an animal shall report the fact that he has rendered professional treatment to the Department of Animal Control or the City/County Health Department within 24 hours of his first professional attendance. He shall report the name, sex, and address of the person bitten as well as the type and location of the bite. If known, he shall give the name and address of the owner of the animal that inflicted the bite, and any other facts that may assist the Department of Animal Control in ascertaining the immunization of the animal.
4. Any person treating an animal bitten, injured or mauled by another animal shall report the incident to the Department of Animal Control. The report shall contain the name and address of the owner of the wounded, injured, or bitten animal, the name and address of the owner, a description of the animal that caused the injury, and the location of the incident.
5. Any person not conforming to the requirements of this section shall be in violation of this ordinance.

100-1-18: CONTROL OF RABIES AND RABID ANIMALS

1. Rabies vaccination required for dogs. The owner or person having the charge, care, custody, and control of a dog four months of age or over shall have said animal vaccinated within 30 days after it reaches said age. Unvaccinated dogs over four months of age acquired by the owner or moved into the jurisdiction must be vaccinated thereafter every 36 months with a modified virus rabies vaccine approved by the Summit County Health Department. Cats shall be vaccinated every 36 months. This provision shall not apply to veterinarian or kennel operators temporarily maintaining on their premises animals owned by others.
2. Duties of veterinarian and tag requirements. It shall be the duty of each veterinarian, when vaccinating any animal for rabies, to complete a certificate of rabies vaccination (in duplicate) which includes the following information:
 - a. owner's name and address;
 - b. description of animal (breed, sex, markings, age, and name);

- c. date of vaccination;
- d. rabies vaccination tag number;
- e. type of rabies vaccine administered; and
- f. manufacturer's serial number of vaccine.

A copy of the certificate shall be distributed to the owner and original retained by the issuing veterinarian. The veterinarian and the owner shall retain their copies of the certificate for the interval between vaccinations specified in this section. Additionally, a number serialized metal or durable plastic rabies vaccination tag shall be securely attached to the collar or harness of all dogs. A dog not wearing such tag shall be deemed to be unvaccinated and may be impounded and dealt with pursuant to this ordinance.

3. Transient animal exception. The provisions of this section with respect to vaccination shall not apply to any animal owned by a person temporarily remaining within the jurisdiction for less than 30 days. Such animals shall be kept under strict supervision of the owner. It shall be unlawful to bring any animal into the jurisdiction which does not comply with animal health laws and import regulations.

4. Impoundment of animal without valid rabies vaccination tag.

a. Any vaccinated animal impounded because of a lack of rabies vaccination tag may be reclaimed by its owner by furnishing proof of rabies vaccination and payment of all impoundment fees prior to release.

b. Any unvaccinated animal may be reclaimed by payment of impound fees and by obtaining a rabies vaccination within 72 hours of release.

c. Any dog not reclaimed prior to the period shall be disposed of pursuant to provisions of Section 21.

5. Reporting of rabid animals. Any person having knowledge of the whereabouts of an animal known to have been exposed to, or suspected of having rabies, or of an animal or person bitten by such a suspect animal, shall notify the Department of Animal Control, the Summit County Health Department, or the State Division of Health.

6. Quarantining and disposition of biting or rabid animal.

a. An animal that has rabies or shown signs of having rabies, and every animal infected with rabies or that has been exposed to rabies, shall be reported by the owner as set forth above and shall immediately be confined in a secure place by the owner. The Director of Animal Control has the discretion to allow the dog owner to

secure the dog or to require the dog owner to surrender the dog to Department of Animal Control.

b. The owner of any animal of a species subject to rabies which has bitten shall surrender the animal to an authorized official upon demand. Any person authorized to enforce this ordinance may enter upon private property to seize the animal; if the owner refuses to surrender the animal, the officer shall immediately obtain a search warrant authorizing seizure and impoundment of the animal.

c. Any animal of a species subject to rabies that bites a person or animal or is suspected of having rabies may be seized and quarantined for observation for a period of not less than ten days by the Department of Animal Control and/or the City/County Health Department. The owner of the animal shall bear the cost of confinement. The animal shelter shall be the normal place for quarantine, but other arrangements, including confinement by the owner, may be made by the Director of Animal Control and/or the director of health if the animal had a current rabies vaccination at the time the bite was inflicted or if there are other special circumstances justifying an exception. A person who has custody of an animal under quarantine shall immediately notify the Department of Animal Control if the animal shows any signs of sickness or abnormal behavior, or if the animal escapes confinement. It shall be unlawful for any person who has custody of a quarantined animal to fail or refuse to allow a health or animal control officer to make an inspection or examination during the period of quarantine. If the animal dies within ten days from the date of the bite, the person having custody shall immediately surrender the dog to the Department of Animal Control. If, at the end of the ten-day quarantine period, the Director of Animal Control examines the animal and finds no sign of rabies, the animal may be released to the owner or, in the case of a stray, it shall be disposed of as provided in Section 21.

d. Unvaccinated bitten animals:

(1) In the case of an unvaccinated animal species subject to rabies which is known to have been bitten by a known rabid animal, said bitten or exposed animal should be immediately destroyed.

(2) If the owner is unwilling to destroy the bitten or exposed animal, the animal shall be immediately isolated and quarantined for six months under veterinary supervision, the cost of such confinement to be paid in advance by the owner. The animal shall be destroyed if the owner does not comply.

e. Vaccinated bitten animals:

(1) If the bitten or exposed animal has been vaccinated, the animal shall be revaccinated within 24 hours and quarantined for a period of 45 days following revaccination; or

(2) If the animal is not revaccinated within 24 hours, the animal shall be isolated and quarantined under veterinary supervision for six months.

(3) The animal shall be destroyed if the owner does not comply with items (1) or (2) of the subsection 2.

f. Removal of quarantined animal:

It shall be unlawful for any person to remove any such animal from the place of quarantine without written permission of the Department of Animal Control. It is unlawful for any person to permit or suffer to escape any such animal from its place of quarantine or impoundment.

g. If any animal bites or attacks a person or animal two times or more in a 12-month period, such animal may be immediately impounded by the Department of Animal Control without court order and held at owner expense pending court action. Any such animal shall be deemed a vicious animal, and the Director of Animal Control may seek a court order or exercise discretion as provided in Section 14 for destruction of the animal. Parties owning such animal shall, if possible, be notified immediately of the animal's location by the Department of Animal Control.

100-1-19: IMPOUNDING - ANIMALS TO BE IMPOUNDED

The Director of Animal Control shall place all animals which he takes into custody in an designated animal impound facility. The following animals may be taken into custody by the Director of Animal Control and impounded without filing a complaint:

1. Any animal being kept or maintained contrary to the provisions of this ordinance;
2. Any animal running at large contrary to the provisions of this ordinance;
3. Any animal that is required by this ordinance to be licensed and is not licensed. An animal not wearing a tag shall be presumed to be unlicensed for purposes of this section;
4. Sick or injured animals whose owner cannot be located;
5. Any abandoned animal;
6. Animals which are not vaccinated for rabies in accordance with the requirements of this ordinance;
7. Any animal to be held for quarantine; or
8. Any vicious animal not properly confined as required by Section 14 herein.

100-1-20: IMPOUNDING - RECORDS TO BE KEPT

1. Complete description of the animal, including tag number
2. The manner and date of impound;
3. The location of the pickup and name of the officer picking up the animal;
4. The manner and date of disposal;
5. The name and address of the redeemer or purchaser;
6. The name and address of any person relinquishing an animal to the impound facility;
7. All fees received; and
8. All expenses accruing during impoundment.

100-1-21: IMPOUNDING - DISPOSITION OF ANIMALS

1. Licensed animals shall be impounded for a minimum of five (5) working days before further disposition, except as otherwise provided herein. Reasonable effort shall be made to notify the owner of any animal wearing a license or other identification during that time. Notice shall be deemed given when sent to the last known address of the listed owner. Any animal voluntarily relinquished to the animal control facility by the owner for destruction or other disposition need not be kept for the minimum holding period before release or other disposition as herein provided.

2. No dog or cat shall be released for adoption until such dog or cat is spayed or neutered unless payment for such spaying or neutering is deposited with the Department of Animal Control and the person to whom the dog or cat is released agrees, in writing, to cause such dog or cat to be spayed or neutered. Such agreement shall provide that the purchaser will have the dog or cat spayed or neutered within 120 days of the date of purchase.

Failure to spay or neuter such dog or cat shall be deemed a breach of the adoption contract and shall result in its termination, return of the dog or cat, and forfeiture of all amounts paid to Animal Control. All adoptions are conditional until the animal is spayed or neutered.

3. All dogs, except for those quarantined or confined by court order, held longer than the minimum impound period, and all dogs voluntarily relinquished to the impound facility may be destroyed or sold as the Director of Animal Control shall direct. Any healthy dog may be sold to any person desiring to purchase such animal for a price to

be determined by the Director of Animal Control but not to exceed \$10.00 per animal, plus license, rabies vaccinations, and spaying or neutering fees if required.

4. Any licensed animal impounded and having or suspected of having serious physical injury or contagious disease requiring medical attention, may, in the discretion of the Director of Animal Control, be released to the care of a veterinarian with the consent of the owner.

5. The Director of Animal Control has the discretion to destroy an animal without regard to any time limitations otherwise established herein and without court order under the following circumstances: a) in the judgment of the Director of Animal Control, the animal should be destroyed for humane reasons; b) in the judgment of the Director of Animal Control, the animal should be destroyed to protect the public from imminent danger to persons or property; or c) in the judgment of the Director of Animal Control, the animal is a vicious animal and is considered either at large or abandoned by its owner or person having charge, care, custody or control

100-1-22: IMPOUNDING - REDEMPTION

The owner of any impounded animal or his authorized representative may redeem such animal before disposition provided he pays:

1. The impound fee;
2. The daily board charge;
3. Veterinary costs incurred during the impound period, including rabies vaccination; and
4. License fee, if required.

Fees shall be charged at the following rates:

IMPOUND FEE

First confinement	\$25.00
Second confinements	\$50.00
Third or subsequent confinements	\$75.00

BOARD

Per calendar day of confinement	\$6.00
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100-1-22.1: IMPOUND FEES FOR VOLUNTARY RELINQUISHMENT BY OWNER

Whenever any dog or cat is voluntarily relinquished by the owner thereof to the animal control facility for destruction or other disposition as provided by Section 100-1-21 of

this chapter, a donation may be given by such owner for each dog, for each litter of dogs, for each cat or for each litter of cats so relinquished.

100-1-23: ANIMAL SHELTER

1. The governing authority shall provide suitable premises and facilities to be used as an animal shelter where impounded small animals can be adequately kept. They shall purchase and supply food and supply humane care for impounded animals.
2. The governing authority shall provide for the painless and humane destruction of dogs and other animals required to be destroyed by this ordinance or by the laws of the State of Utah.
3. The governing authority may furnish, when necessary, medical treatment for such animals as may be impounded pursuant to this chapter.

100-1-24: CRUELTY TO ANIMALS PROHIBITED

1. Physical abuse. It is unlawful for any person to willfully or maliciously kill, maim, disfigure, torture, beat with a stick, chain, club, or other object, mutilate, burn or scald, overdrive, or otherwise cruelly set upon any animal. Each offense shall constitute a separate violation. An exemption will exist for agricultural animals that are branded, ear marked, or otherwise marked for identification purposes.
2. Transporting animals. It is unlawful for any person to carry or confine any animal in or upon any vehicle in a cruel or inhumane manner, including but not limited to, carrying or confining such animal without adequate ventilation or for an unusual length of time.
3. Care and maintenance. It shall be the duty of any person to provide any animal in his charge or custody, as owner or otherwise, with adequate food, drink, care (which shall include veterinary care) and shelter.
4. Animal poisoning. Except as provided in section 23 herein, it shall be unlawful for any person by any means to make accessible to any animal, with intent to cause harm or death, any substance which has in any manner been treated or prepared with any harmful or poisonous substance. This provision shall not be interpreted so as to prohibit the use of poisonous substances for the control of vermin in the furtherance of the public health when applied in such a manner as to reasonably prohibit access to other animals.
5. Injury to animals by motorists.
 - a. Every operator of a motor or other self-propelled vehicle upon the streets of the jurisdiction shall immediately upon injuring, striking, maiming, or running down any domestic animal give such aid as can reasonably be rendered. In the absence of the

owner, he shall immediately notify the Department of Animal Control furnishing requested facts relative to the injury.

b. It shall be the duty of such operator to remain at or near the scene until such time as the appropriate authorities arrive, and upon the arrival of such authorities, the operator shall immediately identify himself to such authorities. Alternatively, in the absence of the owner, a person may give aid by taking the animal to the animal control facility or other appropriate facility and notifying the Department of Animal Control. Such animal may be taken in by the animal control facility and dealt with as deemed appropriate under the circumstances.

c. Emergency vehicles are exempted from the requirements of this provision.

6. Animals for fighting.

a. It shall be unlawful for any person, firm, or corporation to raise, keep or use any animal, fowl or bird for the purpose of fighting or baiting; and for any person to be a party to or be present as a spectator at any such fighting or biting of any animal or fowl; and for any person, firm, or corporation to knowingly rent any building, shed, room, yard, ground, or premises for any such purposes as aforesaid, or to knowingly suffer or permit the use of his buildings, sheds, rooms, yards, grounds, or premises for such purposes.

b. Law enforcement officers or the Department of Animal Control officials may enter any building or place where there is an exhibition of fighting or baiting of a live animal, or where preparations are being made for such an exhibition, and the law enforcement officers may arrest persons there present and take possession of all animals engaged in fighting, along with all implements or applications used in such exhibition. This provision shall not be interpreted to authorize a search or arrest without a warrant when such is required by law.

7. Malicious impounding. It shall be unlawful for any person maliciously to secrete or impound the animal of another.

100-1-25: KENNEL PERMITS

1. Any person wishing to operate or maintain a kennel, cattery, pet shop, or groomery must first obtain a kennel license from the Department of the Animal Control. Said kennel license shall be issued upon payment of the fee set forth herein and a statement from the Summit County Planning Department or appropriate city official that a kennel is a permitted use under the zoning regulations in effect for the area of the proposed kennel.

2. A valid kennel license shall be posted in a conspicuous place in each establishment and said license shall be considered as appurtenant to the premises and not transferable to another location. The licensee shall notify the Department of Animal

Control within thirty (30) days of any change in his establishment or operation which may effect the status of his license. In the event of a change in ownership of the establishment, the licensee shall notify the Department of Animal Control immediately. Licenses shall not be transferable from one owner to another.

3. Any license issued pursuant to this section shall automatically expire on December 31, immediately following date of issue. During the first three (3) months of each year, the licensee shall apply for a renewal of the license and pay the required fee. Any application made after March 31, except an application for a new establishment opening subsequent to that date, shall be accompanied by a late application fee in addition to the regular permit fee.

4. License fees:

a. Kennels, catteries, groomeries, pet shops veterinary clinics, or boarding establishments. Class A kennel license, 4 to 30 animals - \$50.00.

b. Late fee - \$25.00

100-1-26: STANDARDS FOR PERMITTED ESTABLISHMENT

The Department of Animal Control shall promulgate rules and regulations governing the operation of kennels, catteries, groomeries, pet shops. Such rules and regulations shall provide for the type of structures, building, pens, cages, runways, or yards required for the animal sought to be kept, harbored, or confined on such premises; the manner which food, water, and sanitation facilities will be provided to such animals; measures relating to the health of said animals, the control of noise and odors, and the protection of person or property adjacent to the premises; and other such matters as the Director of Animal Control shall deem necessary. Such rules and regulations shall have the effect of law, and violation of such rules and regulations shall be deemed a violation of this ordinance and grounds for revocation of a permit issued by the Department of Animal Control.

100-1-27: SUSPENSION OR REVOCATION OF PERMIT

1. Grounds. A permit may be suspend or revoked or a permit application rejected on any one or more of the following grounds:

- a. Falsification of facts in a permit application;
- b. Violation of any of the provisions of this ordinance or any other law or regulation governing the establishment including noise; or
- c. Conviction on a charge of cruelty to animals.

2. Procedure. If any inspection of kennels, catteries, groomeries, or pet shops reveal a violation of this ordinance, the inspector shall notify the permit holder or operator of such violation by means of an inspection report form or other written notice. The notification shall:

- a. Set forth the specific violation(s) found;
- b. Establish a specific and reasonable period of time for the correction of the violations found; and
- c. State that failure to comply with any notice issued in accordance with the provisions of this ordinance may result in immediate suspension of the permit.

3. Revocation or Suspension. Any permit granted under this ordinance may be suspended or revoked by the County Sheriff for violation listed in part (a) above.

4. Emergency Suspension. Notwithstanding the other provisions of this ordinance, when the inspecting officer finds unsanitary or other conditions in the operation of kennels, catteries, groomeries, pet shops, or a similar establishment, which in his judgment constitute a substantial hazard to public health, he may, without warning or hearing, issue a written notice to the permit holder or operator citing such condition specifying the corrective action to be taken. Such order may state that the permit is immediately suspended and all operations are to be discontinued. Any person to whom such an order is issued, shall comply immediately. Any animals at such a facility may be confiscated by the Department of Animal Control and impounded or otherwise provided for according to the provisions of this ordinance.

5. Notice. Notice provided for under this section shall be deemed to have been properly served when the original of law inspection report form or other notice has been delivered personally to the permit holder or person in charge, or such notice has been sent by certified mail to the last known address of the permit holder. A copy of such notice shall be filed with the records of the Department of Animal Control.

100-1-28: INTERFERENCE WITH OFFICERS PROHIBITED

It is unlawful for any person to do any act which hinders, delays, interferes with, or obstructs an Animal Control Officer while engaging in the discharge of their duties, including furnishing false information to such.

100-1-29: DOMESTICATED ANIMALS

It is unlawful for the owner or person having charge, care, or custody of any domesticated animal to allow such to be at large. Domestic animals as such include horses, cattle, sheep, pigs, goats, etc.

100-1-30: VIOLATION

Any person violating the provisions of this ordinance either by failing to do those acts required herein or by doing any act prohibited herein, shall be subject to a fine in an amount not to exceed \$750.00 or imprisoned in the Summit County Jail not to exceed 90 days, or both such fine and imprisonment or such further fines and imprisonments provided for a class C misdemeanor pursuant to §76-3-101 et. seq., U.C.A. 1953, as amended. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such. In addition, Summit County may also pursue civil remedies for any violation of this Ordinance.

100-1-31: SEVERABILITY

If any provision, clause, sentence, or paragraph of this ordinance or the application to any person or circumstance shall be held to be invalid, such invalidity shall not affect the other provisions or applications of this ordinance which can be given effect independent from the invalid provision or application, and to this end of the provision of this ordinance are hereby declared to be severable. This ordinance shall take effect fifteen (15) days after its adoption and publication in a newspaper of general circulation in Summit County, State of Utah, and shall be deemed to repeal Ordinances 113 B, C, D, E, F, and G.

EXHIBIT B

TITLE 7- ANIMAL CONTROL

CHAPTER 1 - IN GENERAL

7- 1- 1. DEFINITIONS.

(A) **ANIMAL BOARDING ESTABLISHMENT.** Any establishment that takes in animals for boarding for profit.

(B) **ANIMAL GROOMING PARLOR.** Any establishment maintained for the purpose of offering cosmetological services for animals for profit.

(C) **ANIMAL SHELTER.** A facility owned and/or operated by a governmental entity or any animal welfare organization that is incorporated within the state of Utah under U.C.A. 76-9-305 , as amended, and used for the care and custody of seized, stray, homeless, quarantined, abandoned, or unwanted dogs, cats or other small domestic animals.

(D) **ANIMAL AT LARGE.** Any domesticated animal, whether or not licensed, not under restraint as defined below.

(E) **ANIMAL UNDER RESTRAINT.** Any animal under the control of its owner or person having charge, care, custody or control. A dog shall be considered under control of the owner when on a leash or lead, confined within a vehicle, or within the real property limits of the owner.

(F) **BITE**

(G) **CATS.** Any age feline of the domesticated types.

(H) **CATTERY.** An establishment for boarding, breeding, buying, grooming or selling cats for profit.

(I) **DOG.** A canis familiaris over four months of age. Any canis familiaris under four months of age is a puppy.

(J) **DOMESTICATED ANIMALS.** Animals accustomed to live in or about the habitation of man, including but not limited to cats, dogs, fowl, horses, swine, goats, and cattle.

(K) **STRAY.** Any animal at large as defined herein.

(L) **GUARD DOG.** A working dog which must be kept in a fenced run or other suitable enclosure during business hours, or on a leash or under absolute control while working,

so it cannot come into contact with the public.

(M) **HOLDING FACILITY.** Any pet shop, kennel, cattery, groomer, animal shelter, humane establishment, or any other such facility used for holding animals.

(N) **KENNEL.** An establishment having four or more dogs for the purpose of boarding, breeding, buying, grooming, letting for hire, training for fee, selling, or agricultural use such as stock herding and guarding.

(O) **LEASH OR LEAD.** Any chain, rope or device used to restrain an animal.

(P) **NEUTER.** A surgical procedure performed on male animals in which its testicles are removed.

(Q) **PET.** A domesticated animal kept for pleasure rather than utility, including, but not limited to birds, cats, dogs, fish, hamsters, mice, and other animals associated with man's environment.

(R) **PET SHOP.** Any establishment containing cages or exhibition pens, not part of a kennel or cattery, wherein dogs, cats, birds, or other pets for sale are kept or displayed.

(S) **QUARANTINE.** The isolation of an animal in a substantial enclosure so that the animal is not subject to contact with other animals or unauthorized persons.

(T) **SPAY.** A surgical procedure performed on a female animal in which its ovaries and uterus are removed.

(U) **VICIOUS ANIMAL.** Any animal which is dangerous, aggressive, including, but not limited to any animal which has bitten or in any other manner attacked any person or animal.

(V) **VICIOUS DOG.**

(1) Any dog which, in a vicious or terrorizing manner, approaches any person in apparent attitude of attack upon the streets, sidewalks, or any public grounds or places;

(2) Any dog with a known propensity, tendency, or disposition to attack, to cause injury or to otherwise endanger the safety of human beings or animals; or

(3) Any dog which bites, inflicts injury, assaults, or otherwise attacks a human being or domestic animal on public or private property.

7- 1- 2. DEPARTMENT OF ANIMAL CONTROL.

Summit County has created a Department of Animal Control.

7- 1- 3. POWERS OF ANIMAL CONTROL OFFICIALS.

The Summit County Animal Control Director or any person employed by the Summit County Department of Animal Control as an Animal Control Officer shall take the oath of office and shall be vested with the power and authority to enforce this Chapter.

The Summit County Animal Control Director, [hereinafter "Director"] his deputies, assistants and Animal Control Officers are hereby authorized and empowered to apprehend and take with them and impound any animal found in violation of this Title and including licensable dogs for which no license has been procured in accordance with this Chapter, or any licensed or unlicensed dogs for any other violations thereof.

In the enforcement of this Chapter, any peace officer or the Summit County Director of Animal Control, or his assistants are authorized to enter onto the open premises of any person to take possession of any dog in violation of this Chapter.

7- 1- 4. DUTIES OF ANIMAL CONTROL OFFICIALS.

(A) **ANIMAL CONTROL DIRECTOR.** The Director shall enforce this Title and perform other responsibilities pursuant thereto, supervise the animal shelter(s) under his jurisdiction, keep adequate records of all animals impounded and all monies collected, see that all animals and animal holding facilities in his jurisdiction are licensed, controlled and permitted in accordance with any applicable ordinance and/or regulations, establish, in cooperation with the Summit County Health Department and other interested governmental agencies, adequate measures for rabies immunization and control.

(B) **ANIMAL CONTROL OFFICERS.** The animal control officers shall enforce this Title in all respects pertaining to animal control within the jurisdiction including the care and impounding of animals and prevention of cruelty to animals and carry out all duties prescribed or delegated by the Director.

CHAPTER 2 - LICENSING

7- 2- 1. DOG LICENSING.

All dogs must be licensed each year, except as otherwise provided herein, to a person of the age of 18 or older. Any person owning, possessing or harboring any dog within Summit County shall obtain a license for such animal within thirty (30) days after the dog reaches the age of four (4) months, within ten (10) days of the acquisition of such dog or presence of such dog within Summit County. For a dog under the age of six (6) months, the Department of Animal Control may accept certification from a licensed veterinarian that the owner has deposited funds for spaying or neutering, then the dog may be licensed at the reduced fee. Said initial license shall be effective for one (1) year from the date of purchase and must be renewed annually thereafter.

License renewal applications must be submitted annually to the Summit County Department of Animal Control, utilizing a standard form which requests name, address and telephone number of the applicant and the breed, sex, color and age of the animal; the form also asks for pertinent information regarding rabies vaccinations. The application shall be accompanied by the prescribed license fee and by a current rabies vaccination certificate. Rabies vaccinations and certificates therefor, must be obtained every two (2) years, from either a licensed veterinarian or an authorized Animal Control Officer.

Dog licenses will be issued in accordance with the following fee schedule:

Female dog \$ 18.00

Male dog 18.00

Late Fee (in addition to Reg Fee)15.00

Spayed or neutered dog 6.00

No dog shall be licensed as spayed or neutered without satisfactory proof that such surgery was performed on said dog.

The license shall be effective one (1) year from the date of purchase after which a late fee may be imposed. Licenses for the following year may be purchased within thirty (30) days prior to the expiration date.

No person or persons at any one residence within the jurisdiction shall at any one time own or license more than three (3) dogs in any combination except as otherwise provided herein.

7- 2- 2. LICENSE TAG.

Upon payment of the license fee, the Summit County Department of Animal Control shall issue to the owner a certificate and tag for each dog licensed. The tag shall have stamped thereon the license number corresponding with the tag number on the certificate. The owner shall attach the tag to the collar or harness of the animal and see that the collar and the tag are constantly worn. Failure to attach the tag as provided shall be in violation of this Chapter, except in that dogs which are kept for show purposes are exempt from wearing the collar and tag.

Dog tags are not transferable from one dog to another. No refunds shall be made on any dog license fee for any reason whatsoever. Replacements for lost or destroyed tags shall be issued upon payment of the required fee to the Summit County Department of Animal Control.

Any person removing or causing to be removed, the collar, harness, or tag from any

licensed dog without the consent of the owner or keeper thereof, except a licensed veterinarian or Animal Control Officer who removes such for medical and other reasons, shall be in violation of this Chapter.

7- 2- 3. LICENSING EXCEPTIONS.

(A) The provisions of § 7-2-1 and 7-2-2 herein shall not apply to:

(1) Licensed dogs whose owners are non-residents temporarily (up to 30 days) within the jurisdiction; licensed dogs whose owners remain within the jurisdiction longer than thirty (30) days may transfer to the local license upon payment of the required fee and proof of current rabies vaccination.

(2) Individual dogs within a properly licensed dog kennel or other such establishment when such dogs are held for resale or agricultural use.

(B) The fee provisions of § 7-2-2 shall not apply to:

(1) Seeing-eye dogs properly trained to assist blind persons if such dogs are actually being used by blind persons to assist them in moving from place to place.

(2) Hearing dogs properly trained to assist deaf persons if such dogs are actually used by deaf persons to aid them in responding to sounds.

(3) Dogs especially trained to assist officials of government agencies in the performance of their duties and which are owned by such agencies.

(C) Nothing in this section shall be construed so as to exempt any dog from having a current rabies vaccination.

CHAPTER 3 - VIOLATIONS

7- 3- 1. UNLAWFUL TO HARBOR STRAY DOGS.

It shall be unlawful for any person, except an animal welfare society incorporated within the state of Utah under U.C.A. 76-9-305 , as amended, to harbor or keep any lost or strayed dog. Whenever any dog shall be found which appears to be lost or strayed, it shall be the duty of the finder to notify the Summit County Animal Control Department within 24 hours, and the Department shall impound the dog as herein provided.

7- 3- 2. DOGS RUNNING AT LARGE.

It shall be unlawful for the owner or person having charge, care, custody or control of any dog to allow such dog at any time to run at large. The owner or person charged with responsibility for a dog found running at large shall be strictly liable for a violation of this section regardless of the precautions taken to prevent the escape of the dog and

regardless of whether or not he knows that the dog is running at large. Deemed "at large" unless personally controlled by leash or lead in condo common areas, public parks, parking lots open to public, ski areas, golf courses and shopping centers.

7- 3- 3. DOGS ON UNENCLOSED PREMISES.

It shall be unlawful for any person to chain, stake out, or tether any dog on any unenclosed premises in such a manner that the animal may go beyond the property line unless such person has permission of the owner of the affected property.

7- 3- 4. FEMALE DOGS IN HEAT.

Any owner or person having charge, care, custody or control of any female dog in heat shall, in addition to restraining such dog from running at large, cause such dog to be constantly confined in a building or secure enclosure so as to prevent it from attracting by scent or coming into contact with other dogs and creating a nuisance, except for planned breeding.

7- 3- 5. PLACES PROHIBITED TO DOGS.

It shall be unlawful for any person to take or permit any dogs, whether loose or on a leash or in arms, in or about any establishment or place of business where food or food products are sold or displayed, including, but not limited to restaurants, grocery stores, meat markets, and fruit or vegetable stores. It shall be unlawful for any person keeping, harboring or having charge or control of any dog to allow said dog to be within any watershed area so designated by ordinance or otherwise legally appointed, either now existing or to be defined in the future, or on any construction site of a building, building improvement, road, utility, or other construction site during any time when actual construction or excavation activity is taking place. This section shall not apply to dogs provided for in § 7-2-3(B) .

7- 3- 6. DOGS ATTACKING PERSONS AND ANIMALS.

(A) **ATTACKING DOGS.** It shall be unlawful for the owner or person having charge, care, custody or control of any dog to allow such dog to attack, chase or worry any person, any domestic animal having a commercial value, or any species of hoofed protected wildlife, or to attack domestic fowl. "Worry" as used in this section shall mean to harass by tearing, biting or shaking with the teeth, or without provocation to chase or approach any person in an apparent attitude of attack when such person is in a place where he/she has a right to be.

(B) **OWNER LIABILITY.** The owner in violation of (A) above shall be strictly liable for violation of this section. In addition to being subject to prosecution under (A) above, the owner of such dog shall also be liable in damages to any person injured or to the owner of any animal(s) injured or destroyed thereby.

(C) **DEFENSES.** The following shall be considered in mitigating the penalties or damages or in dismissing the charge.

(1) That the dog was properly confined on the premises.

(2) That the dog was deliberately or maliciously provoked.

(D) **DOGS MAY BE KILLED.** Any person may kill a dog while it is committing any of the acts specified in (a) above or while such dog is being pursued thereafter.

7- 3- 7. FIERCE, DANGEROUS OR VICIOUS ANIMALS.

It shall be unlawful for the owner of any fierce, dangerous or vicious animal to permit such animal to go or be off the premises of the owner unless such animal is under restraint and properly muzzled so as to prevent it from injuring any person or property. Every animal so vicious and dangerous that it cannot be controlled by reasonable restraints, and every dangerous and vicious animal not effectively controlled by its owner or person having charge, care or control of such animal so that it shall not injure any person or property is a hazard to public safety, and the Director of Animal Control shall seek a court order for destruction of or muzzling of the animal.

7- 3- 8. NUISANCE.

Any owner or person having charge, care, custody or control of an animal or animals causing a nuisance as defined below shall be in violation of this Title and subject to the penalties provided herein. The following shall be deemed a nuisance:

(A) causes damages to the property of anyone other than its owner;

(B) is a vicious animal as defined herein and kept contrary to § 7-3-7 above;

(C) causes unreasonable fouling of the air by odors;

(D) causes unsanitary conditions in enclosures or surroundings;

(E) defecates on any public sidewalk, park, or building, or on any private property without the consent of the owner of such private property, unless the person owning, having a proprietary interest in, harboring or having care, charge, control, custody or possession of such animal shall remove any such defecation to a proper trash receptacle;

(F) barks, whines or howls or makes other disturbing noises in an excessive, continuous or untimely fashion;

(G) attacks other domestic animals;

(H) is determined by the Summit County Department of Animal Control or the City-County Health Department to be offensive or dangerous to public health, safety or welfare.

(I) any animals which, by virtue of the number maintained, are determined by the Summit County Department of Animal Control or the City-County Health Department to be offensive or dangerous to the public health, welfare or safety.

7- 3- 9. REVOCATION OF DOG LICENSE.

If the owner of any dog(s) is found to be in violation of this Title on three or more different occasions during any twelve-month period, the Director of Animal Control may seek a court order revoking for a period of one year any dog license(s) such person may possess and providing for the Animal Control Department to pick up and impound any dog(s) kept by the person under such order. Any dog impounded pursuant to such an order shall be dealt with in accordance with the provisions of this Title for impounded animals except that the person under the order of revocation shall not be allowed to redeem the dog under any circumstances.

7- 3-10. BITES, DUTY TO REPORT.

(A) Any person having knowledge of any individual or animal having been bitten by an animal of a species subject to rabies shall report the incident immediately to the Summit County Department of Animal Control.

(B) The owner of an animal that bites a person and any person bitten by an animal shall report the bite to the Summit County Department of Animal Control or the Health Department within 24 hours of the bite, regardless of whether or not the biting animal is of a species subject to rabies.

(C) A physician or other medical personnel who renders professional treatment to a person bitten by an animal shall report the fact that he has rendered professional treatment to the Summit County Department of Animal Control or the City-County Health Department within 24 hours of his first professional attendance. He shall report the name, sex and address of the person bitten as well as the type and location of the bite. If known, he shall give the name and address of the owner of the animal that inflicted the bite, and any other facts that may assist the Summit County Department of Animal Control in ascertaining the immunization status of the animal.

(D) Any person treating an animal bitten, injured or mauled by another animal shall report the incident to the Summit County Department of Animal Control. The report shall contain the name and address of the owner of the wounded, injured or bitten animal, the name and address of the owner, a description of the animal which caused the injury, and the location of the incident.

(E) Any person not conforming to the requirements of this section shall be in violation of

this Chapter.

CHAPTER 4 - CONTROL OF RABIES AND RABID ANIMALS

7- 4- 1. RABIES VACCINATION REQUIRED FOR DOGS.

The owner or person having the charge, care, custody and control of a dog or cat four months of age or over shall have said animal vaccinated within thirty (30) days after it reaches said age. Any person permitting any such animal to habitually be on or remain, or be lodged or fed within such person's house, yard or premises shall be responsible for said vaccination. Unvaccinated dogs over four (4) months of age acquired by the owner or moved into the jurisdiction must be vaccinated thereafter every twenty-four (24) months with a modified virus rabies vaccine approved by the Summit County Health Department. Cats shall be vaccinated every 24 months. This provision shall not apply to veterinarian or kennel operators temporarily maintaining on their premises animals owned by others.

7- 4- 2. DUTIES OF VETERINARIANS AND TAG REQUIREMENTS.

It shall be the duty of each veterinarian when vaccinating any animal for rabies to complete a certificate of rabies vaccination (in duplicate) which includes the following information:

- (A) owner's name and address;
- (B) description of animal (breed, sex, markings, age, name);
- (C) date of vaccination;
- (D) rabies vaccination tag number;
- (E) type of rabies vaccine administered;
- (F) manufacturer's serial number of vaccine

A copy of the certificate shall be distributed to the owner and original retained by the issuing veterinarian. The veterinarian and the owner shall retain their copies of the certificate for the interval between vaccinations specified in this section. Additionally a numbered serialized metal or durable plastic rabies vaccination tag shall be securely attached to the collar or harness of all dogs. A dog not wearing such tag shall be deemed to be unvaccinated and may be impounded and dealt with pursuant to this Chapter.

7- 4- 3. TRANSIENT ANIMAL EXCEPTION.

The provisions of this section with respect to vaccination shall not apply to any animal

owned by a person temporarily remaining in the jurisdictions for less than thirty (30) days. Such animals shall be kept under strict supervision of the owner. It shall be unlawful to bring any animal into the jurisdiction which does not comply with animal health laws and import regulations.

7- 4- 4. IMPOUNDMENT OF ANIMAL WITHOUT VALID RABIES VACCINATION TAG.

(A) Any vaccinated animal impounded because of a lack of rabies vaccination tag may be reclaimed by its owner by furnishing proof of rabies vaccination and payment of all impoundment fees prior to release.

(B) Any unvaccinated animal may be reclaimed prior to disposal by payment of impound fees and by obtaining a rabies vaccination within seventy-two (72) hours of release.

(C) Any dog not reclaimed prior to the period shall be disposed of pursuant to provision of § 7- 5- 3 .

7- 4- 5. REPORTING OF RABID ANIMALS.

Any person having knowledge of the whereabouts of an animal known to have been exposed to, or suspected of having rabies; or of an animal or person bitten by such a suspect animal, shall notify the Summit County Department of Animal Control, the Summit County Health Department or the State Division of Health.

7- 4- 6. QUARANTINING AND DISPOSITION OF BITING OR RABID ANIMALS.

(A) An animal that has rabies or shows signs of having rabies, and every animal infected with rabies or that has been exposed to rabies shall be reported by the owner as is set forth above and shall immediately be confined in a secure place by the owner.

(B) The owner of any animal of a species subject to rabies which has bitten shall surrender the animal to an authorized official upon demand. Any person authorized to enforce this Title may enter upon private property to seize the animal; if the owner refuses to surrender the animal, the officer shall immediately obtain a search warrant authorizing seizure and impoundment of the animal.

(C) Any animal of a species subject to rabies that bites a person or animal or is suspected of having rabies may be seized and quarantined for observation for a period of not less than ten (10) days by the Summit County Department of Animal Control and/or the Health Department. The owner of the Animal shall bear the cost of confinement. The animal shelter shall be the normal place for quarantine, but other arrangements, including confinement by the owner, may be made by the Director of Animal Control and/or the Director of Health if the animal had a current rabies vaccination at the time the bite was inflicted or if there are other special circumstances justifying an exception. A person who has custody of an animal under quarantine shall immediately notify the Summit County Department of Animal Control if the animal

shows any signs of sickness or abnormal behavior, or if the animal escapes confinement. It shall be unlawful for any person who has custody of a quarantined animal to fail or to refuse to allow a Health or Animal Control Officer to make an inspection or examination during the period of quarantine. If the animal dies within ten days from the date of the bite, the person having custody shall immediately notify the Department or immediately remove and deliver the head to the State Health laboratory to be examined for rabies. If, at the end of the ten (10) day period, the Director of Animal Control examines the animal and finds no sign of rabies, the animal may be released to the owner or in the case of a stray, it shall be disposed of as provided in § 7-5-3 .

7- 4- 7. DISPOSITION AND IMPOUNDING OF BITTEN ANIMALS.

(A) **UNVACCINATED BITTEN ANIMALS.** In the case of an unvaccinated animal species subject to rabies which is known to have been bitten by a known rabid animal, said bitten or exposed animal should be immediately destroyed. If the owner is unwilling to destroy the bitten or exposed animal, the animal shall be immediately isolated and quarantined for six (6) months under veterinary supervision, the cost of such confinement to be paid in advance by the owner. The animal shall be destroyed if the owner does not comply herewith.

(B) **VACCINATED BITTEN ANIMALS.** If the bitten or exposed animal has been vaccinated, the animal shall be revaccinated within 24 hours and quarantined for a period of forty-five (45) days following revaccination; or if the animal is not revaccinated within 24 hours, the animal shall be isolated and quarantined under veterinary supervision for six (6) months. The animal shall be destroyed if the owner does not comply with this subsection.

7- 4- 8. REMOVAL OF QUARANTINED ANIMAL.

It shall be unlawful for any person to remove any such animal from the place of quarantine without written permission of the Summit County Summit County Department of Animal Control. It is unlawful for any person to permit, or suffer to escape, any such animal from its place of quarantine or impoundment.

7- 4- 9. TWO ATTACKS DEEMED A VICIOUS ANIMAL.

If any animal bites or attacks a person or animal two times or more in a twelve (12) month period, such animal may be immediately impounded by the Summit County Department of Animal Control without court order and held at owner expense pending court action. Any such animal shall be deemed a vicious animal, and the Director of Animal Control may seek a court order as provided in § 7- 3- 7 for destruction of the animal. Parties owning such animal shall, if possible, be notified immediately of the animal's location by the Animal Control.

CHAPTER 5 - IMPOUNDING

7- 5- 1. ANIMALS TO BE IMPOUNDED.

The Director shall place all animals which he takes into custody in a designated animal impound facility. The following animals may be taken into custody by the Director and impounded without filing a complaint:

- (A) Any animal being kept or maintained contrary to the provisions of this Title;
- (B) Any animal running at large contrary to the provisions of this Title;
- (C) Any animal which is by this Title required to be licensed and is not licensed. An animal not wearing a tag shall be presumed to be unlicensed for purposes of this section.
- (D) Sick or injured animals whose owner cannot be located;
- (E) Any abandoned animal;
- (F) Animals which are not vaccinated for rabies in accordance with the requirements of this Chapter;
- (G) Any animal to be held for quarantine;
- (H) Any vicious animal not properly confined as required by § 7-3-7 herein.

7- 5- 2. IMPOUNDING, RECORDS TO BE KEPT.

Complete records shall be kept for all impounded animals and shall include the following information:

- (A) Description of the animal, including tag number.
- (B) Manner and date of impound.
- (C) Location of the pickup and name of the officer picking up the animal.
- (D) Manner and date of disposal.
- (E) Name and address of the redeemer or purchaser.
- (F) Name and address of any person relinquishing an animal to the impound facility.
- (G) All fees received.
- (H) All expenses accruing during impoundment.

7- 5- 3. IMPOUNDING, DISPOSITION.

(A) Licensed Animals shall be impounded for a minimum of five (5) working days before further disposition, except as otherwise provided herein. Reasonable effort shall be made to notify the owner of any animal wearing a license or other identification during that time. Notice shall be deemed given when sent to the last known address of the listed owner. Any animal voluntarily relinquished to the Summit County Animal Control facility by the owner therefor for destruction or other disposition need not be kept for the minimum holding period before release or other disposition as herein provided.

(B) No dog or cat shall be released for adoption until such dog or cat is spayed or neutered unless payment for such spaying or neutering is deposited with Animal Control and the person to whom the dog or cat is released agrees, in writing, to cause such dog or cat to be spayed or neutered. Such agreement shall provide that the purchaser will have the dog or cat spayed or neutered within 120 days of the date of purchase. Failure to spay or neuter such dog or cat shall be deemed a breach of the adoption contract and shall result in its termination, return of the dog or cat, and forfeiture of all amounts paid to Animal Control. All adoptions are conditional until the animal is spayed or neutered.

(C) All dogs, except for those quarantined or confined by court order, held longer than the minimum impound period, and all dogs voluntarily relinquished to the impound facility may be destroyed or sold as the Director shall direct. Any healthy dog may be sold to any person desiring to purchase such animal for a price to be determined by the Director but not to exceed the fee set by the County, plus license, rabies vaccination, and/or spaying or neutering fees, if required.

(D) Any licensed animal impounded and having or suspected of having serious physical injury or contagious disease requiring medical attention may, in the discretion of the Director, be released to the care of a veterinarian with the consent of the owner.

(E) When, in the judgment of the Director, it is determined that an animal should be destroyed for humane reasons or to protect the public from imminent danger to persons or property, such animal may be destroyed without regard to any time limitations otherwise established herein, and without court order.

7- 5- 4. IMPOUNDING REDEMPTION.

The owner of any impounded animal or his authorized representative may redeem such animal before disposition provided he pays:

(A) The impound fee;

(B) The daily board charge;

- (C) Veterinary costs incurred during the impound period, including rabies vaccination;
- (D) License Fee, if required.

No impound fee will be charged to the reporting owners of suspected rabid animals if they comply with § 7-4-6 herein.

7- 5- 5. DEFINITIONS.

Whenever any dog or cat is voluntarily relinquished by the owner thereof to the animal control facility for destruction or other disposition as provided by § 7-5-4 of this Title, a fee shall be paid by such owner of ten dollars (\$10.00) for each dog and/or for each litter of dogs and five dollars (\$5.00) for each cat and/or for each litter of cats so relinquished.

7- 5- 6. ANIMAL SHELTER.

The governing authority shall provide suitable premises and facilities to be used as an animal shelter where impounded small animals can be adequately kept. they shall purchase and supply food and supply humane care for impounded animals. The governing authority shall provide for the painless and humane destruction of dogs and other animals required to be destroyed by this Title or by the laws of the state of Utah. The governing authority may furnish, when necessary, medical treatment for such animals as may be impounded pursuant to this Title.

CHAPTER 6 - CRUELTY TO ANIMALS PROHIBITED

7- 6- 1. PHYSICAL ABUSE.

It is unlawful for any person to willfully or maliciously kill, maim, disfigure, torture, beat with a stick, chain, club or other object, mutilate, burn or scald, overdrive or otherwise cruelly set upon any animal. Each offense shall constitute a separate violation.

7- 6- 2. HOBBLING ANIMALS.

It is unlawful for any person to carry or confine any animal in or upon any vehicle in a cruel or inhumane manner, including but not limited to, carrying or confining such animal without adequate ventilation or for an unusual length of time.

7- 6- 3. CARE AND MAINTENANCE.

It shall be the duty of any person to provide any animal in his charge or custody, as owner or otherwise, with adequate food, drink, care (which shall include veterinary care) and shelter.

7- 6- 4. ANIMAL POISONING.

It shall be unlawful for any person by any means to make accessible to any animal, with intent to cause harm or death, any substance which has in any manner been treated or prepared with any harmful or poisonous substance. This provision shall not be interpreted so as to prohibit the use of poisonous substances for the control of vermin in the furtherance of the public health when applied in such a manner as to reasonably prohibit access to other animals.

7- 6- 5. INJURY TO ANIMALS BY MOTORISTS.

(A) Every operator of a motor or other self-propelled vehicle upon the streets of the jurisdiction shall immediately upon injuring, striking, maiming or running down any domestic animal give such aid as can reasonably be rendered. In the absence of the owner, he shall immediately notify the Animal Control Department, furnishing requested facts relative to such injury.

(B) It shall be the duty of such operator to remain at or near the scene until such time as the appropriate authorities arrive, and upon the arrival of such authorities, the operator shall immediately identify himself to such authorities. Alternatively, in the absence of the owner, a person may give aid by taking the animal to the Animal Control Facility or other appropriate facility and notifying the Animal Control Department. Such animal may be taken in by the Animal Control facility and dealt with as deemed appropriate under the circumstances.

(C) Emergency vehicles are exempted from the requirements of this provision.

7- 6- 6. ANIMALS FOR FIGHTING.

(A) It shall be unlawful for any person, firm, or corporation to raise, keep or use any animal, fowl or bird for the purpose of fighting or baiting; and for any person to be a party to or be present as spectator at any such fighting or baiting of any animal or fowl; and for any person, firm or corporation to knowingly rent any building, shed, room, yard, ground or premises for any such purposes as aforesaid, or to knowingly suffer or permit the use of his buildings, sheds, rooms, yards, grounds or premises for the purposes aforesaid.

(B) Law enforcement officers or Animal Control Department officials may enter any building or place where there is an exhibition of fighting or baiting of a live animal, or where preparations are being made for such an exhibition, and the law enforcement officers may arrest persons there present and take possession of all animals engaged in fighting, along with all implements or applications used in such exhibition. This provision shall not be interpreted to authorize a search or arrest without a warrant when such is required by law.

7- 6- 7. MALICIOUS IMPOUNDING.

It shall be unlawful for any person maliciously to secrete or impound the animal of another.

CHAPTER 7 - KENNELS, PET SHOPS ETC., AND THE REGULATION THEREOF

7- 7- 1. KENNEL PERMITS.

(A) Any person wishing to operate or maintain a kennel, cattery, pet shop or groomery must first obtain a kennel license from the Summit County Department of Animal Control. Said kennel license shall be issued upon payment of the fee and a statement from the Summit County Planning Department or appropriate city official that a kennel is a permitted use under the zoning regulations in effect for the area of the proposed kennel.

(B) A valid kennel license shall be posted in a conspicuous place in each establishment and said license shall be considered as appurtenant to the premises and not transferable to another location. The licensee shall notify the Summit County Department of Animal Control within thirty (30) days of any change in his establishment or operation which may effect the status of his license. In the event of a change in ownership of the establishment, the licensee shall notify the Summit County Department of Animal Control immediately. Licenses shall not be transferable from one owner to another.

(C) Any license issued pursuant to this section shall automatically expire on December 31st, immediately following date of issue. During the first three (3) months of each year the licensee shall apply for a renewal of the license and pay the required fee. Any application made after March 31, except an application for a new establishment opening subsequent to that date, shall be accompanied by a late application fee in addition to the regular permit fee.

7- 7- 2. STANDARDS FOR PERMITTED ESTABLISHMENT.

The Summit County Department of Animal Control shall promulgate rules and regulations governing the operation of kennels, catteries, groomers, pet shops. Such rules and regulations shall provide for the type of structures, buildings, pens, cages, runways or yards required for the animal sought to be kept, harbored or confined on such premises; the manner which food, water and sanitation facilities will be provided to such animals; measures relating to the health of said animals, the control of noise and odors, and the protection of person or property adjacent premises; and other such matters as the Director shall deem necessary. Such rules and regulations shall have the effect of law, and violation of such rules and regulations shall be deemed a violation of this Title and grounds for revocation of a permit issued by the Summit County Department of Animal Control.

7- 7- 3. SUSPENSION OR REVOCATION OF PERMIT.

(A) **GROUND.** A permit may be suspended or revoked or a permit application rejected on any one or more of the following grounds:

- (1) Falsification of facts in a permit application;
- (2) Violation of any of the provisions of this Title or any other law or regulation governing the establishment including noise.
- (3) Conviction on a charge of cruelty to animals.

(B) **PROCEDURE.** If an inspection of kennels, catteries, groomeries, pet shops, reveals a violation of this Title, the inspector shall notify the permit holder or operator of such violation by means of an inspection report form or other written notice. The notification shall:

- (1) set forth the specific violation(s) found;
- (2) establish a specific and reasonable period of time for the correction of the violations found;
- (3) state that failure to comply with any notice issued in accordance with the provisions of this Title may result in immediate suspension of the permit.

7- 7- 4. EMERGENCY SUSPENSION.

(A) Notwithstanding the other provisions of this Title, when the inspecting officer finds unsanitary or other conditions in the operation of kennels, catteries, groomeries, pet shops, or a similar establishment, which in his judgment, constitute a substantial hazard to public health, he may, without warning or hearing, issue a written notice to the permit holder or operator citing such condition specifying the corrective action to be taken. Such order may state that the permit is immediately suspended and all operations are to be discontinued. Any person to whom such an order is issued shall comply immediately therewith. Any animals at such a facility may be confiscated by the Animal Control Department and impounded or otherwise provided for according to the provisions of this Title.

(B) Notice provided for under this section shall be deemed to have been properly served when the original of law inspection report form or other notice has been delivered personally to the permit holder or person in charge, or such notice has been sent by certified mail to the last known address of the permit holder. A copy of such notice shall be filed with the records of the Summit County Department of Animal Control.

7- 7- 5. INTERFERENCE WITH OFFICERS PROHIBITED.

It is unlawful for any person to do any act which hinders, delays, interferes with or obstructs an Animal Control Officer while engaging in the discharge of their duties,

including furnishing false information to such.

CHAPTER 8 - DOMESTICATED ANIMALS

7- 8- 1. DOMESTICATED ANIMALS.

It is unlawful for the owner or person having charge, care, or custody of any domesticated animal to allow such to be at large. Domestic animals include horses, cattle, sheep, pigs, goats, etc.

CHAPTER 9 - PENALTIES AND SEVERABILITY

7- 9- 1. PENALTIES.

Any person violating the provisions of this Title either by failing to do those acts required herein or by doing any act prohibited herein, shall be subject to fine in an amount not to exceed seven hundred and fifty dollars (\$750.00), or imprisoned in the County jail not to exceed ninety (90) days, or both such fine and imprisonment or such further fines and imprisonments provided for Class "C" misdemeanors pursuant to U.C.A. 76-3-101 , et seq. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

**PARK CITY COUNCIL WORK SESSION NOTES
SUMMIT COUNTY, UTAH
AUGUST 16, 2007**

Present: Mayor Dana Williams; Council members Marianne Cone; Roger Harlan; Jim Hier; and Joe Kernan

Tom Bakaly, City Manager; Mark Harrington, City Attorney; Alison Butz, Project Manager; Eric DeHaan, City Engineer; Kathy Lundborg, Water Manager; Paul Jerominski, Water Worker Supervisor

David Chaplin, 86 Prospect Avenue

Absent: Council member Candace Erickson

1. Council questions/comments. Roger Harlan discussed the progress on school related traffic calming projects and noted his appreciation of the City neighborhood barbecues. Jim Hier pointed out that there may be reoccurring problems with high school sophomores parking in the Prospector neighborhoods this year because parking permits will not be issued to them. He commented on the City party at Lagoon and recognized the great job of the golf course staff in supporting the Ladies State Golf Tournament. He congratulated Nora Shepherd for being named *Professional Citizen of the Year* by the Rotary Club which is well deserved. Mayor Williams commented on the final recommendations of Governor's Climate Committee and the dynamic in reaching consensus when a variety of interests exist. The Governor formed another committee consisting of some of the same members charged to create a renewable energy standard for the state.

2. Marsac Building seismic upgrade green building elements. Alison Butz, Project Manager, explained that in May, the City Council set a standard of meeting a minimum Energy Star score of 75 and a LEED certified level, and not pursuing the LEED certification. Rocky Mountain Power hired ETC Group to conduct an analysis of the building which outlined costs, incentives, and pay-back on five elements. The pay back period is 8.2 years including the geo-thermal exchange, day-lighting, etc. and staff is looking at a 30% energy savings over base line in the building which is a great start. Some items are still being investigated and a test will be conducted in the north parking lot on geo-thermal applications. There is an opportunity to transfer \$54,000 from the police facility construction to this project. Ms. Butz explained that budgeting for a certified level, an additional 4% for green building, and in consideration of the \$54,000 transfer, totals \$176,000.

She asked if Council members desire to achieve a silver level or would rather wait and see what is accomplished with the existing resources. Costs are estimated at this point and will probably change once the schematic design is completed. She asked if members want to include the cost of a certification "*plaque*" awarded by LEED at a cost of about \$50,000. The Mayor expressed that he was never a supporter of spending

more money to receive a plaque but has changed his mind. One of the benefits of receiving a plaque is the credibility provided by an independent group verifying green building criteria. He compared this to the Summit Land Conservancy, an independent organization, holding preservation easements on open space properties; the government should set an example. Discussion ensued on the number of points that could be accumulated with this project and associated costs. Ms. Butz reiterated that staff is working on the goal of achieving a certified level base, including the potential of an additional 4% and \$54,000 in additional funding. Design drawings need to move forward and receiving Council direction on the level of LEED desired is critical.

Joe Kernan stated that his interest relates to the rate of return of the pay-back on green elements more than collecting points. There was discussion about some LEED elements providing little or no value to the project. Roger Harlan referred to the philosophy for the police facility where receiving a LEED plaque was discussed but not supported by the group. He felt that the City can gain the same benefit through good public relations, but supported pursuing the gold level if the City is close. She described the new efficient windows contemplated for the Marsac Building and the recycling plan for materials. Jim Hier stated that obtaining points is not his objective and agreed with Mr. Kernan that the City should explore a pay-back analysis. He also suggested identifying a dollar amount for elements where a pay-back is not applicable and felt that a 10% or 10 year pay-back is another good rule of thumb although a hard and fast rule does not need to be applied to this analysis. The plaque is not very meaningful to him and the Mayor's example of having a third party monitor conservation easements is not a good analogy in his opinion. If LEED is able to relieve staff from some work in monitoring green building, pursuing a plaque may be a worthwhile goal, but he is not supportive of paying some one else \$30,000 for confirming our work. Marianne Cone favored achieving the certified level but not pursuing the plaque at a cost of an additional \$30,000.

Discussion ensued regarding the assignment and collection of points by LEED. Ms. Butz explained that LEED awards points for projects like bike storage or access to public transportation, for example, which is why staff included the Energy Star criteria. She stated that it is possible to have a LEED certified building that is not energy efficient. Joe Kernan stated that he changed his mind, and is now supportive of pursuing a LEED plaque as a public statement; it is a small portion of the costs.

Council member Hier confirmed that all members concur to use the \$54,000 and increase green building by 4%. He suggested that the pay-back be measured with the 10% rule to prioritize elements budgeted for the project and if staff feels a \$30,000 LEED certification provides a return, it should be included in the analysis. Tom Bakaly warned against increasing the project's budget with this approach and Jim Hier emphasized that it is not his intention to modify the budget, but some new green elements may surface which may eventually be included.

Mr. Bakaly stated that Council would be adding about \$50,000 to a \$6.2 budget, and staff will prioritize green building initiatives based on return. If there is potential for a

budget increase, staff will return to the City Council for direction. He added that the \$50,000 from the police facility would definitely secure the silver LEED level but there is a pretty significant gap between gold and silver. Alison Butz confirmed that the main goal is to look at the bottom line of the 4% and spend it wisely, rather than focus on collecting points.

Roger Harlan strongly emphasized the importance that the City prudently spends public funds and sensed that the LEED program is “wonderful” but a little “wacko”. He expressed confidence in staff’s analysis as elements of the project are refined. Money is important to him as well as staying within the budgeted amount. Mayor Williams acknowledged the significant progress the City is making with regard to green building and Jim Hier reiterated that if pursuing the plaque saves staff time in monitoring aspects of the project, it may be worthwhile considering. If it doesn’t, he is not favor in acquiring the plaque. Roger Harlan agreed. Marianne Cone expressed that an award from Energy Star is more meaningful to her than LEED.

3. Prospect Avenue water line. As the home owner of 86 Prospect Street, Council member Cone excused herself from this portion of the meeting. Eric DeHaan introduced the topic and explained that the reconstruction of Prospect Street was a cooperative effort with Questar, Snyderville Basin Reclamation District, and the City. There were a number of utility issues on this very narrow street where the entire water system was replaced, and storm drain lines and utility conduits were installed. He relayed that last winter brought a cold snap in very dry weather with little snow. Snow acts as insulation and Park City along with other high altitude cities experienced a series of freezing water lines. Heber City actually had its main water line freeze last winter.

Mr. DeHaan noted that within the Prospect/Chambers project area, four water services froze out of a total of 22, including 86 Prospect Street owned by David Chaplin and Marianne Cone. Unfortunately there is no easy fix and nothing is broken. The hook-up at 86 Prospect is identical to thousands of other connections in the Park City system. He explained that the City recommends running a 1/8” water drip from a tap during cold temperatures so that the service lateral remains clear. With regard to the concern of wasting water, Mr. DeHaan explained that water would be wasted if that water could be saved for summertime use. Our water system doesn’t have a reservoir providing for water storage. Running water in high elevations has typically been the solution for frozen water lines because it is relatively simple and cheap and doesn’t waste a resource. Staff has elected not to make repairs to the service at 86 Prospect although the City assisted in burying a water lateral at 44 Prospect Street because it was only 18” from the surface.

Mr. DeHaan relayed that it is possible to undertake a project to reconstruct the four water lines which froze last year which is expensive because of buried utilities, and has the potential of setting a precedent. Option B in the staff report recommends replacing the lateral only at 86 Prospect. There is a option to cost-share the project with the owner(s) and another recommendation to wait until spring to evaluate whether the ’06-

'07 winter and associated frozen water pipes were unique to the unusual weather. The City Engineer reiterated that staff's recommendation is to run water to solve the freezing problem. Mayor Williams pointed out that if water is run from the tap all winter, how can the problem be fully realized by waiting until next spring. Mr. DeHaan indicated that freezing patterns at adjacent properties will be telling and Kathy Lundborg added that a list of 38 properties with a history of frozen pipes is maintained by the City and those households are asked to run water in the winter. Last year, 106 customers reported frozen pipes and there are probably more properties not reporting the problem.

The Mayor understood that the City is responsible from the main to the meter and the home owner from the meter to the house and Eric DeHaan confirmed that the problem at 86 Prospect is from the main to the meter. There was discussion about running water from a tap or from specialty valves. He indicated that old plumbing leaks which actually helps eliminate freezing, and was probably the case on Prospect before the project. Joe Kernan supported the City covering the cost of installing a plumbing device in these instances and Ms. Lundborg advised that it is likely that each household is different.

Roger Harlan pointed out that four failed and the other 18 Prospect Avenue properties experienced no problems. Because it is the City's responsibility to maintain service from the main to the meter, he supports remedying the situation. The City Engineer stated that staff doesn't know why the four lines froze. He emphasized that other communities like Heber and Oakley experienced the same problems last winter.

David Chaplin, 86 Prospect Avenue, explained that he is not asking that the City repair a water line on his property, but requesting that the City change out the water equipment installed in 2006 as a part of the reconstruction project. In the 1970s he explained that his pipes froze on a regular basis until the water connection was lowered considerably which proved to be effective. On January 31, 2007 his neighbor's pipes froze but were thawed by the Water Department. The Department connected a hose from the fire hydrant to his water meter, spanning approximately 50 feet and residents were advised to run a 1/8" stream at all times. Freezing continued because the hose was exposed and property owners were encouraged to run a stronger stream of water. Mr. Chaplin stated that running one gallon per minute down a drain concerns him despite the water storage argument. His house was built in 1906 and running water can be clearly heard throughout the wooden structure at any level; it's inescapable. The suggestion to endure the nuisance for several months a year is inappropriate. Mr. Chaplin pointed out that he appreciates 99% of the reconstruction project, but strongly feels that the freezing problem should be rectified by the City.

Joe Kernan expressed that he is not supportive of replacing water equipment at \$10,000 per household for four connections and asked for information on noise from run-off valves. In response to a question from Jim Hier about the pre-existing list of freezing water lines, Ms. Lundborg relayed that 12 are on the City's side and six are on the customer's side.

The Mayor felt the letter sent to Prospect residents was inappropriate and he didn't feel that residents should have to cost-share solutions. It is the City's problem. He understands freezing occurs from time to time, but if it is a continuing issue between the meter and the main, it is the City's responsibility. Roger Harlan agreed but expressed confusion about the majority of the street not being impacted. Jim Hier suggested exploring other solutions like installing heat tape to avoid digging up equipment. Mayor Williams confirmed consensus that responsibility between the main and the meter is the City's. Tom Bakaly advised that it is too late to tear up the street to replace the water equipment and running water may be the only solution this winter season. Jim Hier suggested trying some things like installing heat tape as an interim solution.

4. Review of regular meeting. There was no time available to review regular meeting items.

Prepared by Janet M. Scott, City Recorder

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
AUGUST 16, 2007**

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, August 16, 2007. Members in attendance were Dana Williams, Marianne Cone, Roger Harlan, Jim Hier, and Joe Kernan. City Council Member Candace Erickson was absent and excused. Staff present was Tom Bakaly, City Manager; Mark Harrington, City Attorney; Gary Hill, Budget Manager; Kirsten Whetstone, Planner; Katie Cattan, Planner, Sharon Atkinson, Planner, and Jerry Gibbs, Public Works Director.

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

Resolution supporting Leadership XIII's initiative to increase bus rider-ship and proclaiming August 24, 2007 as "Free Ride the Free Bus Day" in Park City, Utah – The Mayor read and presented the Resolution promoting Leadership XIII class' project to promote the use of public transportation.

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

None.

IV WORK SESSION NOTES AND MINUTES OF MEETING OF AUGUST 2, 2007

V CONSENT AGENDA PUBLIC HEARINGS *(items listed will be open for public hearing prior to consideration for adoption or rejection; hearings may also be continued by vote of the Council)*

1. Consideration of an Ordinance approving a condominium conversion for Nakoma, Pod B1 in Empire Pass (motion to continue to September 13, 2007) – Joe Kernan, "I move to continue to September 13". Marianne Cone seconded. Motion carried,

Marianne Cone	Aye
Candace Erickson	Absent
Roger Harlan	Aye
Jim Hier	Aye
Joe Kernan	Aye

2. Consideration of an Ordinance approving the rezone of the Iron Canyon Subdivision from the Residential Development District to the Single Family District of Park City, Utah – Planner Katie Cattan explained the application requesting a zone change in Iron Canyon Subdivision from Residential Development to Single Family,

eliminating nightly rental use. The Planning Commission forwards a positive recommendation. The subdivision consists of single family homes on 44 lots and the allowed uses for the two zones are very similar with the major difference in the regulation of nightly rentals, lock-out units, parking, and Olympic legacy displays. The one licensed nightly rental in the subdivision is located at 2433 Iron Canyon Drive which will be grandfathered if and until the use is abandoned for one full year. She relayed that staff recommends approval based on the ordinance as written and explained the nightly rental license process for the benefit of Joe Kernan. Notice of the proposed zone change was provided to owners in the Iron Canyon Subdivision and property owners within 300 feet, in addition to posted and published noticing. In response to a question from Roger Harlan, Mark Harrington explained that the nightly rental use runs with the property as long as it remains licensed. The Mayor opened the public hearing.

Julie Wenner, applicant and long term resident of Iron Canyon, explained her concern of adding more nightly rentals in the subdivision which lacks adequate parking and/or infrastructure to support the use. She heard from all owners, except eight.

Mindy Long stated that she represents Utah Vacation Homes, which manages 2433 Iron Canyon and 2464 Iron Mountain. She argued that the latter address has a valid nightly rental license and should also be excluded from the ordinance (grandfathered). Mark Harrington advised that the validity of the license is disputed and a final determination has not yet been made; he suggested not addressing this issue as a part of this public hearing tonight.

With no further comments, the public hearing was closed.

3. Consideration of an Ordinance approving the Rothwell Subdivision located at 175 Snows Lane, Section 8, Township 2 South, Range 4 East, Salt Lake Base and Meridian, Park City, Utah – Planner Kirsten Whetstone explained that this is a request for a two lot subdivision for an existing and future house. It is located north of the Silver Star Condominium Project and west of Three Kings Drive. The zoning is Estate at a density of three acres per unit and the property is also located in the SLO overlay. It was annexed as the Bernolfo Family Annexation and contains of 6.472 acres to be divided in half for each lot. The applicants are requesting an exception to the 30 foot setback for the existing house which was approved by the Planning Commission and she detailed the aspects of the building lots and the delivery of utilities and water. The Planning Commission held a public hearing on August 8 where there was input on noticing and a request for input on the design of the new residence by the Kings Court by the adjacent neighborhood. Ms. Whetstone urged approval based on the elements of the ordinance. The Mayor opened the public hearing and with no comments, closed the public hearing. There was discussion about not requiring a building permit for outbuildings and structures less than 160 square feet.

4. Consideration of an Ordinance approving the 1027 Woodside Avenue Subdivision, located at 1027 Woodside Avenue, Park City, Utah - Planner Sharon Atkinson explained that the request is to remove an interior lot line. A snow shed

agreement was executed between home owners and the application complies with all requirements of the LMC. The Planning Commission held a public hearing on August 8, 2007 where no comments were rendered and a positive recommendation was forwarded to the Council. The Mayor opened the public hearing and hearing no comments from the audience, closed the hearing.

5. Consideration of an Ordinance approving the Daly West Subdivision Lots 5 and 6, creating two lots of record at 331 and 337 Daly Avenue, Park City, Utah – Planner Katie Cattan explained that on February 22, 2007, the City received an application to create two lots of record from two vacant metes and bounds parcels. The Planning Commission held a public hearing on July 11, 2007 where concerns were expressed about the potential allowable density. She stated that the applicant agreed with a subsequent Condition of Approval No. 7 to restrict development to single family homes on each lot. The Planning Commission again considered the project on July 25, 2007 and forwarded a positive recommendation to the City Council. There was no public comment. The Mayor opened the public hearing and with no comments made by the public, closed the hearing.

6. Ordinance approving the Christopher Homes at Empire Pass Condominiums, Phase I record of survey plat located at Lot 2 of the Silver Strike Subdivision, Park City, Utah – Planner Kirsten Whetstone explained elements of the application and relayed that there was no public input rendered at the Planning Commission meeting held on August 8, 2007. She encouraged the Council to approve the plat based on the ordinance as drafted. The Mayor opened the public hearing where there was no public input.

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”*)

Joe Kernan, “I move we approve Items 1 through 9”. Jim Hier seconded. Motion carried.

Marianne Cone	Aye
Candace Erickson	Absent
Roger Harlan	Aye
Jim Hier	Aye
Joe Kernan	Aye

1. Ordinance approving the rezone of the Iron Canyon Subdivision from the Residential Development District to the Single Family District of Park City, Utah – See staff report and public hearing.

2. Ordinance approving the Rothwell Subdivision located at 175 Snows Lane, Section 8, Township 2 South, Range 4 East, Salt Lake Base and Meridian, Park City, Utah - See staff report and public hearing.
3. Ordinance approving the 1027 Woodside Avenue Subdivision, located at 1027 Woodside Avenue, Park City, Utah - See staff report and public hearing.
4. Ordinance approving the Daly West Subdivision Lots 5 and 6, creating two lots of record at 331 and 337 Daly Avenue, Park City, Utah - See staff report and public hearing.
5. Ordinance approving the Christopher Homes at Empire Pass Condominiums, Phase I record of survey plat located at Lot 2 of the Silver Strike Subdivision, Park City, Utah - See staff report and public hearing.
6. Resolution supporting Leadership XIII's initiative to increase bus rider-ship and proclaiming August 24, 2007 as "Free Ride the Free Bus Day" in Park City, Utah - See staff report and Communications from Council.
7. Professional services contract with FFKR Architects in the amount of \$29,510 for the preparation of a feasibility analysis of an expanded bus maintenance facility - See staff report.
8. Authorization to the Mayor to sign a Cooperative Agreement with the Utah Department of Transportation relating to the installation of a traffic signal at the intersection of Meadows Drive and SR224 - See staff report.
9. Appointment of Election Poll Workers as recommended by the Park City Senior City Recorder-Election Official - See staff report.

VII NEW BUSINESS (*new items with presentations and/or anticipated detailed discussions*)

1. Resolution providing for the holding of a special bond election on November 6, 2007 for the purpose of submitting to the qualified electors of the City the question of the issuance and sale of General Obligation Bonds of the City in an amount not to exceed \$15,000,000; declaring official intent with respect to certain expenditures; and providing for related matters – Gary Hill explained that adoption of the resolution will result in a bond question appearing on the November 6, 2007 ballot. On August 2, 2007, the City Council directed staff to pursue a \$15 million bond issue over 15 years. He explained that a public process during the budget review will be conducted in the spring to define projects and at that time there will be more information on the feasibility of ideas. There seems to be public support for this initiative which would allow the City to build now rather than at a higher cost later but the downside may be creating unrealistic expectations in the community, especially since none of the design and engineering work has been done. Mr. Hill added that the City does not have unlimited

bonding capacity and this issuance may inhibit future bonding opportunities. The tax impact is about \$17 per year per \$100,000 of assessed value for a primary residence and \$30 for a business or second residence. He reviewed language suggested by bond counsel regarding the City's ability to tax at the time the debt is issued and other changes from the meeting packet version. Roger Harlan felt that the right approach is providing for a public vote and the Mayor invited public input.

Carol Potter, Mountain Trails Foundation, applauded Council's responsiveness to the community's concerns and ideas.

Marianne Cone, "I move that we approve a Resolution providing for the holding of a special bond election on November 6, 2007 for the purpose of submitting to the qualified electors of the City the question of the issuance and sale of General Obligation Bonds of the City in an amount not to exceed \$15,000,000; declaring official intent with respect to certain expenditures; and providing for related matters". Joe Kernan seconded. Motion carried.

Marianne Cone	Aye
Candace Erickson	Absent
Roger Harlan	Aye
Jim Hier	Aye
Joe Kernan	Aye

2. Resolution forming a Business Improvement District for the downtown core in Park City, Utah – Gary Hill explained that consideration of forming a business improvement district was prompted by the County's decision not to provide commercial trash service. A district can be formed by petition by obtaining 10% of the businesses in the recommended area, holding a public hearing and adopting a resolution creating the district. Once the district is created there is a 15 day contest period whereby 50% of the businesses could overturn the formation of the district. On June 21, 2007, the City Recorder received a petition with signatures from 36 Main Street businesses, representing approximately 14% of the boundary area. Mr. Hill noted that the original purpose of forming the district was collection of commercial trash and it is proposed to use the district as a defined geographical area for which the City would contract for services for a single operator. The hauler will bill businesses directly and non-payment may result in the City not renewing business license holders in arrears. The petitioners have requested that the district be able to impose a tax, according to state code, for the purpose of business promotion. Mr. Hill suggested that for this purpose, the City would collect tax revenues from businesses, issue a RFP, and enter into a service provider contract for marketing Main Street accordingly. Staff has not formulated recommendations on business promotion but the public hearing can be continued.

Jim Hier stated that he is uncertain if the \$150 assessment is appropriate for marketing events and suggested that this matter be continued until roles are better defined. He noted that he is uncomfortable with an open-ended arrangement and also uncomfortable with just covering commercial trash collection and not having a

mechanism to fund the administration of activities of the HMBA. Marianne Cone pointed out that there are 262 business licenses in the Main Street area and only 36 signatories. She supported forming a district for trash, but is reluctant to impose a tax for activities that are not clearly defined. The Mayor opened the public hearing. The City Attorney interjected that staff is recommending adopting a resolution forming the district; which will not impose a tax at this time nor limit Council's ability to implement a tax in the future. Mr. Harrington advised that a subsequent tax and its defined parameters can be implemented through adoption of an ordinance by an appointed commission or by Council.

Mike Sweeney, HMBA, stated that he acquired the signatures for the petition and the reason for only coming up with 14% is because he stopped collecting signatures after the 10% requirement was fulfilled. He acknowledged that the marketing piece may be somewhat premature until a more complete analysis can be conducted.

With no further comments from the audience, the Mayor invited Council input and discussion ensued regarding the boundaries of the district. In response to a question from Joe Kernan, Mike Sweeney explained the desire for the HMBA to hire an administrative assistant and to raise funding to operate the organization. The HMBA currently receives restaurant tax and Chamber grant monies. Joe Kernan pointed out the potential of the budget growing quickly and suggested that businesses be assessed by size or type. Gary Hill emphasized the difference between a fee and a tax, with a fee being based on proportionate benefit. He felt that there is no difference in the benefit received by large businesses over small ones and he again emphasized that it is a tax and not a fee.

Mark Harrington explained the taxing powers of the City. Joe Kernan reiterated his belief that some businesses may benefit more than others, and Mike Sweeney stated that the HMBA has never taken this approach. Jim Hier envisioned administrative services to include disbursing and collecting information to and from the membership and having a representative organization in place is helpful for the City. Joe Kernan disagreed and felt the cost to contact members is irrelevant and the benefit realized by all businesses is key. If smaller businesses are forced to pay a tax, it should be fair. Jim Hier believed that the tax is designed to cover the cost to function as an organization and Roger Harlan indicated that trash collection is his immediate concern. He added that it is difficult to gauge business support on Main Street because the HMBA does not represent everyone and he does not feel it appropriate for the City to be responsible for the administration of the organization. Council member Harlan reiterated his support of a BID for trash collection. Jim Hier acknowledged a level of disconnect among Main Street businesses, but cautioned members to consider the value of the HMBA for feedback on a number of issues. Tom Bakaly suggested continuing the item until the purpose and charge of the district is finalized and clear to participants.

Mark Harrington explained that the mechanism is defined by state statute and the resolution creating the district will incorporate all powers provided for in the state code,

unless otherwise drafted. Mr. Hier suggested that he and staff meet with the HMBA Executive Board next week so that the powers of the district are not open-ended, "I move that we continue this until August 30th and direct staff to come back with a revised BID resolution". Roger Harlan seconded. Motion carried.

Marianne Cone	Aye
Candace Erickson	Absent
Roger Harlan	Aye
Jim Hier	Aye
Joe Kernan	Aye

Gary Hill discussed the process to protest the formation of the district for the benefit of Marianne Cone. Mike Sweeney discussed a variety of methods of getting information on the street. Councilmember Kernan asked that Mr. Sweeney quantify administrative costs relating to all of the businesses on the street because he felt the assessment should be less than \$150 per business and could be as little as \$15. Ms. Cone asked if the fee can be changed after it is established. Mike Sweeney explained that the final assessment number will be greatly affected by the number of businesses participating in the program. It's not the intent of the HMBA to make money on this.

3. Award of three year contract to Allied Waste, in a form approved by the City Attorney, for hauling services within the Main Street area and at City facilities – Jerry Gibbs explained that because the BID has been continued, this item is also recommended to be continued with respect to Main Street, however, he requested that Council approve the portion of the contract regarding serving City facilities. The Main Street rate was based on the formation of the district.

Marianne Cone, "I move that we authorize the City Manager to enter into an agreement setting a rate for trash services for three years with Allied Waste for all City facilities". Roger Harlan seconded and there was discussion regarding the bid process and the City's Attorney's preference to continue the entire contract. Both the motion and second were withdrawn. Joe Kernan, "I move to continue this item for the contract with Allied Waste". Marianne Cone seconded. Motion carried.

Marianne Cone	Aye
Candace Erickson	Absent
Roger Harlan	Aye
Jim Hier	Aye
Joe Kernan	Aye

VIII ADDITIONAL DISCUSSION – AGENDA ITEMS

IX 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 p.m. Members in attendance were Mayor Dana Williams, Marianne Cone, Roger Harlan, Jim Hier, and Joe Kernan. Candace Erickson was absent and excused. Staff present was Tom Bakaly, City Manager; and Mark Harrington, City Attorney. Marianne Cone, "I move to close the meeting to discuss litigation, personnel and property". Joe Kernan seconded. Motion carried. The meeting opened at approximately 4:30 p.m. Roger Harlan, "I move to open the meeting". Joe Kernan seconded. Motion carried.

Marianne Cone	Aye
Candace Erickson	Absent
Roger Harlan	Aye
Jim Hier	Aye
Joe Kernan	Aye

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



Author: Alison Butz
Subject: Main Street and City Parks Recycling Contract
Date: September 13, 2007
Type of Item: Request for Award of Contract

Summary Recommendation:

Staff is requesting Council authorization for the City manager to enter into a service provider contract with Curb It Recycling, in a form approved by the City Attorney's Office, for providing recycling services for Main Street and City Parks in the amount of \$22,100.

Topic/Description:

Recycling Contract

Background:

Per Council's request Staff has moved forward with implementing recycling on Main Street and within City Parks. Staff started off by reviewing locations for recycling containers on Main Street and identified four locations for permanent cans.

The canister was selected based on the existing black street furniture (benches, newsracks and light poles) for Main Street. When selecting the cans Staff also took into consideration snow collecting on top, ease to remove full can, maintenance over time and issues currently experienced with the existing cans (tipping over, top removable, unintended relocations, etc.) Staff spoke with local contractors and found out we would need to identify not just with text but with the recycling symbol. A trash can, of the same design, would be placed next to the recycle bin to prevent contamination. The receptacles will be designated for glass, plastic and aluminum. Staff did not include the collection of paper in the RFP since any food on the paper contaminates the materials. Taking into consideration all the factors, Staff found only one supplier with the type of can that met our criteria. We have ordered 7 containers, please see the design on attachment A. The total cost of the containers will be \$27,000.

Analysis:

The City issued an RFP for hauling services and received 2 proposals. While we originally planned for just four receptacles for Main Street, the City received recommendations through the RFP process to move all of the new cans to Main Street and then use existing plastic movable containers for the parks since we could increase number of cans, same look, during events.

While both proposals were strong and incorporated different, appealing elements, Staff chose Curb It Recycling proposal based on the following assessment made by the selection committee:

- Overall cost

- Past customer service history

The second proposal, while not chosen, is the same provider of the recycling services to City Park this summer. Ed Parigian placed and has been emptying the recycle bins in City Park this year. He provided this service free of charge. While his proposal was not chosen, the City has contracted with him to continue the service through the end of September. Curb It will begin recycling in City Parks in April.

Ed's proposal included pick-up of the City Park recyclables via bicycle, Quinns and Main Street would be done with a motor vehicle. This was a carbon free element that the review committee looked at since the City is beginning to quantify our own carbon footprint. Unfortunately, the increase cost of the proposal outweighed the benefit.

Funding for the Recycling Services was budgeted in the Parks Department operating budget. The Main Street recycle cans are waiting to be placed upon award of this contract. Within the RFP we asked for rates on additional pickups during events such as Sundance and busy weekends. The contract is for the amount for the basic yearly service and Staff can go up to 20% above the cost to cover the extra services without amending the contract.

Department Review: Curb It Recycling was picked by a selection committee comprised of representatives of the Parks and Streets Department and Sustainability Team.

Alternatives:

- A. Approve the Request:** Staff is requesting authorization to enter into a service provider contract with Curb It Recycling, in a form approved by the City Attorney's Office, for provide recycling services for Main Street and City Parks in the amount of \$22,100.
- B. Deny the Request:** The City will not place the recycling cans on Main Street.
- C. Continue the Item:** Ask for information from staff before making a decision on the request.
- D. Do Nothing:** This will have the same impact as denying the request

Significant Impacts / Consequences of not taking the recommended action:

A delayed contract approval would delay the placement of the recycling cans on Main Street.

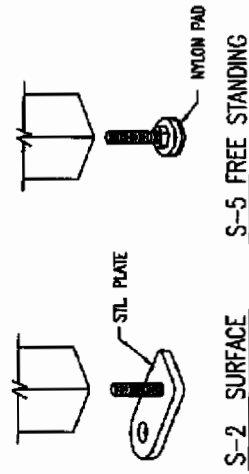
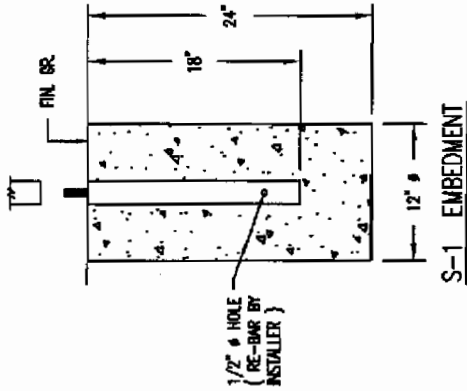
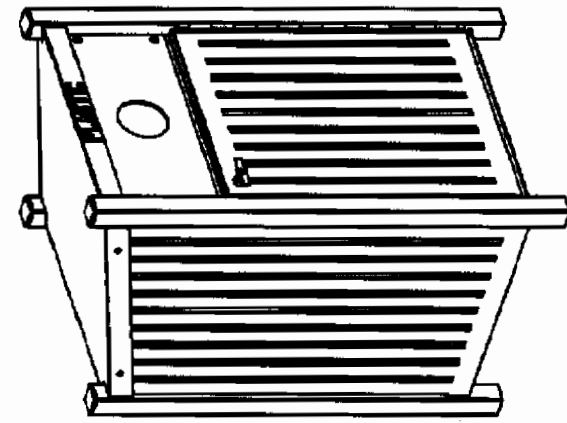
Recommendation:

Staff is requesting authorization to enter into a service provider contract with Curb It Recycling, in a form approved by the City Attorneys Office, for providing recycling services for Main Street and City Parks in the amount of \$22,100.

Attachments:

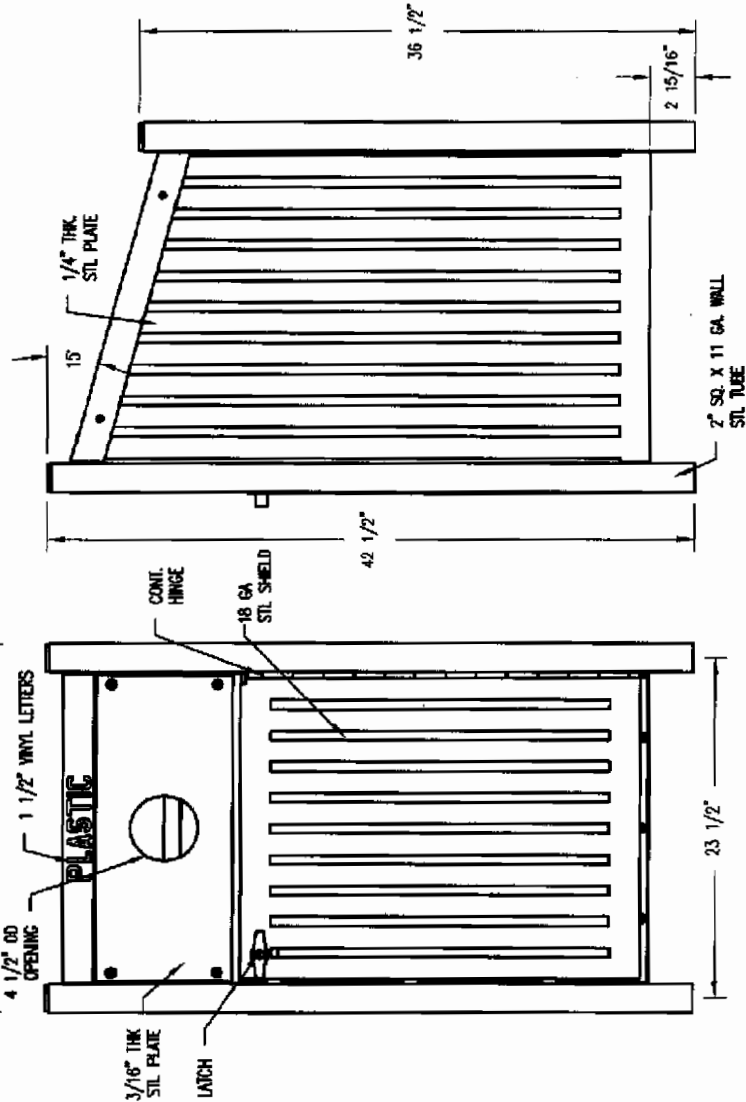
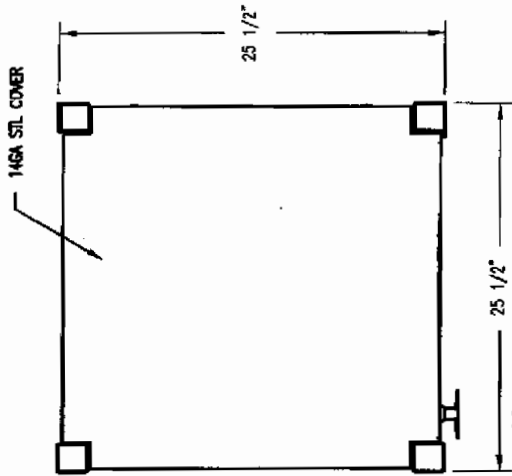
Attachment A – Container Design

Attachment B - Service Provider Contract – Curb It Recycling



NOTES:

- 1.) ALL STL. MEMBERS COATED W/ ZINC RICH EPOXY THEN FINISHED W/ POLYESTER POWDER COATING.
- 2.) 22 GAL PLASTIC LINER PROVIDED.
- 3.) UNIT WILL BE SHIPPED FULLY ASSEMBLED.
- 4.) 1/2" X 3 3/4" EXPANSION ANCHOR BOLTS PROVIDED.
- 5.) LATCH PROVIDED W/ KEY. USE OF KEY OPTIONAL.



RECEPTACLE

TITLE

DATE DRAWN : 8/24/05

DRAWN BY : JSB

DATE REV. :

REV. BY :

REVISION A

DRAWING NUMBER

66-077-22PL

DuMor, inc.
P.O. Box 142 Mifflintown, PA 17059-0142

PARK CITY MUNICIPAL CORPORATION SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into in duplicate this 30th day of August, 2007, by and between PARK CITY MUNICIPAL CORPORATION, a Utah municipal corporation, ("City"), and Curb It Recycling DBA Spangenberg Incorporated, a Utah corporation ("Service Provider").

WITNESSETH:

WHEREAS, the City desires to have certain services and tasks performed as set forth below requiring specialized skills and other supportive capabilities; and

WHEREAS, sufficient City resources are not available to provide such services; and

WHEREAS, the Service Provider represents that the Service Provider is qualified and possesses sufficient skills and the necessary capabilities, including technical and professional expertise, where required, to perform the services and/or tasks set forth in this Agreement.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, the parties hereto agree as follows:

1. SCOPE OF SERVICES.

The Service Provider shall perform such services and accomplish such tasks, including the furnishing of all materials and equipment necessary for full performance thereof, as are identified and designated as Service Provider responsibilities throughout this Agreement and as set forth in the "Scope of Services" attached hereto as "Exhibit A" and incorporated herein (the "Service"). The total cost for the Service shall not exceed \$22,100.80 Dollars annually.

2. TERM.

The term of this Agreement shall commence on the date of execution on this Agreement and shall terminate on September 30, 2009, with the City's sole option to renew for an additional two (2) years through September 30, 2011.

3. COMPENSATION AND METHOD OF PAYMENT.

- A. Payments for services provided hereunder shall be made monthly following the performance of such services.
- B. No payment shall be made for any service rendered by the Service Provider except for services identified and set forth in this Agreement.
- C. For all "extra" work the City requires, the City shall pay the Service Provider for work performed under this Agreement according to the schedule attached hereto as "Exhibit B".
- D. The Service Provider shall submit to the City Manager or his designee on forms approved by the City Manager, an invoice for services rendered during the pay period. The City shall make payment to the Service Provider within thirty (30) days thereafter. Requests for more rapid payment will be considered if a discount is offered for early payment. Interest shall accrue at a rate of six percent (6%) per

annum for services remaining unpaid for sixty (60) days or more.

- E. The Service Provider reserves the right to suspend or terminate work and this Agreement if any unpaid account exceeds sixty (60) days.

4. REPORTS AND INSPECTIONS.

- A. The Service Provider, at such times and in such forms as the City may require, shall furnish the City such statements, records, reports, data, and information as the City may request pertaining to matters covered by this Agreement.
- B. The Service Provider shall at any time during normal business hours and as often as the City may deem necessary, make available for examination of all its records and data with respect to all matters covered, directly or indirectly, by this Agreement and shall permit the City or its designated authorized representative to audit and inspect other data relating to all matters covered by this Agreement. The City may, at its discretion, conduct an audit at its expense, using its own or outside auditors, of the Service Provider's activities, which relate directly or indirectly, to this Agreement.

5. INDEPENDENT CONTRACTOR RELATIONSHIP.

- A. The parties intend that an independent Service Provider/City relationship will be created by this Agreement. No agent, employee, or representative of the Service Provider shall be deemed to be an employee, agent, or representative of the City for any purpose, and the employees of the Service Provider are not entitled to any of the benefits the City provides for its employees. The Service Provider will be solely and entirely responsible for its acts and for the acts of its agents, employees, subcontractors or representatives during the performance of this Agreement.
- B. In the performance of the services herein contemplated the Service Provider is an independent contractor with the authority to control and direct the performance of the details of the work, however, the results of the work contemplated herein must meet the approval of the City and shall be subject to the City's general rights of inspection and review to secure the satisfactory completion thereof.

6. SERVICE PROVIDER EMPLOYEE/AGENTS.

The City may at its sole discretion require the Service Provider to remove an employee(s), agent(s), or representative(s) from employment on this Project. The Service Provider may, however, employ that (those) individuals(s) on other non-City related projects.

7. HOLD HARMLESS INDEMNIFICATION.

- A. The Service Provider shall indemnify and hold the City and its agents, employees, and officers, harmless from and shall process and defend at its own expense any and all claims, demands, suits, at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against the City arising out of, in connection with, or incident to the execution of this Agreement and/or the Service Provider's defective performance or failure to perform any aspect of this Agreement; provided, however, that if such claims are caused by or result

from the concurrent negligence of the City, its agents, employees, and officers, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Service Provider; and provided further, that nothing herein shall require the Service Provider to hold harmless or defend the City, its agents, employees and/or officers from any claims arising from the sole negligence of the City, its agents, employees, and/or officers. The Service Provider expressly agrees that the indemnification provided herein constitutes the Service Provider's limited waiver of immunity as an employer under Utah Code Section 34A-2-105; provided, however, this waiver shall apply only to the extent an employee of Service Provider claims or recovers compensation from the City for a loss or injury that Service Provider would be obligated to indemnify the City for under this Agreement. This limited waiver has been mutually negotiated by the parties, and is expressly made effective only for the purposes of this Agreement. The provisions of this section shall survive the expiration or termination of this Agreement.

- B. No liability shall attach to the City by reason of entering into this Agreement except as expressly provided herein.

8. INSURANCE.

The Service Provider shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Service Provider, their agents, representatives, employees, or subcontractors. The Service Provider shall provide a Certificate of Insurance evidencing:

- A. General Liability insurance written on an occurrence basis with limits no less than two million dollars (\$2,000,000) combined single limit per occurrence and three million dollars (\$3,000,000) aggregate for personal injury, bodily injury and property damage.
- B. Automobile Liability insurance with limits no less than five hundred thousand dollars (\$500,000) combined single limit per accident for bodily injury and property damage.
- C. Workers Compensation insurance written on an occurrence basis with limits no less than one half million dollars (\$500,000) combined single limit per occurrence.
- D. The City shall be named as an additional insured on the insurance policies, as respect to work performed by or on behalf of the Service Provider and a copy of the endorsement naming the City as an additional insured shall be attached to the Certificate of Insurance. The Certificate of insurance shall warrant that the City shall receive thirty (30) days advance notice of cancellation. The City reserves the right to request certified copies of any required policies.
- F. The Service Provider's insurance shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

9. TREATMENT OF ASSETS.

Title to all property furnished by the City shall remain in the name of the City and the

City shall become the owner of the work product and other documents, if any, prepared by the Service Provider pursuant to this Agreement (contingent on City's performance hereunder).

10. COMPLIANCE WITH LAWS.

- A. The Service Provider, in the performance of this Agreement, shall comply with all applicable federal, state, and local laws and ordinances, including regulations for licensing, certification and operation of facilities, programs and accreditation, and licensing of individuals, and any other standards or criteria as described in this Agreement to assure quality of services.
- B. The Service Provider specifically agrees to pay any applicable fees or charges which may be due on account of this Agreement.

11. NONDISCRIMINATION.

- A. The City is an equal opportunity employer.
- B. In the performance of this Agreement, the Service Provider will not discriminate against any employee or applicant for employment on the grounds of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap; provided that the prohibition against discrimination in employment because of handicap shall not apply if the particular disability prevents the proper performance of the particular worker involved. The Service Provider shall ensure that applicants are employed, and that employees are treated during employment without discrimination because of their race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to: employment, upgrading, demotion or transfers, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and programs for training including apprenticeships. The Service Provider shall take such action with respect to this Agreement as may be required to ensure full compliance with local, state and federal laws prohibiting discrimination in employment.
- C. The Service Provider will not discriminate against any recipient of any services or benefits provided for in this Agreement on the grounds of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap.
- D. If any assignment or subcontracting has been authorized by the City, said assignment or subcontract shall include appropriate safeguards against discrimination. The Service Provider shall take such action as may be required to ensure full compliance with the provisions in the immediately preceding paragraphs herein.

12. ASSIGNMENTS/SUBCONTRACTING.

- A. The Service Provider shall not assign its performance under this Agreement or any portion of this Agreement without the written consent of the City, and it is further agreed that said consent must be sought in writing by the Service Provider not less than thirty (30) days prior to the date of any proposed assignment. The City reserves the right to reject without cause any such assignment.

- B. Any work or services assigned hereunder shall be subject to each provision of this Agreement and property bidding procedures where applicable as set forth in local, state or federal statutes, ordinance and guidelines.
- C. Any technical/professional service subcontract not listed in this Agreement, must have express advance approval by the City.

13. CHANGES.

Either party may request changes to the scope of services and performance to be provided hereunder, however, no change or addition to this Agreement shall be valid or binding upon either party unless such change or addition be in writing and signed by both parties. Such amendments shall be attached to and made part of this Agreement.

14. MAINTENANCE AND INSPECTION OF RECORDS.

- A. The Service Provider shall maintain books, records and documents, which sufficiently and properly reflect all direct and indirect costs related to the performance of this Agreement and shall maintain such accounting procedures and practices as may be necessary to assure proper accounting of all funds paid pursuant to this Agreement. These records shall be subject at all reasonable times to inspection, review, or audit by the City, its authorized representative, the State Auditor, or other governmental officials authorized by law to monitor this Agreement.
- B. The Service Provider shall retain all books, records, documents and other material relevant to this Agreement for six (6) years after its expiration. The Service Provider agrees that the City or its designee shall have full access and right to examine any of said materials at all reasonable times during said period.

15. POLITICAL ACTIVITY PROHIBITED.

None of the funds, materials, property or services provided directly or indirectly under the Agreement shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office.

16. PROHIBITED INTEREST.

No member, officer, or employee of the City shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

17. MODIFICATIONS TO TASKS AND MISCELLANEOUS PROVISIONS.

- A. All work proposed by the Service Provider is based on current government ordinances and fees in effect as of the date of this Agreement.
- B. Any changes to current government ordinances which affect the scope or cost of the services proposed may be billed as an “extra” pursuant to Paragraph 3(C), agreed upon by both parties in writing, or deleted from the scope, at the option of the City.
- C. The City shall make provision for access to the property and/or project and adjacent properties, if necessary for performing the services herein.

18. TERMINATION.

- A. Either party may terminate this Agreement, in whole or in part, at any time, by at least thirty (30) days written notice to the other party. The Service Provider shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Service Provider shall promptly submit a termination claim to the City. If the Service Provider has any property in its possession belonging to the City, the Service Provider will account for the same, and dispose of it in a manner directed by the City.
- B. If the Service Provider fails to perform in the manner called for in this Agreement, or if the Service Provider fails to comply with any other provisions of the Agreement and fails to correct such noncompliance within three (3) days written notice thereof, the City may immediately terminate this Agreement for cause. Termination shall be effected by serving a notice of termination on the Service Provider setting forth the manner in which the Service Provider is in default. The Service Provider will only be paid for services performed in accordance with the manner of performance set forth in this Agreement.

19. NOTICE.

Any and all notices required by this Service Provider Agreement shall be in writing and delivered personally to the party to whom the notice is to be given, or mailed by certified mail, postage prepaid, and addressed as follows:

If to City:

Park City Municipal Corporation

P.O. Box 1480

Park City, Utah 84060

If to Service Provider:

Curb It Recycling

1255 Park Ave.

P.O. Box 681397

Park City, Utah 84068

20. ATTORNEYS FEES AND COSTS.

Notice provided for in this Agreement shall be sent by certified mail to the addresses designated for the parties on the last page of this Agreement.

If any legal proceeding is brought for the enforcement of this Agreement, or because of a dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the prevailing party shall be entitled to recover from the other party, in addition to any other relief to which such party may be entitled, reasonable attorney's fees and other costs incurred in that action or proceeding.

21. JURISDICTION AND VENUE.

- A. This Agreement has been and shall be construed as having been made and delivered with the state of Utah, and it is agreed by each party hereto that this Agreement shall be governed by laws of the state of Utah, both as to interpretation and performance.
- B. Any action of law, suit in equity, or judicial proceeding for the enforcement of

this Agreement, or any provisions thereof, shall be instituted and maintained only in any of the courts of competent jurisdiction in Summit County, Utah.

22. SEVERABILITY.

- A. If, for any reason, any part, term, or provision of this Agreement is held by a court of the United States to be illegal, void or unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.
- B. If it should appear that any provision hereof is in conflict with any statutory provision of the state of Utah, said provision which may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform in such statutory provisions.

23. ENTIRE AGREEMENT.

The parties agree that this Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are excluded. Further, any modification of this Agreement shall be in writing and signed by both parties. Failure to comply with any of the provisions stated herein shall constitute material breach of contract and cause for termination. Both parties recognize time is of the essence in the performance of the provisions of this Agreement. It is also agreed by the parties that the forgiveness of the nonperformance of any provision of this Agreement does not constitute a waiver of the provisions of this Agreement.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed the day and year first hereinabove written.

PARK CITY MUNICIPAL CORPORATION

445 Marsac Avenue
Post Office Box 1480
Park City UT 84060-1480

Dana Williams, Mayor

Attest:

Janet M. Scott, City Recorder

Approved as to form:

City Attorney's Office

CURB IT RECYCLING

PO Box 681397
Park City, UT 84060
Tax ID#: 87-0682499

Shirin Spangenberg

Corporate Acknowledgment

STATE OF UTAH)
) ss.
COUNTY OF SUMMIT)

On this _____ day of September, 2007, before me, the undersigned notary, personally appeared Shirin Spangenberg, personally known to me/proved to me through identification documents allowed by law, to be the person who executed the within instrument as President, the corporation therein named, and acknowledged to me that Curb It Recycling, Inc. executed the same for the purposes therein stated.

Notary Public

Exhibit A

Scope of Services

Main Street

Year Round: Checking and pick-up to be done four days per week (Tuesday, Thursday, Saturday, Sunday), once per day – depending on the season and activities frequency may increase or decrease.

Number of Containers:	Seven (7)
Recycling Materials:	Glass, Plastic and Aluminum – within one receptacle
As Needed:	Check and report on any maintenance issues

City Park

Beginning April 15, 2008

April – October: Checking and pick-up to be done four days per week (Tuesday, Thursday, Saturday, Sunday), once per day -depending on the season and activities frequency may increase or decrease.

Number of Containers:	Eight (8)
Recycling Materials:	Glass, Plastic and Aluminum – within one receptacle
As Needed:	Check and report on any maintenance issues

Quinns Recreation Fields

Beginning April 15, 2008

April - October: Checking and pick-up to be done three days per week (Tuesday, Thursday, Saturday), once per day -depending on the season and activities frequency may increase or decrease.

Number of Containers:	Five (5)
Recycling Materials:	Glass, Plastic and Aluminum – within one receptacle
As Needed:	Check and report on any maintenance issues

Exhibit B Schedule

	Daily Cost	Annual Cost
1. Main Street <i>(per the months included in the Scope of Services)</i>	\$65.00	\$13,520.00
2. City Park <i>(per the months included in the Scope of Services)</i>	\$40.53	\$5,025.72
3. Quinns Recreation Fields <i>(per the months included in the Scope of Services)</i>	\$28.67	\$3,555.08
<u>Total Cost for Recycling Services</u>		\$22,100.80

Extra Work

Please specify any additional costs per hour for: Response to special events or emergencies which include:

- | | |
|--|---------|
| • Non-Holiday, Normal Business Hours | \$35.00 |
| • Holidays or After-Hours | \$40.00 |
| • Placement of Additional Containers during events | \$N/A |
| • Service to Additional Containers | \$6.00 |

City Council Staff Report



Subject: Park City Oktoberfest
Author: Max J. Paap
Department: Sustainability- Implementation
Date: September 13, 2007
Type of Item: Administrative – Master Festival License

Summary Recommendations:

Review the Master Festival License application, conduct a public hearing, and approve the license for the Park City Oktoberfest, as conditioned, on September 28 -29, 2007 to be held at the Town Lift Plaza.

Description:

Topic:

Review the Master Festival License Application, submitted by Park City Oktoberfest Inc. for the Park City Oktoberfest on September 28 - 29, 2007.

Background:

Park City Oktoberfest Inc. and City Staff had an initial meeting on August 9, 2007 to discuss the possibilities of holding an Oktoberfest in Park City in the fall of 2007. Park City Oktoberfest Inc. submitted an initial application on August 21, 2007 requesting a Master Festival License to hold an event to celebrate the Park City Oktoberfest at the Main Street Post Office parking spaces along 5th Street. After Staff Review, the application was incomplete and generated unfavorable feedback from the review group that included:

- Property Ownership of Parking Spaces (U.S. Government)
- Loss of parking due to construction activity in Swede Alley
- Potential construction of Park City Historical Museum (Plans are submitted)
- 1:00 am noise ordinance concerns (Code dictates 10:00 pm to 7:00 am silence)
- Need for more lead time to review application

The applicant was notified in writing on August 23, 2007 of these concerns and was asked to consider submitting a complete application for an alternative location. On August 27, 2007 Park City Oktoberfest Inc. submitted an application requesting a Master Festival License to hold an event to celebrate the Park City Oktoberfest at Town Lift Plaza by creating an ethnic community celebration that includes food vendors, a beer garden, and amplified music, including German style and other various local bands. The applicant hopes to renew an ethnic community interest and provide a festival that draws out-of-town visitors and locals alike. The event

would run from 4:00 pm to 10:00 pm on Friday, September 28th; and from 2:00 pm to 10:00 pm on Saturday, September 29, 2007. The Park City Oktoberfest Celebration is consistent with the City Council's Goal #4 which is to continue to promote Park City as multi-seasonal resort by maintaining its status as a World Class Resort which hosts such events as this and to increase the number of events.

Analysis:

The event organizers have requested to hold their free-to-the-public event on September 28 - 29, 2007. The event would begin at 4:00 pm at the Town Lift Plaza and conclude at 10:00 pm on Friday. On Saturday, the event would begin at 2:00 pm and conclude by 10:00 pm. The Park Silly Sunday Market currently has an approved Oktoberfest celebration for October 14, 2007 that was approved by Council on April 19, 2007 as part of the first amendment to their Master Festival License. Park City Municipal Code addresses conflicting license applications in 4-8-6.

4- 8- 6. CONFLICTING LICENSE APPLICATIONS.

(A) No more than one (1) Master Festival or Special Event shall be approved for the same date(s) unless the Special Events Manager or City Council finds that the events will not adversely impact one another and that concurrent scheduling of the events will not adversely impact the public health, safety, and welfare. In making this determination, the Special Events Manager or City Council will apply the following criteria:

- (1) Geographic separation of the events;
- (2) Proposed time and duration of the events;
- (3) Anticipated attendance volumes;
- (4) Necessity for public personnel, equipment, and/or transportation services at the events; and
- (5) Anticipated traffic and parking impacts.

Based on the fact that the already approved Park Silly Oktoberfest is on October 14, 2007 Staff finds no conflict in this application. This application is being reviewed as a Master Festival License due to the request for amplified music in or adjacent to a residential area.

Plaza Activities

The activities at the Town Lift Plaza will be conducted in a 30' x 60' sided tent situated on the south side of the plaza which will house the stage for music. There will also be between 8 to ten 10' x 10' tents situated on the east side of the plaza for

food and other vendors. The amplified music will be played in the tent from 4:00 pm to 10:00 pm on Friday and 2:00 pm to 10:00 pm on Saturday.

Parking

Attendees of this event can be accommodated in the adjacent paid parking lots, time restricted City streets, and other public parking lots.

Department Review:

All applicable departments have reviewed Park City Oktoberfest and their comments have been incorporated into the report.

Alternatives:

Approve the Request:

Approve the Master Festival License allowing Park City Oktoberfest as described. This is staff's recommendation.

Deny the Request:

Deny the Master Festival License, preventing the addition of Park City Oktoberfest to Park City's schedule of events. Direct Staff to prepare findings for denial based upon the review criteria and/or failure to timely submit the application.

Continue the Item:

The City Council may continue the discussion in order to receive additional information. Due to the proposed date, and no City Council Meeting before then, the event would not go forward.

Significant Impacts:

Park City has held many similar events to Park City Oktoberfest. The activities will be contained within described venues and will conclude by 10:00 pm.

Consequences of not taking the recommended action:

The Park City Oktoberfest would not take place.

RECOMMENDATION:

Staff recommends the City Council conduct a public hearing and approve a Master Festival License for Park City Oktoberfest on September 28 - 29, 2007 based on the following Findings of Fact, Conclusions of Law and Conditions of Approval.

Findings of Fact:

1. Park City Oktoberfest Celebration will be held Friday, September 28 – Saturday, September 29, 2007. The event will last from 4:00 pm to 10:00 pm on Friday, September 28 and from 2:00 pm to 10:00 pm on Saturday, September 29 and will occur at the Town Lift Plaza.
2. Parking for the anticipated crowd of 200-400 people will be accommodated in the adjacent paid parking lots, time restricted City streets, and other public parking lots. The conduct of the Park City Oktoberfest Celebration will not substantially interrupt or prevent the safe and orderly movement of public transportation or

- other vehicular and pedestrian traffic in the area of its venue.
3. The events associated with Park City Oktoberfest Celebration will not require the diversion of so great a number of police, fire, or other essential public employees from their normal duties as to prevent reasonable police, fire, or other public services protection to the remainder of the City.
 4. The event will be held at the Town Lift Plaza. The concentration of persons, vehicles, or animals will not unduly interfere with the movement of police, fire, ambulance, and other emergency vehicles on the streets or with the provision of other public health or safety services.
 5. There are no other Master Festival and Special Event Licenses that have been granted for September 28 & 29, 2007. The Park City Oktoberfest Celebration will not substantially interfere with the logistics and venue for any event for which a license has already been granted and with the provision of City services in support of other such events or governmental functions based on the following:
 6. The size of the crowd and nature of the event will not create an imminent possibility of violent disorderly conduct likely to endanger public safety or cause significant property damage.
 7. The applicant has been working with City Staff and applicable departments to address all event concerns. The Applicant demonstrates an ability and willingness to conduct the event pursuant to the terms and conditions of this Chapter and has not failed to conduct a previously authorized event in accordance with the law or the terms of a license, or both.

Conclusions of Law:

1. The application is consistent with the requirements of the Park City Municipal Code, Title 4, Chapter 8.

Conditions of Approval:

1. The applicant, at its' cost, shall incorporate such measures as directed by Staff in order to ensure that any safety, health, or sanitation equipment, and services or facilities reasonably necessary to ensure that the event will be conducted with due regard for safety are provided and paid for by the applicant.
2. Council relies on consistency of the Public Outdoor Plaza ordinance to mitigate impacts of amplified music. The applicant will work with City Staff to orient the temporary stage so as to minimize sound impacts to the neighborhood and the applicant shall monitor the following:
 - (A) The program manager, or his/her designee, shall provide on-site management for each event.
 - (B) A sound technician shall provide on-site monitoring for each event with music, amplified or otherwise, and any amplified event.
 - (C) The program manager shall be responsible to ensure that the sound system maintains the sound at an A-weighted sound level adjustment and maximum decibel level of 90, as measured twenty-five feet (25') in front of the stage.
 - (D) All events shall be open to the public and free of charge.
3. Applicants shall provide proof of liability insurance in the amount of two million dollars (\$2,000,000) or more as may be required by the Special Events Manager

or the City Attorney's Office, and shall further name Park City Municipal Corporation as additional insured. All Applicants shall further indemnify the City from liability occurring at the event except for any claim arising out of the sole negligence or intentional torts of the City or its employees.

4. All plans for tents, stages and other temporary structures shall be submitted to the Building Department for review and permitting by September 15, 2007.

Attachments

Exhibit A- Applicant's Summary of Activities

Exhibit B- Park City Municipal Code 4-8-5

EXHIBIT A

PARK CITY MUNICIPAL CORPORATION SPECIAL EVENT AND MASTER FESTIVAL LICENSE EVENT APPLICATION-PART I

A completed electronic copy submitted to the Special Events Department



Special Events and Facilities
Department
435.615.5150
specialevents@parkcity.org

APPLICATION FORM

Part I of the application form (pages 1 and 2) must be completed and submitted to the Special Events Department no less than 90 days prior to a Master Festival or no less than 60 days prior to a Special Event. Part II of the application form (pages 3-6) which are more comprehensive, must be submitted 45 days before all events. Parts I and II of the application must be sent electronically to the Special Events Department at specialevents@parkcity.org. The application will be reviewed by the Special Events Department and compared to master calendar for date availability. Applicant must schedule a meeting with City Staff 30 days prior to the event to review logistics. Granting of the permit is not guaranteed.

EVENT NAME: Park City Oktoberfest

EVENT DATE(S): Fri. Sept. 28 & Sat. Sept. 29, 2007

EVENT TIME(S): Fri. 4-10pm; Sat. 2-10pm

EVENT LOCATION(S): *Please describe in detail the exact location(s)*
Town Lift Plaza

ANTICIPATED ATTENDANCE: 200-400

EVENT DESCRIPTION: *Please describe in detail the activities associated with the event*

Oktoberfest celebration, beer garden, ethnic foods, music: German and local bands

APPLICANT: *(name of organization)* Park City Oktoberfest

CONTACTS

Event Manager: Michael Kaplan
Mailing Address: po box 220, Park City UT 84060
Phone: 435 714-1700
Cell Phone: 435 714-1700
E-Mail: mekaplan@hotmail.com

Fax:

Assistant Event Manager: Mike Wong; Jr. Salonen
Mailing Address:
Phone:

Fax:

Cell Phone:

E-Mail:

TYPE OF EVENT: *to be confirmed by the Special Events Department*

☐ **Master Festival;** *(If even one box is checked, the event is automatically a Master Festival)*

A public event which any one of the following:

☐ attraction of large crowds, (Over 500)

☐ street closure,

☐ use of City park, building or property,

☐ use of off-site parking facility,

☐ use of amplified music.

☒ **Special Event;**

A private or public event, which creates significant public impacts through:

☐ causes significant public impacts via disturbance, crowd, traffic/parking,

☐ disruption of the normal routine of the community or affected neighborhood,

☒ necessitates temporary business or liquor licensing

☐ event signs, visible from public property

☒ temporary structures

CITY SERVICES

- request for street closure(s)? ☐yes ☒no
if yes, then list street(s) and closure time and date:
- request for closure of or access to any public parking spaces? ☐yes ☒no
if yes, then list lot and closure times and dates:
if yes, complete and attach [Request for Special Use of Public Parking](#) form.
- request for use of any City owned bleachers? ☐yes ☒no

SALES AND FOOD VENDING

- will there be beer, wine and/or liquor sales during the event? ☒yes ☐no
if yes, have you filed a [Beer and Liquor License Application](#) with Park City Finance Department? ☒yes ☐no
if yes, have you filed a [Single Event or Temporary Beer Permit](#) application w/ UDABC? ☒yes ☐no

APPLICATION FEES

All new applications require a \$100 processing fee, all applications for returning events require a \$50 application fee, due at the time of application. Additional fees for other services, including Health Department and Fire Department, will be estimated and provided to the applicant. A final bill for services will be delivered to the applicant approximately two weeks after the event concludes. Please remit application check to:

Park City Municipal Corporation
Attn: Special Events and Facilities
P.O. Box 1480
Park City, UT 84060

INSURANCE

Park City Municipal requires proof of liability insurance in the amount of two million dollars (\$2,000,000) or more, and applicant shall further name Park City Municipal Corporation as an additional insured. This must be submitted 10 days prior to the event.

EXHIBIT B

4- 8- 5. STANDARDS FOR LICENSE APPROVAL.

Applications for Master Festivals and Special Events shall be reviewed for compliance with the standards provided herein. The Special Events Manager or City Council may prohibit or restrict any Special Event or Master Festival whenever any of the conditions enumerated in this Section is found likely to occur, unless the event is modified to eliminate said condition.

(A) The conduct of the event will substantially interrupt or prevent the safe and orderly movement of public transportation or other vehicular and pedestrian traffic in the area of its venue.

(B) The conduct of the event will require the diversion of so great a number of police, fire, or other essential public employees from their normal duties as to prevent reasonable police, fire, or other public services protection to the remainder of the City.

(C) The concentration of persons, vehicles, or animals will unduly interfere with the movement of police, fire, ambulance, and other emergency vehicles on the streets or with the provision of other public health or safety services.

(D) The event will substantially interfere with any other Special Event or Master Festival for which a license has already been granted or with the provision of City services in support of other such events or governmental functions.

(E) Where applicable, the Applicant fails to provide the following:

(1) the services of a sufficient number of traffic controllers, signs or other City required barriers or traffic devices;

(2) monitors for crowd control and safety;

(3) safety, health, or sanitation equipment, and services or facilities reasonably necessary to ensure that the event will be conducted without creating unreasonable negative impacts to the area and with due regard for safety and the environment;

(4) adequate off-site parking, shuttle service, or both where necessary to minimize substantial adverse impacts on general parking and traffic circulation in the vicinity of

the event;

(5) required insurance, cash deposit, or other security; or

(6) any other services or facilities necessary to ensure compliance with City noise, sign, or other applicable ordinance(s).

(F) The event created the imminent possibility of violent disorderly conduct likely to endanger public safety or cause significant property damage.

(G) The applicant demonstrates an inability or unwillingness to conduct the event pursuant to the terms and conditions of this Chapter or has failed to conduct a previously authorized event in accordance with the law or the terms of a license, or both.

(H) The applicant has not obtained the approval of any other public agencies, including the Park City Fire District, within whose jurisdiction the event or a portion thereof will occur.

(Amended by Ord. No. 01-31)



City Council Staff Report

Subject: BOWEN COLLINS, & ASSOCIATES
PROFESSIONAL SERVICES AGREEMENT
ADDENDUM NO 1

Author: Kathy Lundborg

Department: Public Works

Date: September 13, 2007

Type of Item: Administrative

Summary Recommendations:

Staff recommends Council authorize the City Manager to execute the First Addendum to the Professional Services Agreement, in a form approved by the City Attorney, with Bowen Collins & Associates, for General Engineering Services in an amount of \$144,000.

Topic/Description:

Water Division General Engineering Services--follows the Water Strategic Plan regarding "Infrastructure" and "Customer Service/Outreach" and the strategy of implementation of the Capital Facilities Plan and staying current on new technology to improve customer service.

Background:

Bowen Collins & Associates (BC&A) was selected for General Engineering Services for Water Division projects after advertising an RFP and receiving proposals at the end of 2006. A Professional Services Agreement was executed in December 2006.

BC&A has performed very well on projects assigned since the beginning of their contract. Levels of Effort for each of the estimated projects included in the original Scope of Services was estimated based on a percentage of conceptual construction cost estimates. As work has proceeded on several of the projects, constructability issues have been identified that require increased level of service from BC&A. Also, Staff is proposing additional services for more projects. Part of the selection criteria when BC&A was originally selected was based on Master Planning and hydraulic modeling experience. BC&A has a lot of proven experience in this area including master planning for Metropolitan Water District of Salt Lake and Sandy, Salt Lake City, and Provo City, and was part of the reason they were selected. However, the specific work of updating the Master Plan was inadvertently left out of the estimated Scope of Services. That work is needed to be complete by the end of the year. Other projects that have been added are also shown below.

Analysis:

The following table lists the updated estimates for capital projects, general services, and the Master Plan.

CAPITAL IMPROVEMENTS PLAN
EXISTING WATER SYSTEM DEFICIENCIES & NEW INFRASTRUCTURE PROJECTS

			2006 Estimated (3% Inflation assumed)	Original Estimate (Assume 12% of Construction Cost)	Updated Estimate	Updated Construction Cost	Project Budget
Priority	Deficiency	Solution	Construction Cost	Engineering	Engineering		
1	Rossi Hill PRV needs SCADA automation	Upgrade the Rossi Hill PRV	\$20,600	\$2,472	Completed Internally	Complete	
2	The Neck Tank is deficient 0.25 MG at build-out	Provide fire flow to Lower Deer Valley from the Aerie, Solamere, and/or the Bald Eagle Tank which would make 0.32 MG of storage available in the Neck Tank	\$30,900	\$3,708	\$1,000	\$0	\$0
3	The Solamere Booster Station pumps are under sized to meet peak day demand at build-out	Replace the pumps at the Solamere Booster Station to provide a capacity of 400 gpm	\$154,500	\$18,540	\$21,760	\$150,000	\$150,000
4	The 6-inch water line in Empire Avenue is a maintenance problem and lacks fire flow capacity	Replace with 1,800 ft of 8-inch pipe	\$147,290	\$17,675	\$34,260	\$250,000	\$612,955
5	The Hillside/Rossi area in the daily Zone has low pressure and fire flow deficiencies	Install 1,100 feet of 10-inch pipe, 600 feet of 8-inch pipe and a PRV	\$186,430	\$22,372	\$47,500	\$310,000	
6	Need transmission line from Boothill Pump Station to existing Woodside Transmission Line	Construct 12-inch transmission line up Bonanza and Deer Valley Drive, across City Park to existing line	\$1,448,180 (Construction is deferred until funding is obtained)	\$173,782	\$130,000		\$200,000
7	Meter Reading Technology Study			\$15,000	\$17,000	\$1,100,000	\$511,014
8	Fairway Hills Pump Station Upgrade		\$150,000		\$20,000	\$150,000	\$0
9	Mt Aire North Flume upgrade	design replacement of flood-damaged flume, assist w/ permitting			\$6,000		\$28,000
10	Spiro Geotech	Geotechnical work for treatment plant drainage problems			\$10,000		
11	Last Chance Pump Station Evaluation	Surge Analysis			\$2,000	\$13,000 spent in FY07	\$37,000 Operating
12	MRWSSD	Wheeling rate review			\$3,000		
13	Misc & Unforeseen projects	\$5,600 spent in FY07		\$22,000	\$35,000		
14	Master Plan Update	Update evaluation of supply & demand, major conveyance & storage facilities, & emergency power needs			\$92,000		\$50,000 CIP \$42,000 Operating
					\$275,548	\$419,520	
			Additional Fee =		\$143,972		

The funds for the additional fees are budgeted within the FY08 Water CIP and Water Operating budget.

Department Review:

This staff report has been reviewed by Public Works, Legal, Budget and City Manager.

Alternatives:

A. Approve the Request:

Staff recommends Council authorize the City Manager to execute the First Addendum to the Professional Services Agreement, in a form approved by the City Attorney, with Bowen Collins & Associates, for General Engineering Services in an amount of \$144,000.

B. Deny the Request:

Council could deny Staff's request. Denying the request could jeopardize the ability to get all of the needed and budgeted projects completed.

C. Continue the Item:

Council could continue the request. Continuing the request would delay the ability to get all of the projects designed in time.

D. Do Nothing:

Staff does not recommend this alternative. Denying the request could jeopardize the ability to get all of the needed and budgeted projects completed.

Significant Impacts:

The funds for this contract are coming from budgeted capital projects that have come in under budget so the funds are part of the approved FY08 budget.

Recommendation:

Staff recommends Council authorize the City Manager to execute the First Addendum to the Professional Services Agreement, in a form approved by the City Attorney, with Bowen Collins & Associates, for General Engineering Services in an amount of \$144,000.

**FIRST ADDENDUM TO PARK CITY MUNICIPAL CORPORATION
SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT**

THIS FIRST ADDENDUM is made and entered into in duplicate this ____ day of _____, 2007, by and between PARK CITY MUNICIPAL CORPORATION, a Utah municipal corporation and political subdivision of the State of Utah ("City"), and BOWEN COLLINS & ASSOCIATES, a Utah corporation having offices located at Draper, Utah ("Service Provider") to amend the Service Provider Agreement signed and executed by the Parties on December 21, 2007.

WITNESSETH:

WHEREAS, the parties entered into a Professional Services Agreement on December 21, 2007 (hereinafter "Original Agreement"); and

WHEREAS, both parties to the Original Agreement desire to amend the Original Agreement to include additional scope, fees and time to complete additional projects of similar scope to those described in the Scope of Services in the Original Agreement; and

WHEREAS, the parties desire to amend the Original Agreement to provide sufficient time for such performance.

NOW, THEREFORE, in consideration of the mutual promises made herein and other valuable consideration, the parties hereto now amend the Original Agreement as follows:

1. **INCREASE of \$144,000.** Park City shall pay Service Provider for professional services in an amount not to exceed \$419,000, which is an increase to the Original Agreement of \$144,000 for additional professional services. The amended Scope of Services is attached hereto as Exhibit A.

EXTENSION OF TERM. The term of the Original Agreement shall be extended to a termination date of December 31, 2008, or upon such later date as agreed to in writing by City and Service Provider, as provided for in Paragraph 23 of the Original Agreement.

2. **OTHER TERMS.** All other terms and conditions of the Original Agreement shall continue in full force and effect and shall not be affected by this First Addendum.

3. **ENTIRE AGREEMENT.** This First Addendum is a written instrument pursuant to Paragraph 23 of the Original Agreement between the parties and cannot be altered or amended except by written instrument, signed by both parties.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed the day and year first herein above written.

PARK CITY MUNICIPAL CORPORATION

445 Marsac Avenue
Post Office Box 1480
Park City UT 84060-1480

Thomas B. Bakaly, City Manager

Attest:

Janet M. Scott, City Recorder

Approved as to form:

Mark D. Harrington, City Attorney

SERVICES PROVIDER

BOWEN & COLLINS & ASSOCIATES

Address: 756 West 12200 South

Draper UT 84020

801-495-2224

801-495-2225 fax

Tax ID#: _____

Signature

Printed name

Title

Corporate Acknowledgment

STATE OF UTAH)
) ss.
COUNTY OF _____)

On this ____ day of _____, 2007, personally appeared before me
_____, whose identity is personally known to me/or proved to me on the basis of
satisfactory evidence and who by me duly sworn/affirmed), did say that he/she is the
_____ (title) of _____, Inc. by Authority of its
Bylaws/Resolution of the Board of Directors, and acknowledged to me that said Corporation executed the
same.

Notary Public

Exhibit A

CAPITAL IMPROVEMENTS PLAN							
EXISTING WATER SYSTEM DEFICIENCIES & NEW INFRASTRUCTURE PROJECTS							
			2006 Estimated (3% Inflation assumed)	Original Estimate (Assume 12% of Construction Cost)	Updated Estimate	Updated Construction Cost	Project Budget
Priority	Deficiency	Solution	Construction Cost	Engineering	Engineering		
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12	MRWSSD	Wheeling rate review			\$3,000		
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14	Master Plan Update	Update evaluation of supply & demand, major conveyance & storage facilities, & emergency power needs			\$92,000		\$50,000 CIP \$42,000 Operating
			\$275,548		\$419,520		
			Additional Fee =		\$143,972		



City Council Staff Report

Subject: Landscape at Park City Police Facility
Author: Dave Gustafson, Project Manager
Department: Sustainability Team
Date: September 13, 2007
Type of Item: Administrative

Summary Recommendation:

Staff recommends City Council authorize the City Manager to proceed with the Park City Police Facility Landscape project and execute a Construction Contract in a form approved by the City Attorney's Office to Action Snowplow and Lawn Care, Inc., in the amount of One-hundred twenty-nine thousand six-hundred sixty-four dollars (\$129,664.00).

Description:

Topic: Construction Agreement Award – Park City Police Facility Landscaping

Background:

On July 13, 2006, Council gave staff authorization to move forward with the construction of the new Park City Police Facility. The landscaping portion of the facility was omitted from the Jacobsen Construction GMP as it was on the China Bridge Parking Expansion Project. Staff had included a budget line in the overall cost of construction for landscaping costs.

Last month, City staff placed a legal notice in the local newspaper notifying vendors of the project in compliance with Park City's adopted bidding procedures. Staff also contacted several known contractors that were capable of providing the required services for this project. On August 22, 2007, four contractors were represented at the Police Facility job site for a mandatory pre-proposal walk through. The plans and specifications required the contractor to provide all aspects of the landscaping which included: irrigation system, dry river bed construction, purchase and installation of all plant materials and ground cover. The contractors were allowed until 5:00PM August 31, 2007 to submit their proposals. Two of the four contractors made the deadline.

Analysis:

The City received proposals from Action Snowplow and Iron Mountain Landscaping. The other two contractors did not submit proposals due to prior commitments conflicting with the completion of this project. The quote from Action Snowplow was the lowest at One-hundred twenty-nine thousand six-hundred sixty-four dollars (\$129,664.00). Iron Mountain Landscaping was the next low bidder at One-hundred forty-nine thousand eight-hundred forty-four and XX/100 dollars (149,844.00). Staff recommends awarding the contract to Action Snowplow based on their performance as a City maintenance contractor, having commercial experience, and their bid on this project. The selection

criteria stipulated in Action's proposal included the contractor's relevant experience, ability to perform the work to the City's satisfaction, and the cost incurred in performing the work.

The irrigation system that has been scoped for this job is considered to be state of the art from a water conservation approach. One of the most important features about this system is the water management capabilities. This system will have the ability to shut off turf grass zones as needed, while maintaining the ability to water the trees with the drip system. The plants and turf that have been selected are drought tolerant and approximately 1/4 of the landscaped area will be dry river bed/rock garden/hardscape. Mechanical equipment that is currently visible from Highway 224 will be screened with vegetation.

Department Review: This report was a day late and was reviewed by City Manager, Legal Department, Sustainability Implementation Team, Budget Debt and Grants, Parks.

Alternatives:

Approve the Request: Staff is requesting authorization to proceed with the Park City Police Facility Landscaping project and award the construction contract on a form approved by the City Attorneys Office to Action Snowplow and Lawn Care, Inc., in the amount of One-hundred twenty-nine thousand six-hundred sixty-four dollars (\$129,664.00).

Deny the Request: Denying the request is not suggested based on the Police Facilities prominence on an entry corridor. When the snow melts next spring, the wild flowers will be in bloom and the turf and trees will thrive.

Continue the Item: This would delay the project and put us in the mud come early spring. A delayed contract approval would impact completing the project by November 1, 2007.

Do Nothing: Potential dust bowl.

Significant Impacts / Consequences of not taking the recommended action:

There are adequate funds budgeted in this project to cover this contract.

Recommendation:

Staff is requesting authorization to proceed with the Park City Police Facility Landscaping project and award the construction contract on a form approved by the City Attorneys Office to Action Snowplow and Lawn Care, Inc., in the amount of One-hundred twenty-nine thousand six-hundred sixty-four dollars (\$129,664.00).

Attachments:

Construction Agreement

CONSTRUCTION AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of _____, 2007, by and between PARK CITY MUNICIPAL CORPORATION, P O Box 1480, Park City UT 84060, a municipal corporation of the state of Utah (hereinafter "City"), and Action Snowplow and Lawn Care, Inc., P.O. Box 698, Kamas, UT 84036, which is a (check one) X corporation ____ partnership ____ sole proprietorship ____ limited liability company (hereinafter "Contractor").

PURPOSE: For the project known as the Park City Police Facility Landscaping (hereinafter "Project"), which briefly consists of furnishing and installing: drip and spray irrigation piping and heads for all planting areas; soil amendments; bark mulch; designated plants, turf and seed and dry river bed installation per provided scope of work.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties hereby agree as follows:

SECTION 1. SCOPE OF WORK. Contractor shall furnish all labor, materials and equipment to complete the Project, consisting of the work described in the Information for Bidders as the Basic Bid, as specifically set out in the contract specifications, which is made a part hereof by reference, herein called the "Project."

The Project will be bound by the specifications referenced herein, according to the the Information for Bidders, the General Project Requirements and Specifications provided by City, the Bid of the Contractor, Bid Bond, Notice of Award and Notice to Proceed, collectively referred to as the Contract Documents, all of which are incorporated herein by reference, and on file in the Sustainability Department. To the extent that this Agreement conflicts in any way with a proposed form agreement which may have been submitted as part of the bid specifications, this Agreement shall control.

If any of the work performed by Contractor in any phase of the Project does not meet City standards as outlined in the bid documents and specifications, then Contractor shall immediately repair or correct the work at no additional cost to City.

A. SUBCONTRACTORS. No part of this contract shall be subcontracted by the Contractor without prior written approval by City through the Project Manager/Engineer. The Contractor shall be fully responsible to the City for the acts and omissions of its Subcontractors and of persons either directly or indirectly employed by them, as it is for the acts and omissions of persons directly employed by it.

The Contractor shall, within ten (10) days of submittal of request for final payment, include an affidavit showing satisfactory evidence that all claims of subcontractors, laborers and materialmen who supplied services or materials to

the Project have been fully paid, discharged, or waived. The Contractor shall submit lien waivers for each pay release.

If the City reasonably believes that Contractor has failed to pay Subcontractors, materialmen, or laborers for work on the Project within a reasonable time of when payment is due, then City may, after having notified the Contractor, either pay unpaid bills or withhold from the release of Contractor's payment bond for this Project, a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged and a ten percent (10%) fee for administering such claims.

B. STANDARDS OF WORKMANSHIP. Contractor shall demonstrate workmanship equal to or better than current industry standards for this Project. Where Park City specifications exist (for example, asphalt, concrete, irrigation, sprinkling system and landscaping), they shall provide the benchmark for determination of acceptability.

C. INSPECTION AND TESTING. All materials and equipment used in the construction shall be subject to inspection by the Project Manager/Engineer. If laws, ordinances, rules or regulations of any public authority having jurisdiction require any work to specifically be inspected, tested or approved by someone other than Project Manager/Engineer, the Contractor shall give the Project Manager/Engineer timely notice of readiness. Inspections, tests or approvals by the City or appropriate authorities will not relieve the Contractor from obligations to perform the work in accordance with the requirements of the Contract Documents and/or provisions. The Project Manager/Engineer and other designated persons will at all times have access to the work. All work shall ultimately be inspected for final acceptance by the Project Manager/Engineer within a reasonable time upon receipt of notice from the Contractor that work is complete and ready for final inspection.

During construction, the work will be inspected and observed by the Project Manager/Engineer or his designated representative. All work that is deficient or does not meet specifications shall be removed and replaced with proper material at Contractor's expense.

D. WARRANTY. Contractor warrants that all materials and supplies used in the construction of the Project shall be new, except as otherwise agreed to in writing by the City's Representative. All materials, equipment, parts and labor and any necessary corrections to the Project shall be guaranteed for a period of one (1) year following the date of substantial completion of the Project under the terms of the performance bond.

SECTION 2. PERFORMANCE AND PAYMENT BONDS. Contractor shall furnish to the City payment and performance bonds satisfactory to the City guaranteeing

Contractor's payment and performance, in the amount, for each separately, of one hundred percent (100%) of the Contract Amount.

SECTION 3. INSURANCE. Unless otherwise specified in the bid documents, the Contractor shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, their agents, representatives, employees, or subcontractors.

The Contractor shall provide a Certificate of Insurance evidencing:

A. Automobile Liability insurance with limits no less than five hundred thousand dollars (\$500,000) combined single limit per accident for bodily injury and property damage.

B. Commercial General Liability insurance written on an occurrence basis with limits no less than one million dollars (\$2,000,000) combined single limit per occurrence and two million dollars (\$3,000,000) aggregate for personal injury, bodily injury and property damage. Coverage shall include but not be limited to: blanket contractual; products/completed operations; broad form property damage; explosion, collapse and underground (XCU) if specifically requested; and employer's liability.

C. Workers Compensation insurance written on an occurrence basis with limits no less than one half million dollars (\$500,000) combined single limit per occurrence.

The City shall be named as an additional insured on the insurance policies and a copy of the endorsement naming the City as an additional insured shall be attached to the Certificate of Insurance. The City reserves the right to request certified copies of any required policies.

The Contractor's insurance shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

SECTION 4. CONTRACT AMOUNT, ACCEPTANCE OF WHOLE, ADDITIONS. City shall pay Contractor the total sum of **One-hundred twenty-nine thousand six-hundred sixty-three and 61/100 dollars (\$129,663.61)**, ("Contract Amount") for all work and materials expended to complete this Project, which shall include the cost of all bonds, insurance, and all charges, fees, permits (including water and sewer fees, unless waived), expenses or assessments of whatever kind or character that are or may be necessary to complete this Project, including any additive alternates listed within the Scope of Work described in Section 1.

SECTION 5. PERMITS AND FEES. As set out in Section 4 above, the Contract Amount includes the price of all normally applicable fees and permits. The City may, at its discretion, arrange for the waiver of certain fees, permits and expenses.

SECTION 6. TERMS OF PAYMENT. The City shall pay for services provided hereunder only upon Contractor's request on forms approved by and submitted to the Project Manager. The City shall make payment within thirty (30) days thereafter. Requests for a more rapid payment may be considered if a discount is offered for early payment. At no time shall the aggregate amount of money paid to the Contractor in proportion to the Contract Amount be greater than the proportion of the work performed at that point to the total Project work. No payment shall be made for any service rendered by the Contractor except for services set forth and identified in this Agreement. The City reserves the right to withhold payment in whole or part from the Contractor for non-compliance with the provisions of the Contract Documents.

A. RETAINAGE. The City may, in its sole discretion; (1) retain five percent (5%) of the value of all work done and materials or equipment supplied as part security for the fulfillment of the Agreement by the Contractor; or (2) retain the final payment of up to five percent (5%) of the total project amount. As work nears completion and solely at the City's discretion, the City may reduce the retainage to an amount more in line with the work remaining. The City reserves the right to retain all amounts previously withheld or due, including any liquidated damages, until all services specified herein are complete. Any money withheld pursuant to this section shall be placed in an interest bearing account and the interest shall also be payable to the Contractor upon final payment.

Before final payment is made, the Contractor must submit evidence satisfactory to the City that all payrolls, material bills, subcontracts and all outstanding indebtedness in connection with the Project have been paid for.

The City may withhold a reasonable amount of the payment bond sufficient to cover any outstanding indebtedness or monies owed or claimed by any person who supplied work or materials to the Project plus ten percent (10%) of such indebtedness as the City's cost of administering such claims until Contractor supplies a release satisfactory to the City, signed by all persons who have supplied labor or materials to the Project or, at the City's option if no claim is made, until 105 days after the date on which any person performed the last of the labor or supplied the last of the material for the Project and upon written request from the Contractor.

The Contractor shall supply to the Project Manager/Engineer within a reasonable time after his request a signed statement verifying all the suppliers, subcontractors and other persons who have supplied labor or materials to the Project.

B. FINAL PAYMENT. Acceptance by the Contractor of the final payment from the City shall release the City of all claims, demands and liability of the Contractor, its officers, agents, employees and subcontractors, whether communicated or not by the Contractor, except with respect to those matters referred to in writing delivered to the Contractor and approved in a signed writing by the Project Manager.

SECTION 7. COMPLETION TIME. The work on this Project shall commence within ten days of receipt of the Notice to Proceed and shall be completed by **November 1, 2007**. Work stoppage due to inclement weather conditions and other factors must be approved in writing by the Project Manager. Inclement weather shall not otherwise constitute cause for delay. Unless otherwise agreed by the City by Change Order, no damages shall become due to Contractor for City caused delay. A Change Order for delay will generally be accepted for delay so excessive and unreasonable that it is beyond the scope of the Contract or delay attributed to direct, active or willful interference by the City. The Change Order must be based upon actual damages sustained by the Contractor which are directly attributed to the delay.

In the event that Contractor fails to complete all of the work required herein within the time limit set out above, then for each partial or complete day during which the work remains uncompleted thereafter, the Contractor agrees to pay the City **Twenty Dollars (\$20.00)**, (NOTE: liquidated damages clause must be agreed to by Contractor, if no mutual agreement, then no liquidated damages) which the parties believe, due to the difficulty of actually assessing the damages the City will suffer in the event of such a delay, is a fair estimate of the loss the City will suffer. The parties agree that the daily liquidated damages provided for herein is reasonable and fair, and is not a penalty. TIME IS OF THE ESSENCE IN THIS AGREEMENT.

SECTION 8. ADDITIONAL WORK/CHANGE ORDERS. The City may enlarge or reduce the work to be performed by Contractor hereunder by written notification to Contractor, including changes to the plans and specifications. The City shall pay Contractor for any additional work so requested, and shall reduce the payment to the Contractor for any reduction in labor, materials, overhead and profit margin resulting from the reduction in the work. Except as the City shall so notify the Contractor in writing, it is understood and agreed by the parties hereto that no money will be paid to the Contractor for any new or additional labor or materials furnished unless a written modification is agreed to in a document signed by both parties.

The value of any work covered by a change order or of any claim for increase or decrease in the contract price shall be determined by one or more of the following methods in order of precedence listed below:

- A.** An agreed lump sum; or in the event the parties cannot agree; then
- B.** The unit rate for the work bid by the Contractor, if applicable, or in the event there was no such rate bid; then

C. The actual cost for: (1) labor; (2) materials; (3) supplies; (4) equipment; (5) direct overhead (not to exceed 5% of the sum total of items 1-4, unless approved by the City); and (6) other services necessary and approved by the City to complete the work. In the event of a net increase in the Contract Amount for a change order as a whole, the City shall allow a payment to the Contractor of an additional ten percent (10%) of the actual cost of the work, not including direct overhead or bond costs, to cover the cost of general overhead and profit. The Contractor may also charge the City for actual cost of the net increase in bond costs as a result of the overall change to the Contract Amount. The City specifically reserves the right to request documentation, including but not limited to payroll stubs, bond bills, and invoices, to validate the Contractor's calculations.

SECTION 9. DISPUTES. Except as otherwise provided in this Agreement, any disputes concerning a question of fact arising under this Agreement which is not disposed of by Agreement shall be decided by the City. The decision of the City shall be final and conclusive unless, within thirty (30) days from the date of receipt of such decision, the Contractor shall mail or otherwise furnish the City a written signed appeal addressed to the Project Manager/Engineer. In connection with any appeal proceeding under this clause, the Contractor will be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Contractor will proceed diligently with the performance of the contract and in accordance with the City's decision. The decision of the City shall be final and conclusive, but shall not be arbitrary or unreasonable. Although this Contract has been drafted by the City, the Contractor expressly agrees that any ambiguity herein shall be resolved in favor of the City.

SECTION 10. DEFAULT, REMEDY AND TERMINATION. The City may terminate this agreement upon the occurrence of one or more of the following events:

- A. If Contractor or any Subcontractor should substantially violate any of the provisions of this contract;
- B. If Contractor substantially fails to perform any part of this Agreement;
- C. If Contractor repeatedly fails or becomes unable to perform the services under this Agreement as required herein, or substantially fails to provide services under this Agreement for a period of seventy-two (72) hours;
- D. If Contractor (1) shall become insolvent in a bankruptcy sense; (2) shall be generally not paying its debts as they become due, or within a reasonable time thereafter; (3) shall suffer, voluntarily or involuntarily, the entry of an order by any court or governmental authority authorizing the appointment of or appointing of a custodian (as that term is defined in 11 U.S.C. '101[10]), receiver, trustee, or other officer with similar powers with respect to it or any portion of its property which remains undismissed for a period of ninety (90) days; (4) shall suffer, voluntarily or involuntarily, with or without judicial or governmental authorization,

any such custodian, receiver, trustee, or other officer with similar powers to take possession of any part of its property which third party remains in possession for an excess of ninety (90) days; (5) shall suffer, voluntarily or involuntarily, the filing of a petition respecting an assignment for the benefit of creditors which is not dismissed for a period of ninety (90) days; (6) shall be dissolved; (7) shall become the subject of any proceeding, suit, or action at law or in equity under or relating to any bankruptcy, reorganization or arrangement of debt, insolvency, readjustment of debt, receivership, liquidation, or dissolution law or statute or amendments thereto to be commenced by or against it or against any of its property which remains undismissed for a period of ninety (90) days; (8) shall voluntarily suspend substantially all of its business operations; (9) shall be merged with, acquired by, or otherwise absorbed by any individual, corporation, or other business entity or organization of any kind except for any individual corporation or other business entity or organization which is controlled by, controlling, or under common control with the Contractor; or (10) shall take action for the purpose of any of the foregoing,

After serving ten (10) days written notice on the Contractor and its surety of its intention to terminate the services of Contractor, and if within ten (10) days after serving such notice, the violation is not corrected to City's reasonable satisfaction, the City then may take over the work and prosecute it to completion by contract or by any other method it may deem advisable at the expense of the Contractor. The Contractor and the bonding company shall be liable to the City for any reasonable cost occasioned by the City in excess of the amount agreed for the service herein.

The Contractor shall be entitled to a hearing before a City hearing officer upon the issue of termination if it submits a written request therefore within seven (7) days of the service of the notice of the City's intent to terminate. The Contractor shall be entitled to be heard at such hearing on the issue of termination. The Contractor shall not bring an action against the City, its officers, agents or employees arising out of or relating to the termination of this Agreement before the decision is issued by the City's hearing officer(s).

Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver of any provision of this Agreement shall not be construed to be modification of the terms of this Agreement, unless stated to be such in writing, signed by the City's authorized representative.

The Contractor shall continue the performance of this agreement to the extent not terminated under the provisions of this section.

The rights and remedies of the City provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this agreement.

SECTION 11. HOLD HARMLESS INDEMNIFICATION. The Contractor clearly and unequivocally agrees to indemnify and to hold the City and its agents, employees, and officers, harmless from and shall process and to defend at its own expense any and all claims, demands, suits, at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against the City arising out of, in connection with, or incident to the execution of this Agreement and/or the Contractor's performance or failure to perform any aspect of this Agreement; provided, however, that if such claims are caused by or result from the concurrent negligence of the City, its agents, employees, and officers, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Contractor or others; and provided further, that nothing herein shall require the Contractor to hold harmless or defend the City, its agents, employees and/or officers from any claims arising from the sole negligence of the City, its agents, employees, and/or officers. The Contractor expressly agrees that the indemnification provided herein constitutes the contractor's waiver of immunity under Utah Code Section 34A-2-105 for the purposes of this Agreement. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement. No liability shall attach to the City by reason of entering into this Agreement except as expressly provided herein.

SECTION 12. CONTROLLING LAW. These general conditions shall be construed in accordance with and enforced under the laws of the State of Utah. Any action of law, suit in equity, or judicial proceeding for the enforcement of the Agreement, or any provisions thereof, shall be instituted and maintained only in any of the courts of competent jurisdiction in Summit County, Utah.

SECTION 13. ASSIGNMENT. The Contractor shall not assign nor transfer any interest in this agreement without the prior written consent of the City, provided however, that claims for compensation due or to become due the Contractor from the City under this agreement may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment shall be promptly furnished to City.

SECTION 14. SAFETY AND TRAFFIC CONTROL. Contractor shall take all reasonable precautions to protect the safety of pedestrians, school children, motorists, and others who may use or come near to the Project site, including but not limited to compliance with the Manual of Uniform Traffic Control Devices.

SECTION 15. SAFETY AND PROTECTION OF THE WORK. Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the project work. Contractor shall provide reasonable protection to prevent damage, injury or loss to employees on the Project work and all other persons who may be affected thereby, materials and equipment, whether on or off the site, and other property at the work site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction. In addition, the Contractor shall give all notices and comply with all applicable laws, ordinances, rules, regulations and

lawful orders of any public authority bearing on the safety of persons or property or their protection from damage, injury or loss.

The Contractor shall erect and maintain, as required by the existing conditions and progress of the work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, setting safety regulations, and notifying owners and user of adjacent utilities.

The Contractor shall promptly remedy all damage or loss to any property referred to in this Section caused in whole or in part by the Contractor, any subcontractor, sub-subcontractor or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable and for which the Contractor is responsible, except for acts or omissions by the City or anyone directly or indirectly employed by it, or by anyone for whose acts it may be liable, and not attributable to the fault or negligence of the Contractor. Contractor shall remove from the site all cuttings, debris, equipment and unused material.

SECTION 16. UNENFORCEABLE CONTRACT, WAIVERS. In the event that any provision of this contract shall be ruled invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provision, term or covenant shall not be construed by the other party as a waiver of a subsequent breach of the same provision by the other party.

SECTION 17. ENTIRE AGREEMENT. This contract represents the entire integrated agreement between City and Contractor and supersedes all prior negotiations, representations or agreements, either written or oral. This agreement may be amended only by written modification signed by both parties.

SECTION 18. COMMENCEMENT OF WORK. Contractor will commence work as required by the specifications within ten calendar days after receiving the NOTICE TO PROCEED.

SECTION 19. UTILITIES. The right is reserved to the owners of public utilities and franchises to enter upon the street or work site for the purpose of making repairs or changes of their property that may become necessary by the work. The City shall also have the privilege of entering upon the street or work site for the purpose of repairing culverts, storm drains, water system repairs or adjustments and any and all other necessary City work.

The Contractor takes the whole risk, responsibility and expense with respect to the location of utilities, and in working with utility owners about locating, moving, repairing, and modifying utilities. All utility locations shown on the plans and specifications are approximate and are marked on the plans, if at all, only for convenience. The City makes no representation about the location of any such utilities, and Contractor is encouraged to contact utility companies and owners about the location of all utilities that may be impacted by or impact the Project work.

SECTION 20. HOURS AND DAYS OF WORK. All work performed by the Contractor, its subcontractors, materialmen, agents and employees shall be performed during work hours of 7:00 a.m. to 7:00 p.m. Monday through Saturday unless otherwise specified in a Conditional Use Permit or Construction Mitigation Plan. In individual Construction Mitigation Plans, the Building Official may further reduce the hours or days of work for Special Events or as other circumstances may reasonably warrant. When work is prohibited, no exterior construction, excavation or delivery of supplies and concrete are allowed. Interior work, however, may be allowed Monday through Sunday, with no limitation on hours for the following types of construction:

- A. Interior work on individual single-family home construction or addition projects not involving materials or supply deliveries
- B. Construction of decks, patios, landscape walls less than 4 feet in height, and fences on individual single-family lots
- C. Non-mechanized exterior painting on individual single-family residences
- D. Non-mechanized landscaping on individual single-family residences
- E. Survey work not involving grading or use of power equipment to cut vegetation.

Extended Hours Special Permit. The Building Official may authorize extended hours for construction operations or procedures which, by their nature, require continuous operation or modify or waive the hours of work on projects in generally isolated areas where the extended hours do not impact upon adjoining property occupants. In such cases, the Building Official shall issue a Special Permit identifying the extended hours. Contractor shall display the special permit on site.

Special Event Regulations. The Building Official and/or Police Chief may, at their discretion, restrict construction activity, including governmental or special improvement agencies, in order to assure the public safety during special events within the City. Special events shall include, but not be limited to the Art Festival, Film Festival, ski events, and holiday events.

SECTION 21. OBEY LAWS. Contractor shall obey all laws, ordinances and regulations of the United States, the State of Utah, and Park City in performing this Agreement.

SECTION 22. NONDISCRIMINATION.

- A. The City is an equal opportunity employer.

B. In the performance of this Agreement, the Contractor will not discriminate against any employee or applicant for employment on the grounds of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap; provided that the prohibition against discrimination in employment because of handicap shall not apply if the particular disability prevents the proper performance of the particular worker involved. The Contractor shall ensure that applicants are employed, and that employees are treated during employment without discrimination because of their race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to: employment, upgrading, demotion or transfers, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and programs for training including apprenticeships. The Contractor shall take such action with respect to this Agreement as may be required to ensure full compliance with local, state and federal laws prohibiting discrimination in employment.

C. The Contractor will not discriminate against any recipient of any services or benefits provided for in this Agreement on the grounds of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap.

D. If any assignment or subcontracting has been authorized by the City, said assignment or subcontract shall include appropriate safeguards against discrimination. The Contractor shall take such action as may be required to ensure full compliance with the provisions in the immediately preceding paragraphs herein.

SECTION 23. THIRD PARTY RIGHTS. Nothing herein is intended to confer rights of any kind in any third party. No member, officer, or employee of the City shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

SECTION 24. PROJECT MANAGER/ENGINEER. The Project Manager/Engineer for this Project is Dave Gustafson, or such other person designated by the City Engineer or Public Works Director to the Contractor orally or in writing.

SECTION 25. PARTIES' REPRESENTATIVES. For purposes of notice required or desired by the parties, or communication involving the services under this Agreement, such notice or communication shall be deemed to have been given when personally delivered or mailed, or sent by facsimile transmission certified mail, postage pre-paid, to the parties at the following addresses:

Contractor: Geoffrey Rogers, or such other person designated in writing by the Contractor's chief administrative officer, at the Contractor's address set out first above;

Park City: Project Manager/Engineer, at the address set out first above for the City, or when given to such other person as either of the above representatives shall designate in writing. The designation of any address may be changed by notice given in the same manner as provided in this paragraph.

SECTION 26. SEVERABILITY. Should any part of this Agreement for any reason be declared invalid, such decision shall not affect the validity of any remaining provisions, which remaining provisions shall remain in force and effect as if this Agreement had been executed with the invalid portion thereof eliminated, and it is hereby declared the intention of the parties that they would have executed the remaining portion of this Agreement without including any such part, parts, or portions which may, for any reason, be hereafter declared invalid. If any provision of this Agreement is held invalid or unenforceable with respect to particular circumstances, such provision shall nevertheless remain in full force and effect in all other circumstances.

IN WITNESS WHEREOF, the parties have entered into this agreement on the day and year set out at the top of this Agreement.

City Council Staff Report



Subject: Main Street Business Improvement District Tax
Author: Bret Howser, Gary Hill
Department: Budget, Debt, & Grants
Date: September 13, 2007
Type of Item: Legislative

Summary Recommendation:

Staff recommends that Council:

- (1) Hold a public hearing and adopt an ordinance levying a \$156 per business tax on all businesses located in the Main Street Business Improvement District (BID) for the purpose of business promotion; and
- (2) Adopt an ordinance amending Title 4 of the Municipal Code (Licensing) to require businesses in the Main Street BID to have a current account in good standing with the City's chosen commercial solid waste removal service provider before the business can obtain a business license.

Topic Description:

Main Street Business Improvement District – Ordinance levying a \$156 per business tax on businesses in the Main Street Business Improvement District for the purpose of promoting businesses in the proposed district. Revision to the business license ordinance that requires businesses to show proof of a current account in good standing with the BID's chosen trash service provider before they are given a business license.

Background:

On August 30, Council discussed a proposal to create the Main Street Business Improvement District (BID). The District had two proposed functions: 1) act as a mechanism for establishing a single service provider for commercial solid waste collection within the District's boundary, and 2) provide business promotion services to the businesses within the District. A tax of \$156 per business was discussed to fund the latter function.

Council held a public hearing on August 16 and 30 to solicit public input on the matter. Council subsequently adopted a resolution establishing the District and directed staff to return with an ordinance to levy a tax within the BID.

Analysis:

Tax for Business Promotion in the BID

Staff met with the executive board of Historic Main Street Business Alliance (HMBA) to discuss in further detail what kinds of activities the BID should carry out. The HMBA presented a proposal to Council on August 30 that outlined four categories of desired "business promotion" in the BID: 1) Member Services, 2) Marketing &

Advertising, 3) Downtown Events & Activities, and 4) Commercial Solid Waste & Recycling. That proposal is again attached to this staff report as an explanation of the purpose of the proposed tax.

The attached breakdown of business promotion services is provided to the City by HMBA and represents what a service provider might do to handle the business promotion side of the BID. Ultimately, though, the City owns and operates the BID and Council is responsible for decisions on the BID's activities. Business promotion activities that Council deems appropriate would be included in an RFP for a service provider.

After working with HMBA to get a better idea of what the activities of the BID would be, staff has revisited the question of an appropriate tax on businesses within the District. Staff recommends that the BID be established with a \$156 per business tax. This is based on the estimated costs as laid out in Attachment A and the number of businesses currently in the District ($\$40,802 \div 262$ businesses). On August 30th Council directed staff to return with an ordinance for a flat tax of \$156 per business.

Revision to the Business License Ordinance

The primary purpose of the BID was to address concerns surrounding the lack of a single service provider for commercial solid waste removal on Main Street. The County formerly contracted with a provider and required all businesses to use this provider. Earlier this year, though, Summit County made a policy decision to discontinue their involvement in commercial trash, and the City, at the behest of Main Street merchants, explored various alternatives for resolving the situation. A BID emerged as the best alternative, and HMBA organized business owners on Main Street to petition the City for the creation of the District.

For purposes of solid waste collection, the BID would function as follows:

The newly-formed BID will act as the boundary of the trash service area. The City has contracted with Allied Waste, which will guarantee a rate structure and scheduling, and will collect fees directly from the businesses in the service area. In order to ensure that businesses provide payment to the solid waste service provider, Staff recommends that the business license ordinance be revised to require that businesses within the BID show proof of a current account in good standing with the City-selected service provider before they can receive or renew a business license. In this manner, the City would provide enforcement through the proposed amendment to the business license ordinance. Increased administrative burden to the City is minimized as administrative decisions are limited to selecting a service provider and no money is passing through the City.

The proposed amendment to the business license ordinance, as described above, is attached for Council's review.

Department Review:

Budget, Finance, Public Works, Legal, City Manager

Alternatives:

- A. Approve the Request:** (1) Hold a public hearing and adopt an ordinance levying a \$156 per business tax on all businesses located in the Main Street Business Improvement District (BID) for the purpose of business promotion; and (2) Adopt an ordinance amending Title 4 of the Municipal Code (Licensing) to require businesses in the Main Street BID to have a current account in good standing with the City's chosen commercial solid waste removal service provider before the business can obtain a business license.
- B.** Continue the item. Council could continue the public hearing and ask staff to return with more information. In order to assess the tax this fiscal year, Council would need to make a decision on the tax before business license renewal notices are sent to businesses the last week of November.
- C.** Modify the Request. Council could modify the request by changing the amount of the tax or choosing not to levy a tax at all. Under this scenario, the BID would only be used for trash management which would still require approval of the
- D.** Deny the request: Without approval of the attached ordinances, the BID would not be able to carry out the activities discussed in this staff report and in previous weeks.

Significant Impacts:

By holding a public hearing and adopting a tax for the Main Street BID, the District will be ready to issue an RFP for a business promotion service provider. Also, by adopting the amendment to the business license ordinance, the enforcement mechanism for having a single trash service provider on Main Street will be in place.

Recommendation: Staff recommends that Council hold a public hearing on the proposed Main Street Business Improvement District tax and pass an ordinance levying a \$156 per business tax in the Main Street BID for purposes of business promotion. Staff also recommends that Council amend Title 4 of the Municipal Code to require businesses in the BID to have a current account in good standing with the City-selected trash service provider.

Attachments

A – HMBA's BID Plan

B – Ordinance levying a \$156 per business tax in the Main Street BID

C – Amendment to the Business License Ordinance

HISTORIC MAIN STREET BUSINESS ALLIANCE

Preserve, Promote, Protect

PO Box 1348
Park City, UT 84060
435-658-9612

HMBA PROPOSED PROGRAM ACTIVITIES FOR FISCAL YEAR 2008

The HMBA is pursuing the establishment of a Business Improvement District (BID), whose goal is to preserve, protect and promote the Historic Main Street District. The HMBA, incorporated March 15, 1999, holds as its central focus the mission of representing the business interest with Park City Municipal Corporation and the Park City community. The following are the programs and program activities for fiscal year 2008. The major cost component of the programs is the administrative hours which are budgeted at a total of 791 hours for fiscal year 2008 at an hourly rate of \$22.00.

Member Services

On an ongoing basis the HMBA provides communication to all the Main Street merchants through various channels (i.e., newsletter, emails, phone calls) in regard to City & County news and updates, local event information that may impact the Main Street corridor and other pertinent and impacting information.

Administrative Hours:	Hours	
Monthly E-newsletters	60	
Board of Directors/Executive Committee Meetings & Write-ups	120	
Annual Membership Meeting	30	
Board of Directors Annual Elections	24	
Total Administrative Hours: (29.58% of budgeted hours)	\$22/hour x 234	\$5,148

Other Program Costs

Office Supplies (pens, pencils, paper, toner, envelopes, etc.)	1,000
Director and General Liability Insurance	1,300
Annual Refreshment Budget for Meetings	1,600
Total Other Program Costs	\$2,600
Member Services Program Total	\$9,048

Downtown Events & Activities

The HMBA works throughout the year with outside groups to help coordinate special events in the historic district. The HMBA's role includes the coordination of Main Street activities with local merchants (including specifically targeted communications), meetings with the City event department in cooperation with planning organization, and administering the contractual involvement of the HMBA with organizations (e.g. Kimball Arts Festival, Sundance Film Festival).

Administrative Hours:	Hours
Major Events	
Kimball Arts Festival	20
Holidays on Main/Santa (with PCMR)	32

Halloween on Main	20	
Park Silly Sunday Market	20	
4 th of July	10	
Miner's Day (Labor Day)	10	
Sundance Film Festival	<u>40</u>	
Total Major Event Hours	\$22/hour x 152	\$3,344

Minor Events

Mustang Roundup	1	
Monthly Gallery Stroll	2	
NORBA Race	1	
Wasatch Back Relay	1	
Unidentified Events (10)	<u>10</u>	
Total Minor Event Hours	\$22/hour x 15	\$308

Total Administrative Hours: (21.11% of budgeted hours) 167 hours x \$22/hour	<u>\$3,674</u>
Downtown Events & Activities Program Total	<u>\$3,674</u>

Marketing/Advertising

The HMBA, with the assistance of some grants, incorporates a minimal advertising and marketing program to encourage collective local exposure to member businesses. (*The programs supported by grants are not included in this summary).

New Branding (Logo and Image Mark)

Administrative 10 hours x \$22/hour	\$220
Designer Cost	\$3,000

Member Website Design and Maintenance

Administrative 80 hours x \$22/hour	\$1,760
Designer/Contractor/Hosting	\$13,000

Main Street Kiosks Updates & Maintenance

Administrative 35 hours x \$22/hour	\$770
Annual Maintenance	\$1,000

Main Street Kiosk Map Annual Updates

Administrative 30 hours x \$22/hour	\$660
Annual Maintenance	\$500
Printing 8 ½" x 11" maps	\$2,000

Main Street Tourist Brochure Updates

Administrative 20 hours x \$22/hour	\$440
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Publication of Electronic Business Directory for HMBA Members

Administrative 20 hours x \$22/hour	\$440
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Administrative Hours: (24.65% of budgeted hours) \$22/hour x 195 hours	\$4,290
Program Costs (Production)	<u>\$18,500</u>
Marketing/Advertising Program Total*	<u>\$23, 790</u>

Solid Waste & Recycling Coordination

The HMBA, who approached the City in 2007 to address the historic district's new trash and recycling efforts, is pursuing the establishment of a Business Improvement District (BID) in order to work with the City to help coordinate the process. The HMBA's role in this capacity will include regularly interfacing with HMBA members regarding the program protocol and information and the formation of a committee to oversee and assess the efficacy of the program's contract on an annual basis. Additional efforts will include working with the City to develop a recycling program to accompany the solid waste management efforts.

Administrative Hours:	Hours		
Monthly Communication	75		
Committee Formation and Management	40		
Management of BID assessment	30		
Other (City coordination, accounting, etc.)	<u>50</u>		
Administrative Hours: (24.65% of budgeted hours)		\$22/hour x 195	<u>\$4,290</u>
Solid Waste & Recycling Management Program Total			<u>\$4,290</u>
<i>Total Fiscal Year Budget Request</i>			<i><u>\$40,802</u></i>

Ordinance No. 07-

**ORDINANCE LEVYING A BUSINESS PROMOTION TAX OF \$156
ON ALL BUSINESSES WITHIN THE BOUNDARIES
OF THE MAIN STREET BUSINESS IMPROVEMENT DISTRICT**

WHEREAS, the Utah Parking and Business Improvement District Act, Utah Code Ann. §§ 17A-3-401 to 414, 1953, as amended, allows counties and municipalities to establish Parking and Business Improvement Districts; and

WHEREAS, 17A-3-404 (2) provides that a county or a municipality which has established a parking and business improvement district may levy a tax on businesses within said district which is in addition to all other taxes levied upon businesses, and shall not be limited by levy limitations imposed upon counties or municipalities by law; and

WHEREAS, the Main Street Business Improvement District was created by resolution on August 30, 2007, with the primary purpose of providing solid waste management and business promotion; and

WHEREAS, the boundary of the Main Street Business Improvement District is defined as all businesses located in the following area:

The BID boundary shall follow the centerline of the following streets: Beginning at the intersection of Main Street and Deer Valley Drive, then proceeding westerly on Main Street to the intersection of Main Street and 9th Street, then west on 9th Street to the intersection of 9th Street and Park Avenue, then proceeding southerly on Park Avenue to the intersection of King Road, then easterly on King Road to Main Street, then southerly on Main Street to Hillside Avenue, then proceeding easterly along Hillside to Marsac Avenue, then proceeding northward on Marsac Avenue to the intersection of Deer Valley Drive and the point of beginning.

WHEREAS, protests against the establishment of the District, its tax, and related matters were given full consideration by the governing authorities of the municipality prior to and during the public hearing held on August 16, 2007, and on August 30, 2007; and

WHEREAS, the City held a public hearing on September 13, 2007, to solicit and consider public input specific to a proposed tax of \$156 per business within the District; and

WHEREAS, the City Council hereby declares that the public health, convenience, and necessity requires the establishment of the District and a tax for business promotion;

NOW THEREFORE, be it ordained by the City Council of Park City that:

1) In addition to any other tax authorized by the laws of the State of Utah and/or of this municipality, there hereby is established, approved, and levied a tax upon all businesses within the boundary of the Main Street Business Improvement District equal to one hundred fifty-six dollars (\$156) annually.

2) This Ordinance shall become effective upon adoption by the City Council of Park City.

PASSED AND ADOPTED this 13th day of September, 2007.

Ordinance No. 07-

ORDNANCE AMENDING TITLE 4, CHAPTER 2 OF THE MUNICIPAL CODE, REGULATING BUSINESS LICENSING IN GENERAL

WHEREAS, the Utah Parking and Business Improvement District Act, Utah Code Ann. §§ 17A-3-401 to 414, 1953, as amended, allows counties and municipalities to establish Parking and Business Improvement Districts; and

WHEREAS, the Main Street Business Improvement District ("District") was created by resolution on August 30, 2007 for the purpose of solid waste management and business promotion; and

WHEREAS, the boundary of the District is defined as all businesses located in the following area:

The District boundary shall follow the centerline of the following streets: Beginning at the intersection of Main Street and Deer Valley Drive, then proceeding westerly on Main Street to the intersection of Main Street and 9th Street, then west on 9th Street to the intersection of 9th Street and Park Avenue, then proceeding southerly on Park Avenue to the intersection of King Road, then easterly on King Road to Main Street, then southerly on Main Street to Hillside Avenue, then proceeding easterly along Hillside to Marsac Avenue, then proceeding northward on Marsac Avenue to the intersection of Deer Valley Drive and the point of beginning.

WHEREAS, the City Council hereby declares that the public health, convenience, and necessity requires the establishment of the District for effective solid waste management; and

WHEREAS, businesses within the District will be required to have any solid waste charges paid up to date in order to receive or renew a business license, and

WHEREAS, City Council has determined that amending the Municipal Code is necessary to ensure proper compliance with the City business license ordinance.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Park City, Utah as follows:

SECTION 1. FINDINGS: The Council finds that it is in the best interest of the health, safety, and welfare of the citizens of Park City to amend the Municipal Code to help manage solid waste in the Historic Main Street Business area.

SECTION 2. AMENDMENT TO TITLE 4, CHAPTER 2 OF THE MUNICIPAL CODE. Title 4, Chapter 2 is hereby amended as follows:

CHAPTER 2 – BUSINESS LICENSING IN GENERAL

4- 2- 9. LICENSE DENIAL/ REVOCATION.

The Director or his or her designee may deny or revoke a license if the applicant:

(A) Has been convicted of a fraud or felony by any state or federal court within the past five (5) years or now has criminal proceedings pending against him in any state or federal court for fraud or a felony;

(B) Has obtained a license by fraud or deceit;

(C) Has failed to pay personal property taxes or other required taxes or fees imposed by the City;~~or;~~

(D) Has violated the laws of the State of Utah, the United States Government, or the ordinances of Park City governing operation of the business for which the applicant is applying for the license;or

(E) Is located within the boundaries of the Main Street Business Improvement District (BID) and has failed to pay the business promotion tax (set by separate ordinance) or any applicable solid waste management charges or fees. Proof of up-to-date payment will be required prior to license approval or renewal.

SECTION 3. EFFECTIVE DATE. This Ordinance shall take effect upon adoption.

City Council Staff Report



Subject: Main Street Business Improvement District Tax
Author: Bret Howser, Gary Hill
Department: Budget, Debt, & Grants
Date: September 13, 2007
Type of Item: Legislative

Summary Recommendation:

Staff recommends that Council:

- (1) Hold a public hearing and adopt an ordinance levying a \$156 per business tax on all businesses located in the Main Street Business Improvement District (BID) for the purpose of business promotion; and
- (2) Adopt an ordinance amending Title 4 of the Municipal Code (Licensing) to require businesses in the Main Street BID to have a current account in good standing with the City's chosen commercial solid waste removal service provider before the business can obtain a business license.

Topic Description:

Main Street Business Improvement District – Ordinance levying a \$156 per business tax on businesses in the Main Street Business Improvement District for the purpose of promoting businesses in the proposed district. Revision to the business license ordinance that requires businesses to show proof of a current account in good standing with the BID's chosen trash service provider before they are given a business license.

Background:

On August 30, Council discussed a proposal to create the Main Street Business Improvement District (BID). The District had two proposed functions: 1) act as a mechanism for establishing a single service provider for commercial solid waste collection within the District's boundary, and 2) provide business promotion services to the businesses within the District. A tax of \$156 per business was discussed to fund the latter function.

Council held a public hearing on August 16 and 30 to solicit public input on the matter. Council subsequently adopted a resolution establishing the District and directed staff to return with an ordinance to levy a tax within the BID.

Analysis:

Tax for Business Promotion in the BID

Staff met with the executive board of Historic Main Street Business Alliance (HMBA) to discuss in further detail what kinds of activities the BID should carry out. The HMBA presented a proposal to Council on August 30 that outlined four categories of desired "business promotion" in the BID: 1) Member Services, 2) Marketing &

Advertising, 3) Downtown Events & Activities, and 4) Commercial Solid Waste & Recycling. That proposal is again attached to this staff report as an explanation of the purpose of the proposed tax.

The attached breakdown of business promotion services is provided to the City by HMBA and represents what a service provider might do to handle the business promotion side of the BID. Ultimately, though, the City owns and operates the BID and Council is responsible for decisions on the BID's activities. Business promotion activities that Council deems appropriate would be included in an RFP for a service provider.

After working with HMBA to get a better idea of what the activities of the BID would be, staff has revisited the question of an appropriate tax on businesses within the District. Staff recommends that the BID be established with a \$156 per business tax. This is based on the estimated costs as laid out in Attachment A and the number of businesses currently in the District ($\$40,802 \div 262$ businesses). On August 30th Council directed staff to return with an ordinance for a flat tax of \$156 per business.

Revision to the Business License Ordinance

The primary purpose of the BID was to address concerns surrounding the lack of a single service provider for commercial solid waste removal on Main Street. The County formerly contracted with a provider and required all businesses to use this provider. Earlier this year, though, Summit County made a policy decision to discontinue their involvement in commercial trash, and the City, at the behest of Main Street merchants, explored various alternatives for resolving the situation. A BID emerged as the best alternative, and HMBA organized business owners on Main Street to petition the City for the creation of the District.

For purposes of solid waste collection, the BID would function as follows:

The newly-formed BID will act as the boundary of the trash service area. The City has contracted with Allied Waste, which will guarantee a rate structure and scheduling, and will collect fees directly from the businesses in the service area. In order to ensure that businesses provide payment to the solid waste service provider, Staff recommends that the business license ordinance be revised to require that businesses within the BID show proof of a current account in good standing with the City-selected service provider before they can receive or renew a business license. In this manner, the City would provide enforcement through the proposed amendment to the business license ordinance. Increased administrative burden to the City is minimized as administrative decisions are limited to selecting a service provider and no money is passing through the City.

The proposed amendment to the business license ordinance, as described above, is attached for Council's review.

Department Review:

Budget, Finance, Public Works, Legal, City Manager

Alternatives:

- A. Approve the Request:** (1) Hold a public hearing and adopt an ordinance levying a \$156 per business tax on all businesses located in the Main Street Business Improvement District (BID) for the purpose of business promotion; and (2) Adopt an ordinance amending Title 4 of the Municipal Code (Licensing) to require businesses in the Main Street BID to have a current account in good standing with the City's chosen commercial solid waste removal service provider before the business can obtain a business license.
- B.** Continue the item. Council could continue the public hearing and ask staff to return with more information. In order to assess the tax this fiscal year, Council would need to make a decision on the tax before business license renewal notices are sent to businesses the last week of November.
- C.** Modify the Request. Council could modify the request by changing the amount of the tax or choosing not to levy a tax at all. Under this scenario, the BID would only be used for trash management which would still require approval of the
- D.** Deny the request: Without approval of the attached ordinances, the BID would not be able to carry out the activities discussed in this staff report and in previous weeks.

Significant Impacts:

By holding a public hearing and adopting a tax for the Main Street BID, the District will be ready to issue an RFP for a business promotion service provider. Also, by adopting the amendment to the business license ordinance, the enforcement mechanism for having a single trash service provider on Main Street will be in place.

Recommendation: Staff recommends that Council hold a public hearing on the proposed Main Street Business Improvement District tax and pass an ordinance levying a \$156 per business tax in the Main Street BID for purposes of business promotion. Staff also recommends that Council amend Title 4 of the Municipal Code to require businesses in the BID to have a current account in good standing with the City-selected trash service provider.

Attachments

A – HMBA's BID Plan

B – Ordinance levying a \$156 per business tax in the Main Street BID

C – Amendment to the Business License Ordinance

HISTORIC MAIN STREET BUSINESS ALLIANCE

Preserve, Promote, Protect

PO Box 1348
Park City, UT 84060
435-658-9612

HMBA PROPOSED PROGRAM ACTIVITIES FOR FISCAL YEAR 2008

The HMBA is pursuing the establishment of a Business Improvement District (BID), whose goal is to preserve, protect and promote the Historic Main Street District. The HMBA, incorporated March 15, 1999, holds as its central focus the mission of representing the business interest with Park City Municipal Corporation and the Park City community. The following are the programs and program activities for fiscal year 2008. The major cost component of the programs is the administrative hours which are budgeted at a total of 791 hours for fiscal year 2008 at an hourly rate of \$22.00.

Member Services

On an ongoing basis the HMBA provides communication to all the Main Street merchants through various channels (i.e., newsletter, emails, phone calls) in regard to City & County news and updates, local event information that may impact the Main Street corridor and other pertinent and impacting information.

Administrative Hours:	Hours	
Monthly E-newsletters	60	
Board of Directors/Executive Committee Meetings & Write-ups	120	
Annual Membership Meeting	30	
Board of Directors Annual Elections	24	
Total Administrative Hours: (29.58% of budgeted hours)	\$22/hour x 234	\$5,148

Other Program Costs

Office Supplies (pens, pencils, paper, toner, envelopes, etc.)	1,000
Director and General Liability Insurance	1,300
Annual Refreshment Budget for Meetings	1,600
Total Other Program Costs	\$2,600
Member Services Program Total	\$9,048

Downtown Events & Activities

The HMBA works throughout the year with outside groups to help coordinate special events in the historic district. The HMBA's role includes the coordination of Main Street activities with local merchants (including specifically targeted communications), meetings with the City event department in cooperation with planning organization, and administering the contractual involvement of the HMBA with organizations (e.g. Kimball Arts Festival, Sundance Film Festival).

Administrative Hours:	Hours
Major Events	
Kimball Arts Festival	20
Holidays on Main/Santa (with PCMR)	32

Halloween on Main	20	
Park Silly Sunday Market	20	
4 th of July	10	
Miner's Day (Labor Day)	10	
Sundance Film Festival	<u>40</u>	
Total Major Event Hours	\$22/hour x 152	\$3,344

Minor Events

Mustang Roundup	1	
Monthly Gallery Stroll	2	
NORBA Race	1	
Wasatch Back Relay	1	
Unidentified Events (10)	<u>10</u>	
Total Minor Event Hours	\$22/hour x 15	\$308

Total Administrative Hours: (21.11% of budgeted hours) 167 hours x \$22/hour	<u>\$3,674</u>
Downtown Events & Activities Program Total	<u>\$3,674</u>

Marketing/Advertising

The HMBA, with the assistance of some grants, incorporates a minimal advertising and marketing program to encourage collective local exposure to member businesses. (*The programs supported by grants are not included in this summary).

New Branding (Logo and Image Mark)

Administrative 10 hours x \$22/hour	\$220
Designer Cost	\$3,000

Member Website Design and Maintenance

Administrative 80 hours x \$22/hour	\$1,760
Designer/Contractor/Hosting	\$13,000

Main Street Kiosks Updates & Maintenance

Administrative 35 hours x \$22/hour	\$770
Annual Maintenance	\$1,000

Main Street Kiosk Map Annual Updates

Administrative 30 hours x \$22/hour	\$660
Annual Maintenance	\$500
Printing 8 ½" x 11" maps	\$2,000

Main Street Tourist Brochure Updates

Administrative 20 hours x \$22/hour	\$440
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Publication of Electronic Business Directory for HMBA Members

Administrative 20 hours x \$22/hour	\$440
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Administrative Hours: (24.65% of budgeted hours) \$22/hour x 195 hours	\$4,290
Program Costs (Production)	<u>\$18,500</u>
Marketing/Advertising Program Total*	<u>\$23, 790</u>

Solid Waste & Recycling Coordination

The HMBA, who approached the City in 2007 to address the historic district's new trash and recycling efforts, is pursuing the establishment of a Business Improvement District (BID) in order to work with the City to help coordinate the process. The HMBA's role in this capacity will include regularly interfacing with HMBA members regarding the program protocol and information and the formation of a committee to oversee and assess the efficacy of the program's contract on an annual basis. Additional efforts will include working with the City to develop a recycling program to accompany the solid waste management efforts.

Administrative Hours:	Hours		
Monthly Communication	75		
Committee Formation and Management	40		
Management of BID assessment	30		
Other (City coordination, accounting, etc.)	<u>50</u>		
Administrative Hours: (24.65% of budgeted hours)		\$22/hour x 195	<u>\$4,290</u>
Solid Waste & Recycling Management Program Total			<u>\$4,290</u>
<i>Total Fiscal Year Budget Request</i>			<i><u>\$40,802</u></i>

Ordinance No. 07-

**ORDINANCE LEVYING A BUSINESS PROMOTION TAX OF \$156
ON ALL BUSINESSES WITHIN THE BOUNDARIES
OF THE MAIN STREET BUSINESS IMPROVEMENT DISTRICT**

WHEREAS, the Utah Parking and Business Improvement District Act, Utah Code Ann. §§ 17A-3-401 to 414, 1953, as amended, allows counties and municipalities to establish Parking and Business Improvement Districts; and

WHEREAS, 17A-3-404 (2) provides that a county or a municipality which has established a parking and business improvement district may levy a tax on businesses within said district which is in addition to all other taxes levied upon businesses, and shall not be limited by levy limitations imposed upon counties or municipalities by law; and

WHEREAS, the Main Street Business Improvement District was created by resolution on August 30, 2007, with the primary purpose of providing solid waste management and business promotion; and

WHEREAS, the boundary of the Main Street Business Improvement District is defined as all businesses located in the following area:

The BID boundary shall follow the centerline of the following streets: Beginning at the intersection of Main Street and Deer Valley Drive, then proceeding westerly on Main Street to the intersection of Main Street and 9th Street, then west on 9th Street to the intersection of 9th Street and Park Avenue, then proceeding southerly on Park Avenue to the intersection of King Road, then easterly on King Road to Main Street, then southerly on Main Street to Hillside Avenue, then proceeding easterly along Hillside to Marsac Avenue, then proceeding northward on Marsac Avenue to the intersection of Deer Valley Drive and the point of beginning.

WHEREAS, protests against the establishment of the District, its tax, and related matters were given full consideration by the governing authorities of the municipality prior to and during the public hearing held on August 16, 2007, and on August 30, 2007; and

WHEREAS, the City held a public hearing on September 13, 2007, to solicit and consider public input specific to a proposed tax of \$156 per business within the District; and

WHEREAS, the City Council hereby declares that the public health, convenience, and necessity requires the establishment of the District and a tax for business promotion;

NOW THEREFORE, be it ordained by the City Council of Park City that:

1) In addition to any other tax authorized by the laws of the State of Utah and/or of this municipality, there hereby is established, approved, and levied a tax upon all businesses within the boundary of the Main Street Business Improvement District equal to one hundred fifty-six dollars (\$156) annually.

2) This Ordinance shall become effective upon adoption by the City Council of Park City.

PASSED AND ADOPTED this 13th day of September, 2007.

Ordinance No. 07-

ORDNANCE AMENDING TITLE 4, CHAPTER 2 OF THE MUNICIPAL CODE, REGULATING BUSINESS LICENSING IN GENERAL

WHEREAS, the Utah Parking and Business Improvement District Act, Utah Code Ann. §§ 17A-3-401 to 414, 1953, as amended, allows counties and municipalities to establish Parking and Business Improvement Districts; and

WHEREAS, the Main Street Business Improvement District ("District") was created by resolution on August 30, 2007 for the purpose of solid waste management and business promotion; and

WHEREAS, the boundary of the District is defined as all businesses located in the following area:

The District boundary shall follow the centerline of the following streets: Beginning at the intersection of Main Street and Deer Valley Drive, then proceeding westerly on Main Street to the intersection of Main Street and 9th Street, then west on 9th Street to the intersection of 9th Street and Park Avenue, then proceeding southerly on Park Avenue to the intersection of King Road, then easterly on King Road to Main Street, then southerly on Main Street to Hillside Avenue, then proceeding easterly along Hillside to Marsac Avenue, then proceeding northward on Marsac Avenue to the intersection of Deer Valley Drive and the point of beginning.

WHEREAS, the City Council hereby declares that the public health, convenience, and necessity requires the establishment of the District for effective solid waste management; and

WHEREAS, businesses within the District will be required to have any solid waste charges paid up to date in order to receive or renew a business license, and

WHEREAS, City Council has determined that amending the Municipal Code is necessary to ensure proper compliance with the City business license ordinance.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Park City, Utah as follows:

SECTION 1. FINDINGS: The Council finds that it is in the best interest of the health, safety, and welfare of the citizens of Park City to amend the Municipal Code to help manage solid waste in the Historic Main Street Business area.

SECTION 2. AMENDMENT TO TITLE 4, CHAPTER 2 OF THE MUNICIPAL CODE. Title 4, Chapter 2 is hereby amended as follows:

CHAPTER 2 – BUSINESS LICENSING IN GENERAL

4- 2- 9. LICENSE DENIAL/ REVOCATION.

The Director or his or her designee may deny or revoke a license if the applicant:

(A) Has been convicted of a fraud or felony by any state or federal court within the past five (5) years or now has criminal proceedings pending against him in any state or federal court for fraud or a felony;

(B) Has obtained a license by fraud or deceit;

(C) Has failed to pay personal property taxes or other required taxes or fees imposed by the City;~~or;~~

(D) Has violated the laws of the State of Utah, the United States Government, or the ordinances of Park City governing operation of the business for which the applicant is applying for the license;or

(E) Is located within the boundaries of the Main Street Business Improvement District (BID) and has failed to pay the business promotion tax (set by separate ordinance) or any applicable solid waste management charges or fees. Proof of up-to-date payment will be required prior to license approval or renewal.

SECTION 3. EFFECTIVE DATE. This Ordinance shall take effect upon adoption.