

**PARK CITY COUNCIL WORK SESSION NOTES
SUMMIT COUNTY, UTAH
SEPTEMBER 8, 2005**

Present: Mayor Dana Williams; Council members, Kay Calvert, Marianne Cone, Candace Erickson; Jim Hier; and Joe Kernan

Tom Bakaly, City Manager; Mark Harrington, City Attorney; Jerry Gibbs, Public Works Director; Myles Rademan, Public Affairs Director; and Colin Hilton, Economic Development Director

1. Council questions/comments. Candace Erickson reminded the audience of Wind Power Week and thanked Recycle Utah for making programs and events available to the public. RAB met during the week and will return to Council with a visioning update soon. The Literary Festival begins tomorrow and she encouraged the public to participate in this great first-year event. Recycle Utah will hold its household hazmat collection on September 24. Marianne Cone commented on the success of the Miners Day festivities. Joe Kernan thanked the Mayor and Ms. Erickson for attending the sales tax meetings in Salt Lake. Jim Hier relayed that the Rotary did a great job in organizing Miners Day and he reported that Friday is the grand-opening of the Chamber Visitors Center at Olympic Park. Kay Calvert thanked the Mayor for holding a community meeting for Katrina victims. The Mayor commented on Wind Power Week. He thanked the Red Cross and Coldwell Banker for holding the blood drive for Katrina victims and reported on the overwhelming response to St. Mary's Catholic Church's collection. He discussed hosting a Cajun dinner at Fort Williams for New Orleans evacuees in Utah and emphasized that donation of cash and/or dry goods is probably the best way to help. Mayor Williams stated that he was personally contacted by Senator Hatch who relayed that the appropriation of \$1.6 million for replacement buses was formally approved. Candace Erickson thanked Public Works for assisting in *the running of the balls* on Miners Day and encouraged people to see the Scarecrows Festival at the Farm this weekend.

2. General discussion about Old Town trash issues. Jerry Gibbs referred to his staff report which contains elements of other reports drafted over the last four years on trash issues. When this was discussed last February, Council did not provide clear direction on proceeding with a trash container ordinance and since that time, the City has received comments on containers left on the street and billing problems associated Main Street businesses. Mr. Gibbs noted that enforcement was an issue of discussion and he relayed that in researching this topic, other cities report that violations rarely go to court, which may be an indication that their ordinances are not fully enforced. Candace Erickson felt that cans left out two days after pick-up should constitute an infraction and again brought up confiscating containers in instances of non-compliance. Mr. Gibbs believed that removing them may result in violators using their neighbors' trash containers. Jim Hier felt that trash cans should be allowed on the street a day

before and a day after pick-up. After notice is given, the containers should be seized and there was discussion about the level of notice and the need for associated storage.

Marianne Cone stated that she does not favor the *enforcement route* and expressed the effectiveness of neighbors helping each other out when out of town. She felt that many problems are prompted by property management companies and suggested inserting information about timelines in removing trash containers in water bills. Ms. Cone requested that all cans be brown rather than blue, and Jerry Gibbs explained that brown cans come at a cost. He discussed information distributed by the Public Affairs Department and made available at public facilities and public service announcements. The Mayor questioned blaming property management companies and Marianne Cone explained that her assessment is based on walking Woodside and looking at properties. Mr. Gibbs interjected that there are a number of individually owned and managed units and second homes. If cans are confiscated, he predicted that people will claim that they were stolen, and there will have to be a high level of cooperation with BFI. It is simple to seize a can, but the follow-up will require staff time and the formulation of an adjudication process. Kay Calvert didn't feel as if Council has enough information about the inventory of the streets in Old Town and Mr. Gibbs felt that addresses can be generally identified. A survey has not been explored by staff because there has not been clear direction on proceeding with an ordinance. The work session is intended to determine if an enforcement approach is preferred by Council. Marianne Cone confirmed that she is opposed to enforcement. Joe Kernan pointed out that besides visual impacts, containers left on the street may create safety problems with regard to snow removal and he suggested that there may be ways to cut costs like monitoring streets and enforcing the ordinance only a couple times of year with seasonal staff. He felt that a fine of \$30 to \$40 would cover the costs of managing confiscated containers. Rather than being cited, Marianne Cone felt that violators could be reminded of guidelines by posting a notice on their containers by neighborhood volunteers. Jerry Gibbs responded that all of these suggestions are possible. The Mayor encouraged Council members to keep on point.

Jim Hier stated that he doesn't believe that collecting cans and fining the owner is a big deal and over time, people will begin to comply; he felt that most residents will be delighted. It is irrelevant to him whether offenders are property management companies or private citizens. He agreed with Council member Kernan that how our streets look is significant or the City wouldn't have so many regulations for Old Town. The Mayor suggested that there be a marketing blitz, specifically for the benefit of property managers, that the City is considering an ordinance. Ms. Cone felt that the same information could be inserted in water bills which will reach the owners of property before enacting an ordinance. Joe Kernan suggested postponing implementation of the ordinance. Jim Hier agreed that publicizing the fact that Council is contemplating an ordinance is appropriate and suggested scheduling two public input sessions in the

meantime. He emphasized that if the code is not enforced, nothing is going to change. Discussion ensued regarding an acceptable length of time to leave a container on the curb and it was decided to allow the day before pick-up, collection day, and the day after. Jerry Gibbs stated that staff will need to work through the logistics of the enforcement piece. Marianne Cone asked for feedback on the water billing idea and Ms. Erickson pointed out that bills are frequently handled by the owners' agents or property management companies. She felt that distributing the information to the lodging community will be most effective. Mr. Gibbs also understood Council direction to be to hold a public input process before the ordinance is brought before the City Council.

Tom Bakaly suggested that Council may want to focus on a pilot program addressing Old Town, not a community-wide program where there are a variety of collection days. In addition to aesthetics, safety considerations are relevant to Old Town. He cautioned that enforcement costs may be significant and advised that volunteers can not legally enforce ordinances; the law must be imposed consistently not sporadically. Joe Kernan again discussed his suggestion and the City Manager added that the City must also respond to complaints as they arise.

Marianne Cone commented on the grease dumped around the dumpsters in Swede Alley and asked who is accountable. Jerry Gibbs explained that BFI has the contractual responsibility to handle grease from commercial dumpsters. He agreed that grease spillage is a real problem and impossible to monitor. He felt that restaurants need to take ownership of the problem and the Mayor suggested talking to the HMBA about this at an upcoming meeting.

The City Manager stated that BFI's contract is currently being negotiated with Summit County. He asked if there is interest on behalf of the City to manage part of BFI's contract, more specifically the collection from Main Street businesses. Jim Hier expressed that philosophically, there is little merit in the City providing trash removal services but there needs to be a financial analysis of the impacts before Council can evaluate the proposal. Joe Kernan suggested exploring ways that the City can assist BFI in collecting payment from Main Street businesses. Ms. Cone supported keeping the contract in tact and Ms. Erickson agreed but expressed her willingness to assist BFI, if possible. The City Manager understood the direction to staff to be to perform an analysis to determine if there are any solutions available in the current framework.

3. Recreation Complex naming rights. Myles Rademan explained that a professional marketing firm would ask for 10% of what is raised in addition to a retainer. The Park City Foundation, a local community non-profit, is willing to assume the project for three months without spending a lot of money. If Council is desirable to selling naming rights, he felt it appropriate to open it to local foundations and individuals first

before considering corporations. He clarified the intent to raise \$800,000 to reimburse the five-year CIP fund and to create an operating and maintenance fund for the Complex, all of which total \$1.5 million. Mr. Rademan recommended sending out a letter outlining the benefits of naming rights and Mr. Hier expressed his support of the approach. It was explained that Park City Foundation would be compensated 5% or up to \$75,000 based on the assignment. Candy Erickson added that proceeds would be held by Park City Foundation and distributed to other non-profits who qualify for funding. Myles Rademan interjected that the Foundation has raised about \$300,000 over the last few years which has been distributed to local interests.

In response to a question from the Mayor, Mr. Rademan explained that naming rights are not generally granted in perpetuity as in the past. More often, naming rights are limited to a specified period of time and the duration relates to how much is paid. Only the Council has the discretion to award naming rights and he pointed out that the City's auditors have advised that municipalities can not trade naming rights as outlined in the staff report. Kay Calvert emphasized that individuals or family foundations will require permanent naming rights and the City can potentially make more money by contracting with corporations. Mr. Rademan agreed and noted that there will be a process for evaluating responses. He felt that \$1.5 million seemed like a reasonable target. Colin Hilton estimated a professional marketing plan to cost between \$5,000 to \$10,000 and it was the feeling of the task force to assess community interest first before soliciting corporations. Jim Hier felt it important to conduct a financial analysis to assign values to naming rights intervals. Myles Rademan agreed that an analysis would be helpful, but it is the task force's recommendation to explore local interest first. Kay Calvert added that corporations will carefully research and determine the value of this marketing approach. Jim Hier insisted that an amortization table would be helpful for the City.

For the benefit of Joe Kernan, Mr. Rademan explained that the Park City Foundation is accommodating the effort for the benefit of the community. It is not a marketing firm. Kay Calvert reiterated that the committee wanted to introduce the concept first to local interests first before hiring a marketing firm, typically requesting 10% not 5%. Council concurred with staff's recommendation. Tom Bakaly stated that a contract with the Foundation will be prepared for review and consideration at the September 22 meeting.

4. Review of regular meeting. There was no discussion. See regular meeting minutes.

Prepared by Janet M. Scott, City Recorder

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
SEPTEMBER 8, 2005**

I ROLL CALL

Mayor Dana Williams called the regular meeting of the City Council to order at approximately 6 p.m. at the Marsac Municipal Building on Thursday, September 8, 2005. Members in attendance were Dana Williams, Kay Calvert, Marianne Cone, Candace Erickson, Jim Hier, and Joe Kernan. Staff present was Tom Bakaly, City Manager; Mark Harrington, City Attorney; Ray Milliner, Planner; Mat Twombly, Parks Planner; and Pace Erickson, Operations Manager.

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

Dana Williams discussed the energy conservation challenge among City departments and reported that the Library won but all facilities reduced consumption by at least 5% which was the target.

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

The Mayor invited the public to comment.

1. Local Art Cooperative - Dale Craighead, local art cooperative member, announced that they reached their two main goals in the Old City Hall space on Main Street during the summer. Accomplishments included meeting revenues and becoming a non-profit corporation. It is their intention to formulate outreach and education programs. They are planning to provide drop-in classes available for visitors and tourists. Ms. Craighead noted that they have maintained information, like number of daily visitors, and will present this data to Council once compiled. The group is hoping to find another gallery location on Main Street and is open to any suggestions the City may have. She thanked the Historical Society for providing flexibility in their lease arrangement for the space.

2. Literary Festival - Elizabeth Swank commended Ms. Craighead for her efforts in making the cooperative a success. She invited everyone to the opening of the Literary Festival tomorrow. David Ernst, organizer, thanked the Council and staff for collaborating to make the event possible. He found it remarkable that 26 authors will be participating this first year and he again relayed his thanks to the City.

3. Outdoor display of merchandise – CUP - Mike Sweeney, President HMBA, stated that business owners appreciate the legislation allowing the display of outdoor merchandise but added that applying for an administrative conditional use permit is somewhat strenuous. He urged Council to consider streamlining the process and reported he is meeting with the Legal Department on this issue.

4. Assistance to Katrina victims - Beth Fratkin, resident, suggested that the evacuees housed at Ft. Williams be transported to Park City for a community event. The Mayor reported that the Restaurant Association is proposing to go there and the plan is in the works. He thanked her for her willingness to participate.

IV CONSENT AGENDA PUBLIC HEARING

Ordinance approving a one year extension of a plat amendment to combine Lots 1 – 3, Block 30 of the Snyder's Addition to the Park City Survey into one lot of record at 819 Empire Avenue, Park City, Utah – Ray Milliner explained that the owner lives in Australia which contributed to delays in recording the plat. Council member Cone asked the size of the footprint and Mr. Milliner explained that the lot is approximately 3,800 square feet, which would allow a 1,520 square foot footprint. Designer Peter Barnes explained that because of a donation of property to the City, 1,700 square feet was set as the maximum, but the building is designed at 1,400 square feet. The Mayor opened the public hearing, and hearing no input, closed the public hearing. Mr. Barnes made himself available for any questions on the project.

V CONSENT AGENDA

Mayor Williams relayed his support of Item 2, promoting energy saving innovations in the community. Candace Erickson, "I move approval of Items 1 and 2". Jim Hier seconded. Motion unanimously carried.

1. Ordinance approving a one year extension of a plat amendment to combine Lots 1 – 3, Block 30 of the Snyder's Addition to the Park City Survey into one lot of record at 819 Empire Avenue, Park City, Utah – See staff report and public hearing.

2. Resolution supporting a voluntary green building program that raises the level of awareness of green building in our community – See staff report.

VI NEW BUSINESS

1. Authorization to award a construction contract to DRD Paving in the amount of \$641,954 for three neighborhood parks – Prospector Park, New Prospector Park and Racquet Club Park – Mat Twombly explained that staff has been working with RAB over the past several years on neighborhood parks and solicited input on this concept. Agreeing on designs took some time and staff is recommending approval of the contract to DRD Paving. Discussion ensued on naming parks which will be discussed by RAB. Ms. Erickson interjected that RAB has worked very hard on this project and she is very proud to see this contract. Mr. Twombly commented that a climbing boulder is included for the new Prospector Park, which will be constructed this season. The other parks are

contemplated to be built in the spring. Kay Calvert, "I move to approve the authorization to award a construction contract to DRD Paving in the amount of \$641,954 for three neighborhood parks – Prospector Park, New Prospector Park and Racquet Club Park". Marianne Cone seconded. Motion unanimously carried.

2. Authorization to enter into a Cooperative Agreement with the Summit County Cooperative Weed Management Area – Pace Erickson explained that the City already works well with the Summit County Weed Board who has been helpful over the years in identifying noxious species. The City has had a weed abatement program in place since 1994 and has spent approximately \$25,000 a year in control efforts. Based on his observations, Mr. Erickson believes that Park City is the only entity with an active and effective weed abatement program and the only agency already compliant with the terms of the MOU. Staff is not recommending using County services and the MOU basically formalizes what the City is already doing like working cooperatively with other groups and managing noxious weeds on our property. There are no enforcement or financial impacts and the Code requires that property owners keep their property free of noxious weeds which is enforced by the City. It is not recommended to adopt the County's ordinance. In response to a question from Kay Calvert about enforcement of the County's ordinance within its own jurisdiction, Mr. Erickson didn't believe the program to be especially effective, but noxious weeds are controlled within Park City's borders. He acknowledged that it is a regional issue, not jurisdictional, and Council member Calvert believed it has to be enforced in the County so that Park City's abatement efforts aren't compromised. Pace Erickson felt that if this is the case, the City can pressure the County to enforce the ordinance and in addition, controlling noxious weeds is a federal law. However, the MOU may accomplish this by promoting a collaborative process. Jim Hier, "I move we adopt the resolution authorizing the Mayor to sign the Memorandum of Understanding with the Summit County Cooperative Weed Management Area". Marianne Cone seconded. Motion unanimously carried.

VII ADJOURNMENT

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

MEMORANDUM OF CLOSED SESSION

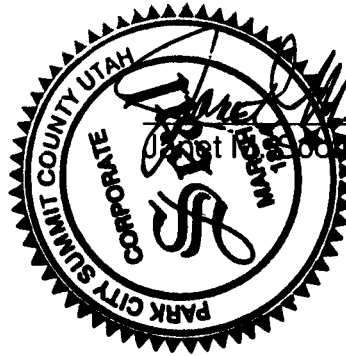
The City Council met in closed session at approximately 3:30 p.m. Members in attendance were Mayor Dana Williams, Kay Calvert, Marianne Cone, Candace Erickson, Jim Hier, and Joe Kernan. Staff present was Tom Bakaly, City Manager and Mark Harrington, City Attorney. Marianne Cone, "I move to close the meeting to discuss personnel". Joe Kernan seconded. Motion carried unanimously.

The meeting opened at approximately 4:30 p.m.

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City Council Meeting
September 9, 2005

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

Prepared by Janet M. Scott



Janet M. Scott

Janet M. Scott, City Recorder

DATE: September 8, 2005
DEPARTMENT: Public Works
AUTHOR: Jerry W. Gibbs, P.E.
TITLE: Old Town Trash Issues
TYPE OF ITEM: Informational- work session only

SUMMARY RECOMMENDATIONS: Give staff direction on proceeding with trash issues in Old Town and for Main Street.

DESCRIPTION:

Topic: Old Town Trash

Background:

Prior to the year 2000, G & F Waste provided individual trash bag pick up for residential and commercial users and negotiated separate contracts for each commercial dumpster. Rates and service levels varied between commercial customers. Some commercial establishments placed garbage bags on the sidewalk at the close of business to be picked up the next day. Often a portion of the contents would be found elsewhere on Main Street depending on the activity level of the night life that evening. A similar problem was occurring in residential areas with animals tearing open unattended garbage bags.

The Summit County Commission entered into an exclusive contract with BFI in November 1999 for residential and commercial trash removal with service beginning on January 1, 2000. The contract provided for:

- Automated pick-up only;
- Exclusive rights to provide services to residential and commercial businesses by BFI;
- Commercial businesses (except home business) were required to subscribe to the service.
- Collection for non-payment is a BFI issue.
- County will subsidize commercial rates by not charging a tipping fee.

BFI inventoried the Main Street commercial & residential businesses and cross-checked with Park City's business license list. Nationwide standards were used for volume generation since BFI did not have a history of Main Street trash volumes. A cost per business license holder was developed based on their percentage of volume to the total estimated annual volume from all Main Street community garbage.

In June of 2000, BFI asked the City to re-address the Main Street trash issues. BFI issues were:

- Community dumpsters did not allow BFI the ability to stop service for businesses refusing to pay the quarterly trash collection rate;

- Approximately 10% of Commercial users were not paying;
- Individual merchants no longer had the choice of who or how to dispose of their trash;
- Smaller businesses argued they recycled and did not contribute to the trash stream and therefore should not pay.

The City considered three options for billing:

- Assume the administration and add trash collection fees to monthly water bills
 - Requires changes to the existing ordinances
 - A 4 to 6 month implementation schedule
 - City would assume additional administrative cost in Public Works, Finance, Legal and the adjudication process. (Trash administration is built into the County's General Fund trash budget.)
 - May not be as cost effective as the current contract
 - City would have to competitively bid a collection contract for Main Street
- Special Service District
 - Same issues as above
- Keep it in its current form

The City Council decided to keep the Main Street billing in its current form (i.e., BFI direct bills with contracted commercial customers).

Old Town Trash Containers:

The automated pick-up required the delivery of "big blue" (the infamous 90 gallon blue containers). It was evident fairly quickly that big blue did not work in all location on Main Street or Old Town. City staff, working with Summit County and BFI staff, developed a plan. BFI was asked to prepare a cost of service analysis for Main Street and a trash can change-out program for Old Town was initiated.

A smaller 35-gallon trash can was the preferred solution by City Council to replace the 90-gallon "big blue". Other options were considered. A manual bag removal would have cost each resident an additional \$6.04 per month. Approximately 174 Old Town residents needed more than 35 gallons but less than 90 gallons. The City agreed to pick up the cost of the second can at an average cost of about \$7,000 per year.

A discussion with the City Council in February 05 focused on an ordinance (attached) limiting the time a residential trash may be placed in the right of way for pick-up and when it has to be removed. While cleaning up the visual blight created by the forest of trash cans is desirable, the City Council was unable to arrive at a consensus on an ordinance requiring time limitations.

Council suggested a series of PSA's to encourage the removal of trash cans. Brenna Herbert of the Public Affairs Department has developed numerous PSA's for KPCW. They have been playing off and on for the last two months. The effectiveness of the ads has not been noticeable.

Analysis: Old Town Trash Containers - City Council and staff continues to hear resident concerns over the unsightly presence of trash cans after the pick-up day. The current ordinance applies only to Main Street which requires individual trash cans not be placed before 10 PM the night before pick-up and must be removed by 10 PM the day of pick-up.

Complaints are centered on businesses not following the time restraints. The Building Department and Police Dispatch receive calls requesting enforcement after normal work hours. It is difficult for the Building Department to meet the expectations of the complainants with current resources.

The Legal Department enquired with other communities that have an ordinance limiting time a trash container can remain of public and private streets. Salt Lake City and South Salt Lake City uses the criminal system in which it is a class C misdemeanor. The police or trained enforcement would be required gather evidence, write reports, testify in court and field the necessary phone calls.

Another option is to structure the ordinance so that the first time some one violates the provision it is an infraction, then if they violate it again within a certain time period it would become a C misdemeanor. The other option is to make it a civil penalty akin to a parking ticket. Enforcement by Police, Building, Public Works or other trained enforcement would be required. There are issues with serving a ticket. A warrant can not be issued for not showing up in court since a resident could make an argument they never received the ticket. Both cities indicated they almost never see a violation come through the system.

An ordinance requiring cans to be removed citywide will require a high level of enforcement initially. The following are comments from the Police Department and Building Division:

- It will be difficult to file information against the property owners that live out of state. (It would be a Class B Misdemeanor, but the person has to be in the state to be served.)
- An accommodation or hardship waiver may be required for senior citizens that are not able to maneuver these trash cans as required.
- The Building Department does not have staff on duty after hours.
- This is primarily an aesthetic issue with minimal health and safety implications.
- Police would be expected to be the after hours enforcers unless a new Code Enforcement individual is hired.
- Enforcement by police would be a low priority with respect to health and safety related calls.
- The Building Department would need to request a budget adjustment to hire an additional part-time code enforcement officer.
- Public Works is averaging about three complaints per quarter concerning Main Street/Old Town trash cans.
- Another tool to consider for enforcement is revocations of business licenses that

are consistently in violation.

The estimated additional cost to Building could vary between \$1,500 and \$4,000 per month. A copy of a draft ordinance is attached.

Main Street Trash - BFI currently bills Main Street businesses on a cost of service basis. When BFI is unable to collect payment from current businesses or businesses that have gone out of business, those charges are added on to the next years cost of business and everyone's fees are adjusted. Services can not be withheld because community trash cans and dumpster are available on Main Street and in Swede Alley.

The Parks Department personnel manually pick-up trash on Main Street out of our 55-gallon Park City containers and some remaining Olympic containers. Trash in these containers is from visitors and some businesses that choose to utilize our containers and not walk to Swede Alley. City trash is taken to Public Works for removal.

Park City has reduced costs to the Main Street efforts by purchasing and maintaining the Swede Alley trash compactors. The trash compactors reduced the Main Street billings by 20% because the Summit County contract is based on volume and not weight.

BFI has asked if Park City would be interested in having the County bifurcate the current contract to give Park City the trash responsibility for the Main Street area. Park City and Summit County staff does not see any additional benefit in this change. The same options should exist to aid BFI in their collections regardless of the change in contractual obligation. A change in scope of the contract could result in changes to the cost of service.

Staff and City Council have received individual complaints expressing concerns in both areas. However, there does not appear to be an organized effort to make changes in Old Town or Main Street. If this does pick up momentum, the neighborhood request process (policy attached) may be an effective tool to better identify issues and solutions.

In addition to the community compactors across from the Transit Center and next to China Bridge, there are community eight yard dumpsters distributed along Swede Alley. Many dumpsters will also have adjacent grease containers for restaurant use. BFI has contracted their obligation to Renegade Oil, Inc. to pick-up grease separately. BFI and City staff monitors the areas and provide clean-up as required. BFI is able to include their time within the Main Street billing effort.

Department Review:

Legal, Building, Police, Public Works, and the City Administration have reviewed the staff report.

ALTERNATIVES:

- A. Adopt an Ordinance:** Staff is requesting direction on the adoption of an ordinance to require trash containers to be moved from a city or private street citywide. Staff would need clarification on the priority of enforcement, citations and confiscation.
- B. Accept Main Street:** This option would transfer contract trash obligation from Summit County to Park City for the Main Street and Swede Alley areas.
- C. Do Nothing:** This option would rely on residents and businesses to start a neighborhood process to implement changes. **(This is the staff recommended alternative.)**

SIGNIFICANT IMPACTS: Alternative A will require a significant commitment of staff time to implement, educate and enforce initially. Citizens will expect results immediately. Complications with tenant/owner/property manager's relationship may create difficult enforcement issues. Enforcement will not remove the can. Public Works will need to be notified to pick-up, store and track serial number to correspond to BFI records if cans are confiscated.

Alternative B would change the administrative responsibility for Main Street and Swede Alley from Summit County to Park City. The additional administrative cost could be passed on to the merchants whereas the current administrative cost is already included in the County's budget. A competitive bid process would need to be developed. Bids may not be as competitive as a County wide trash contract due to the fact that the contract would be much smaller.

Alternative C would allow individual neighborhoods to participate in finding acceptable solutions. What works on Park Avenue may not work on Lowell or Rossi Hill.

RECOMMENDATION: Give staff direction on proceeding with trash issues in Old Town and for Main Street.

Administrative Policy for Business Districts and Neighborhoods

Needs Assessments

- 1) Submit a petition to the Executive Office
 - a. Must be from a representative number of households/businesses of a given subdivision, business district, or a registered owners association. Accurate contact information and names of each petitioner must be provided along with designation of one primary contact person or agent.
 - b. Define Boundary - Who does the petition represent? Is it inclusive to a specific neighborhood or business district? Explain why assessment area should be limited or expanded.
 - c. Define issues - What is being requested?
 - d. Deadline – In order to be considered for upcoming fiscal year, the petition must be submitted by the end of the calendar year
- 2) Initial Internal Review
 - a. Identify staff project manager
 - b. Present petition to Traffic Calming & Neighborhood Assessment Committee (Meeting called within one month of petition being submitted)
 - c. Define and verify appropriate, basic levels of service are being provided. If they are not provide
 - i. Health, safety, welfare
 - ii. Staff's available resources & relative workload
 - iii. Minimum budget thresholds not exceeded (below \$20k pre-budgeted – no Council approval needed)
 - d. Define enhanced levels of service that are requested. Are these consistent with Council goals and priorities? If so, continue to step # 3
- 3) Initial Communication to Council (Managers Report)
 - a. Inform Council of request for assistance - outlines specific issues/requests.
 - b. Inform Council of any basic service(s) Staff has begun to provide
 - c. No input or direction from Council will be requested at this time.
- 4) Comprehensive Internal Review
 - a. Assemble background/history & existing conditions (Identify all participants, relevant City ordinances, approval timeline, other pertinent agreements/ studies & factors, etc.)
 - b. Criteria to analyze request - What should we do & with what rationale?
 - i. Verify requested services are consistent with Council goals and priorities
 - ii. Cost/ Benefit Analysis - Define budgetary implications of providing Enhanced level of services
 - A. Define need & costs for any additional technical review
 - B. Define initial capital improvement costs
 - C. Define annual, ongoing maintenance and operational costs

- D. Gather input from city department identified as responsible for each individual item as listed
 - a. Identify available resources & relative workload
- 5) Initiate Public Forum (Applicant & Staff partnership)
 - a. Neighborhood meeting(s) - Create consensus from petitioner and general public
 - i. Identify issues and potential solutions
 - A. Identify what we can accomplish based on funding availability.
 - B. Use cost/benefit analysis to prioritize applicant's wish list
 - C. Funding partner – any district that receives “enhanced” levels of service should be an active participant in funding or, participate in identification of a funding source (other than City budget)
 - ii. Identify agreeable solutions suited for recommendation for funding assistance
- 6) Communication to Council (Work Session or Managers Report)
 - a. Receive authorization for technical review - using “outside” consultants if necessary
 - b. Identify prioritized project wish list (unfunded)
 - c. Identify funding source for each item; or
 - d. Move to CIP/Transit Budget committee review as “yet to be funded project” for prioritization comparison
- 7) Council decision whether to include in budget or not
 - a. Spring of each year, consistent with budget policies of reviewing all new requests at once.

AN ORDINANCE ADOPTING REGULATIONS FOR STORAGE OF TRASH RECEPTACLES IN THE MUNICIPAL CODE OF PARK CITY, TITLE 6, HEALTH, NUISANCE ABATEMENT, AND NOISE

WHEREAS, in January 2000 the waste collection process in Park City changed from manual pick-up to automated curbside pick-up, requiring the use of sixty and ninety gallon receptacles; and

WHEREAS, during the first few years of the process the City received numerous visitor and citizen complaints regarding receptacles being left out for extended periods, which has caused blocked sidewalks, restricted parking, and increased litter from spilled receptacles; and

WHEREAS, in July 2001, the City Council adopted an ordinance addressing private trash containers on Main Street; and

WHEREAS, the beauty and appearance of the City is of great importance; and

WHEREAS, trash receptacles left out for extended periods of time constitute a visual blight, particularly in the Historic District;

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PARK CITY, UTAH THAT:

SECTION I. The recitals above are incorporated herein as findings of the City Council, Park City's legislative body.

SECTION II. The Municipal Code of the City of Park City, Utah, is hereby amended by adding a new Section 11, Chapter 1, Title 6, which said Section shall read as follows:

6-1-11. COLLECTION TIME - PLACEMENT OF PRIVATE TRASH RECEPTACLES.

- Private trash receptacles to be collected and emptied curbside by the County, or a licensed collector, shall be set out for collection at the places and at such times as may be designated by the County, or licensed contractor. Such receptacles must not be set out upon or adjacent to the street for collection prior to 6:00 PM. of the day before collection.
- With the exception for property in the HCB Zone which is regulated by 15-2.6-11, all empty trash receptacles must be removed from the street as soon as practicable after being emptied, and in every case must be removed from the street and front yard setbacks the same day they are emptied.
- Each day that a violation of this section occurs shall constitute a separate offense.

- This section does not apply to municipal receptacles or dumpsters approved pursuant to Section 6-1-9.

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City Council Staff Report



Author: Myles C. Rademan
Subject: Naming Rights @ Rec Complex
Date: September 8, 2005
Type of Item: Administration

Public Affairs &
Communications

Summary Recommendation: Authorize the City Manager to execute a contract (attached) with the Park City Foundation to market the naming rights for the (Name to be marketed) Recreation Complex @ Park City, including the Ice Rink and Sports Fields, until January 1, 2006, in an amount not to exceed \$75,000 (.5% X \$1.5 million)

Description: The Park City Foundation, a non-profit community foundation, established to promote worthwhile Park City community projects is willing to market the naming rights for the new recreation complex and ice rink at Quinn's Junction to community members, local foundations and businesses in return for a .5% fee, only for monies raised.

Topic:

The City is interested in selling the naming rights for the new sports complex and facilities at Quinn's Junction in order to recoup the increased constructions costs for building the recreational facilities and to help establish an operations and maintenance budget.

Background:

Council has discussed a variety of ways to recoup the increased construction costs and establish an O&M budget for the new recreation facilities at Quinn's Junction. The idea of marketing and selling 'naming rights' for the new facilities seems both feasible and appealing. Presently the City has advanced over \$800,000 to cover increased construction costs and an estimate of \$1.5 million would cover these costs, additional needed equipment and establish an O&M reserves to help offset the City and Basin annual subsidy for the facilities.

A task force comprised of two council members (Kay Calvert & Candy Erickson) and several staff members (Colin Hilton, Stacey Noonan & Myles Rademan) met to discuss alternatives. The task force met with a professional marketing and events company, Shindig, and received a proposal from them to engage their professional talents.

Analysis:

A wide variety of marketing and promotional methods can be used to sell 'naming rights'. Shindig is convinced that the idea of selling naming rights for these new facilities has great potential to large corporate and business sponsors, but as their proposal points out the city would have to contractually engage them, pay for marketing materials and pay them a monthly service retainer in addition to a percentage of the monies they raise.

The task force felt that it would be advantageous to offer naming rights opportunities to the local community first for a specified timeframe and do so on a limited budget. The Park City Foundation, a non-profit community foundation specializing in raising monies for community-based projects was contacted and the opportunity to spearhead this localized effort was discussed. They agreed that the idea had both potential and merit and that with fairly limited marketing materials they are willing to market the naming rights concepts to their local contacts, families, foundations and businesses.

The following deal points have been discussed with the Park City Foundation:

- PCMC engages PCF to use their best efforts to sell naming rights at the Recreation Complex @ Park City for a total of approximately \$1.5 million.
 - This can include naming rights for the entire recreation complex including ice arena, fields, scoreboards, Zamboni, and other objects suitable for naming (\$1.5m).
 - Different naming rights can be granted for the constituent parts of the complex as well. For example, there can be an overall name for the entire complex, and a different name for the ice arena, and a different name placed on the scoreboard, etc. (see suggested amounts later in this memo).
- PCMC will establish a Naming Rights Committee comprised of Colin Hilton, Tom Bakaly, Myles Rademan, Stacey Noonan, Kay Calvert & Candy Erickson to review any proposed naming rights proposals and will submit those deemed suitable by the Committee to the City Council for formal approval.
- PCMC will work with PCF to develop marketing materials including color renderings, a letter outlining the advantages of naming rights, costs of the various naming rights, their duration, and a PowerPoint presentation to aid PCF in its efforts to sell the naming rights.
- All contacts for potential naming rights purchasers shall be forwarded to the PCF for further action and follow-up.
- PCF has the right to work with other persons or parties it deems appropriate at their sole discretion in furthering the aims of this agreement.
- The duration of this agreement shall be until January 1, 2006, unless otherwise expressly extended by mutual agreement of the parties.
- PCF shall be compensated for securing naming rights by receiving .5% of any monies raised. No other direct compensation shall be paid to PCF other than limited reimbursement for recruitment expenses (with a not to exceed amount agreed upon in advance) incurred in furthering this effort.

- The value and duration of the naming rights shall be part of the negotiations and decided on a case by case basis, but the following can serve as a guideline:
 - Entire complex, one name for all assets = \$1.5m
 - Sports complex, non inclusive = \$1.0m
 - Ice Arena = \$1.0m
 - Main playing field = \$250k
 - Scoreboards = \$100k
 - Zamboni = \$ 50k
 - Others to be decided
- The City might consider trading naming rights for comparable value with companies or individuals providing goods or services.

Toward the end of the agreed upon time period (January 1, 2006), the City and PCF shall assess the naming rights program and either continue along the present course with PCF for an additional specified timeframe, or embark on another course of action (ie, contract with Shindig or another marketing firm to professionally market the naming rights to corporate or other sponsors, or abandon the naming rights program until a more propitious time).

Department Review:

City Manager, Economic Development & Capital Projects, Legal

Alternatives:

Approve the Request:

Sign a contractual agreement with the Park City Foundation and provide them with the marketing materials agreed upon.

Deny the Request:

Deny approval of an agreement with the PCF and decide on an alternative course of action (e.g. RFP for professional marketing services)

Continue the Item:

Provide direction as to what additional information the Council would like at the next meeting.

Do Nothing:

Staff would use staff time, as available, to market the project.

Significant Impacts:

City Council has expressed a desire to recoup the 5 year CIP monies being expended to complete the recreation complex and ice rink. It is felt that the prudent and proper course of action is to offer the naming rights opportunities on a local basis initially before pursuing a course of seeking corporate and large business sponsors.

Consequences of not taking the recommended action:

The recreation complex and ice rink will use additional monies budgeted in the 5 year CIP budget that can be used for other necessary city projects.

Recommendation:

Authorize the City Manager to execute a contract with the Park City Foundation to market the naming rights for the (Name to be marketed) Recreation Complex @ Park City, including the Ice Rink and Sports Fields, until January 1, 2006, in an amount not to exceed \$75,000 (.5% X \$1.5 million)

City Council Staff Report



Author: Ray Milliner
Subject: 819 EMPIRE AVENUE EXTENSION
Date: September 8, 2005
Type of Item: Legislative

PLANNING DEPARTMENT

Summary Recommendation: Staff recommends that the City Council Approve the request for a one year extension to the September 30, 2004 plat amendment approval for the property located at 819 Empire according to the Findings of Fact, Conclusions of Law and Conditions of Approval in the attached ordinance.

TOPIC

Owners:	Magnus Floden
Location:	819 Empire Avenue
Zoning:	HR-1
Adjacent Land Uses:	Historic Residential
Project Planner:	Ray Milliner
Date of Application:	June 30, 2004

BACKGROUND

On September 30, 2004 the applicant received approval from the City Council to combine Lots 1-3 in Block 30 of the Snyder's Addition to the Park City Survey into one 3,884 square foot lot. The newly created lot is located north of the proposed Creole Gulch/Treasure Hill development, and is south of platted Ninth Street. The property is currently vacant, and is located within the HR-1 zone. The applicant was unable to record the plat prior to the expiration of the subdivision approval and is therefore requesting that the City Council grant a one year extension to the September 30, 2004 approval.

RECOMMENDATION

Staff recommends that the City Council Approve the request for a one year extension to the September 30, 2004 plat amendment approval for the property located at 819 Empire according to the Findings of Fact, Conclusions of Law and Conditions of Approval in the attached ordinance.

EXHIBITS

Exhibit A – Proposed Ordinance
Exhibit B – Proposed Plat Amendment
Exhibit C – Letter from Applicant

Ordinance No. 05-

AN ORDINANCE APPROVING A ONE YEAR EXTENSION OF A PLAT AMENDMENT TO COMBINE LOTS 1-3 IN BLOCK 30 OF THE SNYDER'S ADDITION TO THE PARK CITY SURVEY INTO ONE LOT OF RECORD AT 819 EMPIRE AVENUE.

WHEREAS, the owners of the property known as 819 Empire Avenue have petitioned the City Council for approval of an extension to a plat amendment; and

WHEREAS, the property was properly noticed and posted according to the requirements of the Land Management Code; and

WHEREAS, on September 30, 2004, the City Council approved proposed plat amendment; and

WHEREAS, it is in the best interest of Park City, Utah to approve the one year extension to the plat amendment.

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

SECTION 1. FINDINGS OF FACT. The above recitals are hereby incorporated as findings of fact. The following are also adopted by City Council as findings of fact:

Findings of Fact

1. The property located at 819 Empire Avenue is located in the HR-1 zone.
2. There are no existing buildings on the property.
3. Plat amendments expire one year from the date of Planning Commission approval
4. The applicant is requesting a one year time extension of the plat to combine 3 old town lots into one lot of record, for the purpose of constructing a single family home.
5. No changes to the existing approval are proposed at this time.
6. Because no changes are proposed, no change in circumstance has occurred since the previous approval that would result in an unmitigated impact to the community as a result of the extension.
7. The applicant received approval for a subdivision plat amendment on September 30, 2004
8. The approval will expire on September 30, 2005.
9. No building permits will be issued for the property until the plat amendment is recorded at the county.

SECTION 2. CONCLUSIONS OF LAW. The City Council hereby adopts the following Conclusions of Law:

Conclusions of Law

1. There is good cause for this extension.
2. The extension is consistent with the Park City Land Management Code and applicable State law regarding plat amendments.
3. Neither the public nor any person will be materially injured by the proposed plat extension.

SECTION 3. CONDITIONS OF APPROVAL. The City Council hereby adopts the following Conditions of Approval:

Conditions of Approval

1. The City Attorney and City Engineer will review and approve the final form and content of the plat amendment for compliance with State law, the Park City Land Management Code, and the conditions of approval prior to recordation of the plat.
2. All conditions of approval for the plat amendment will continue to apply as found in the City Council approval on September 30, 2004.
3. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval and the plat will be void.

SECTION 4. EFFECTIVE DATE. This Ordinance shall take effect upon publication.

PETER BARNES DESIGNS INC

August 11, 2005

Patrick Purt
Senior Planning Administrator
Park City Municipal Corporation

Dear Pat:

819 EMPIRE AVENUE: REPLAT AND DESIGN REVIEW

As per our discussion I would like to formally request an extension of time for the recordation of the modified plat (lots 1, 2 & 3 block 30 SA). As you know, the owner Magnus Floden, lives in Australia and communication and travel difficulties have caused unforeseen delays to this particular project.

Mr Floden also owns lots 4 and 11 of the same block and encountered some minor obstacles in the pursuit of permits for those projects. Re-evaluation of our options and resolution of those concerns caused significant unforeseen delays. Whilst everything now seems to be back on track we are behind schedule and it has become apparent that we are in danger of missing the deadline for replat recordation and building permit issuance for the proposed house at 819 Empire.

We believe the city council action is dated Sept 30 2004 (notice of action dated Oct 4th). Whilst it is still our intention to move ahead as originally planned we are highly unlikely to be able to meet the Sept 30 2005 deadline. In addition and for the same reasons we would also request an extension of time to the Historic District Design Review which is scheduled to expire on October 13 2005

Sincerely,

Peter Barnes

Cc Magnus Floden

PO BOX 682292 • PARK CITY • UT 84068
PHONE: 435 336 2593 • FAX: 435 336 2593

City Council Staff Report

Author: Alison Butz
Subject: Green Building Program
Date: September 8, 2005
Type of Item: Administrative
– Sustainable Communities



Special Events and Facilities
Department

Summary Recommendations:

Review and approve the resolution declaring Park City's interest in supporting a voluntary Green Building Program that raises the level of awareness of Green Building in the Park City community.

Description:

Topic:

Green Building Program

Background:

The Park City Council has made a commitment to take a leadership role in the community in promoting sustainable energy as well as overall sustainable community initiatives which include:

- Tree City USA by the national Arbor Day Foundation
- Recycling
- Wind Power
- Open Space Purchases
- Affordable Housing
- Local Climate Action Plan

Historic Preservation Grant Program

Green Building Awareness was chosen by the Park City Leadership Class XI as their class project. Their mission is to raise the level of awareness of green building in our community.

Analysis:

The proposed resolution states that Park City, Utah endorses the concept "Green Building" and "Green Building Practices" and encourages developers, builders, governmental officials, and all stakeholders to become more aware of the positive aspects of "Green Building", and voluntarily preserve our limited resources and environment by following established Green Building principles to the best of their ability.

The Leadership project committee is committed to the program's development, setup, and maintenance. The impact on City staff would essentially be to offer the information to builders and developers and issue non-monetary related incentives that are established with the program. The voluntary program would include an informational/point checklist similar to LEED (Leadership in Energy and Environmental Design) design principles. The list will be developed by a committee composed of approximately 8 to 10 local building related experts who have already expressed interest in helping with the program.

The Planning, Building and Engineering Departments have reviewed the proposed resolution and support the program. The adoption of this resolution will not add a significant amount of staff time to endorse the program. Both the Planning Department and Building Department are comfortable assigning a representative to sit on the committee which will develop the checklist.

Department Review:

The program has been reviewed by all applicable City departments.

Recommendation:

Review and approve the resolution declaring Park City's interest in taking a leadership role in promotion of sustainable energy by promoting both energy efficiency and renewable energy for Park City Municipal and the community.

Exhibits:

Exhibit A – Letter from Leadership Class XI
Exhibit B – Resolution

September 8, 2005

Mayor Dana Williams
Councilmember Kay Calvert
Councilmember Marianne Cone
Councilmember Candy Erickson
Councilmember Jim Hier
Councilmember Joe Kernan



Subject: Resolution Supporting a Voluntary Green Building Program for Park City

We, the following, on behalf of the members of Leadership Class XI Green Committee, respectfully submit this Resolution for City Council consideration and adoption.

Leadership Class XI has chosen our class project to be 'Green Building Awareness'. Our mission is to raise the level of awareness of green building in our community.

Many cities and counties across the country have adopted a 'Green Building Program' or 'Sustainable Building Program'. Salt Lake City has begun work on a green building program for businesses, however, it has not been implemented although Mayor Anderson recently signed an executive order requiring all new buildings "owned and controlled" by the city to go green by looking for energy efficiencies and ways to minimize pollution. The cities of Telluride, Boulder, Aspen, and many others have implemented successful programs, however, no city or county in Utah has implemented a Green or Sustainable Building Program (not even Moab). We would like Park City and Summit County to be the first to offer a voluntary program. We have found 'green building' to be already supported by the Park City Area Home Builders Association, Recycle Utah and other private builders and contractors, and the support and inclusion of City and County government is logical and essential.

The Leadership project committee includes several local members committed to the program's development, setup, and maintenance. The impact on City staff would essentially be to offer the information to builders and developers and issue non-monetary related incentives that are established with the program. Our voluntary program would include an informational/point checklist similar to LEED (Leadership in Energy and Environmental Design) design principles. The checklist consists of environmentally friendly suggestions for builders and architects to refer to in the design and construction process, such as reusing existing structures when possible, building near mass transit, using natural light if possible, adopting water-wise landscapes, building with recycled materials if available, recycling construction materials, and using effective designs for heating and air conditioning systems. The list will be developed by a committee composed of approximately 8 to 10 local building related experts who have already expressed interest in helping with the program.

We respectfully request that a City Council and/or a City staff liaison be assigned to this project and sincerely thank you for your consideration and support of this worthwhile project.

Sincerely,

(Signed by Amy, Steve, Tamara, Guadalupe, David and Cindy)

Resolution No. -05

**A RESOLUTION OF THE CITY COUNCIL OF PARK CITY, UTAH
SUPPORTING A VOLUNTARY GREEN BUILDING PROGRAM
THAT RAISES THE LEVEL OF AWARENESS OF GREEN BUILDING
IN OUR COMMUNITY**

WHEREAS, how we choose to shelter ourselves has a dramatic impact on our resources; and

WHEREAS, there are many opportunities available to successfully mitigate many of the negative building impacts and become resource efficient; and

WHEREAS, many of these prospects can be implemented without significant building cost implications; and

WHEREAS, many of these opportunities have long-term cost savings associated with them; and

WHEREAS, the City Council of Park City, Utah, desires to take a leadership role in this arena.

THEREFORE BE IT RESOLVED:

SECTION 1. ENDORSEMENT. The City Council of Park City, Utah endorses the concept "Green Building" and "Green Building Practices" and encourages developers, builders, governmental officials, and all stakeholders to become more aware of the positive aspects of "Green Building", and voluntarily preserve our limited resources and environment by following established Green Building principles to the best of their ability.

SECTION 2. EFFECTIVE DATE. This Resolution shall take effect immediately.

PASSED AND ADOPTED this 8th day of September, 2005.

City Council Staff Report



Author: Ken Fisher, Matthew A. Twombly
Subject: Neighborhood Parks
Date: September 8, 2005
Type of Item: Award of Construction Contract

**RECREATION &
ECONOMIC DEVELOPMENT
AND CAPITAL PROJECTS**

Summary Recommendation:

Staff requests authorization to proceed with the Neighborhood Parks project and award the construction contract on a form approved by the City Attorneys Office to DRD Paving, LLC., in the amount of Six Hundred Forty One Thousand Nine Hundred Fifty Four Dollars (\$641,954.00).

Description:

Topic: Award of Construction Contract for the Neighborhood Parks project

Background:

In 2003, City Council directed the Recreation Advisory Board (RAB) and staff to proceed with the formation of a Neighborhood Parks Committee in order to solicit input from neighborhood parks area residents and plan for the (re)construction of Parks in the neighborhoods throughout the City.

During the RAB Visioning Session with Council, in August of 2004 RAB and staff received direction on the Neighborhood Parks projects. The preliminary budget for the three parks was set at \$750,000 out of the 1.2 million budgeted for neighborhood parks. In September of 2004 Council approved the award of the Professional Services Provider contract with Design Workshop. After additional public input and meetings the design team of Design Workshop, City staff and RAB members developed plans to a level for Building Department review.

The Existing Prospector Park includes: Concrete walkways, a pedestrian bridge over the rock drainage, a concrete seating/picnic area, 2-5 year old play ground, 5-12 year old playground, drinking fountain, enhanced sled hill to the Southeast, planting and irrigation.

The New Prospector Park includes: The Monolithic Climbing Boulder, concrete walkways, seating area, lawn area, drinking fountain, xeriscape plantings, crushed stone paths, and irrigation.

The Racquet Club Park includes: Concrete walkways, pedestrian bridges over the rock drainage , a concrete seating wall, concrete picnic area, 2-5 year old playground with sand, 5+ play area with climbing boulders, drinking fountain, spherical bollards and landscape berm to prevent automobile trespass through the park, planting, irrigation and accessible parking.

Plans are attached to help identify the layout of the parks.

Analysis:

The project was advertised in the legal notices of the Park Record on August 6, and August 10, 2005; and in the Salt Lake Tribune on August 8, and August 9, 2005. There were six plan holders and two responsive bidders for the project: DRD Paving LLC., was the low bidder at \$641,954; and Chad Broderick Construction Inc., at \$674,834. The Architect had estimated the construction cost for the project based on the 90% plan submittal at \$500,000. Their estimate did not take into account a couple of items, notably the footing for the Monolithic Boulder, where the boulder is supplied by the owner. Also, construction costs continue to be on the rise.

The Boulder purchase agreement was made directly with the manufacturer in February of 2005. The boulder has been completed and is awaiting installation. Upon award and execution of the construction contract, the first stage in the project is to complete the concrete work for the Monolithic Boulder at the New Prospector Park. Upon completion of the footings, the Boulder can be installed by the manufacturer in coordination with the parks contractor.

Preliminary Budget:	\$750,000
Design/Engineering	\$ 51,000
Boulder	65,605
Construction	<u>641,954</u>
	\$758,559

Staff had preliminarily budgeted \$750,000 out of the \$1.2 million for the three parks. The total exceeds the preliminary budget leaving \$440,000 rather than the anticipated amount of \$450,000 for the remaining neighborhood parks.

Department Review:

City Manager, Economic Development and Capital Projects, Recreation

Alternatives:

A. Approve the Request:

Award the construction contract on a form approved by the City Attorneys Office to DRD Paving LLC, in the amount of Six Hundred Forty One Thousand Nine Hundred Fifty Four Dollars (\$641,954.00).

B. Deny the Request:

The Parks would remain in their current state.

C. Do Nothing:

Delaying a decision would jeopardize the desired schedule for the installation of the purchased Monolithic Boulder.

Significant Impacts:

There is currently approximately \$1.28 million budgeted for Neighborhood Parks. RAB and staff previously budgeted \$750,000 on the 3 neighborhood parks.

Consequences of not taking the recommended action:

Delaying a decision would jeopardize the desired schedule for the installation of the purchased Monolithic Boulder.

Recommendation:

Staff recommends that Council award the construction contract on a form approved by the City Attorneys Office to DRD Paving, LLC., in the amount of Six Hundred Forty One Thousand Nine Hundred Fifty Four Dollars (\$641,954.00).

NEW PROSPECTOR PARK

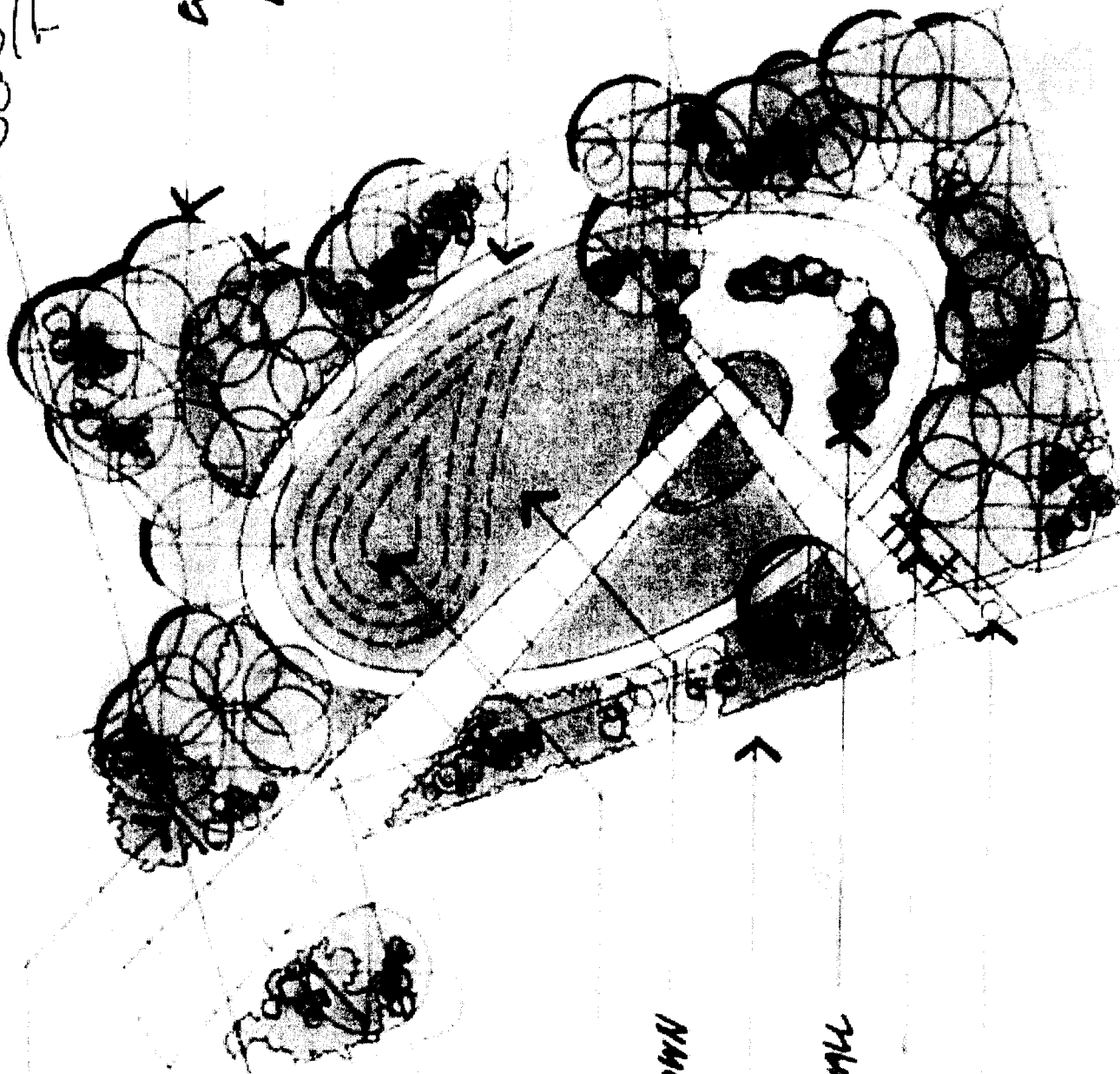
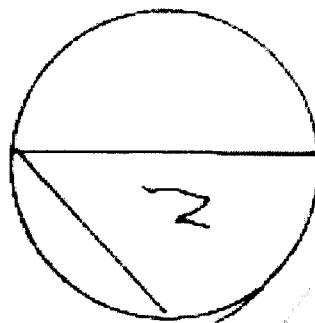
CHERRY TREES

DECIDUOUS TREES

BRUNNEN

CROOKED STONE PATH

POUNDERS



DRAIN

MULTIPURPOSE LAWN

TRAIL

WALKING WALL

BIKE PATH

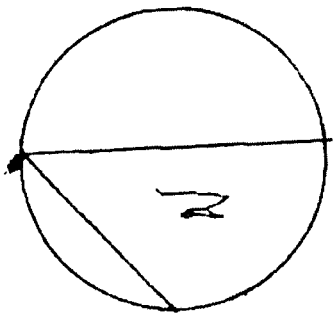
TRAIN

RACQUET CLUB PARK

5-12 YEAR OLD PLAY AREA
MULTI PURPOSE LANN AREA
2-5 YEAR OLD PLAY AREA



PROSPECT PARK



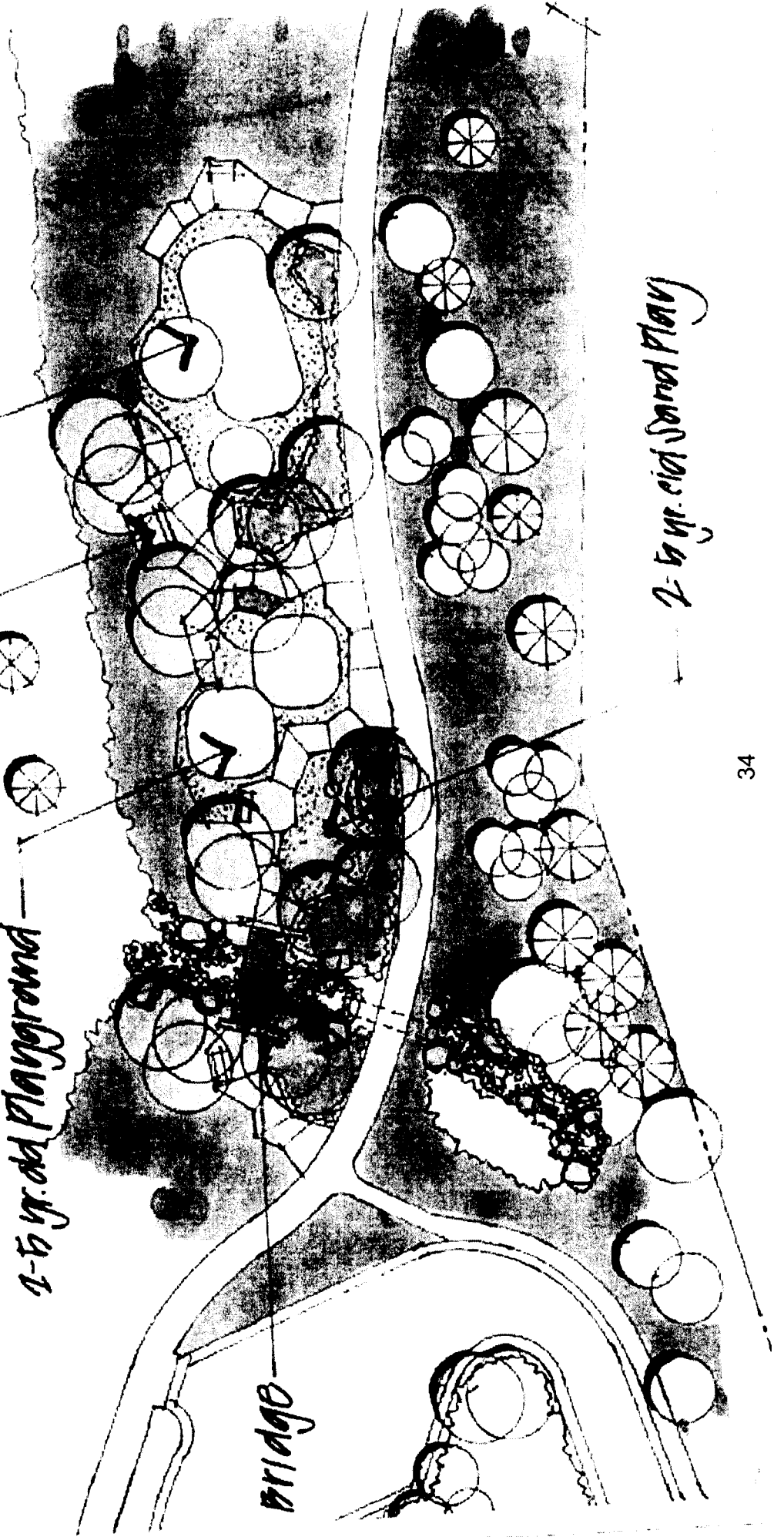
5-12 yr. old Playground

Seating/Picnic Area

1-5 yr. old Playground

Bridge

2-5 yr. old Sand Play



CONSTRUCTION AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of September, 2005, 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 DRD Paving LLC, 27 West 3900 South, Murray, UT 84107, which is a (check one) ____ corporation ____ partnership ____ sole proprietorship ☒ limited liability company (hereinafter "Contractor").

PURPOSE: For the project known as the Park City Neighborhood Parks (hereinafter "Project"), which consists of grading, excavation, furnish and install: boulders, playground equipment, irrigation, plantings, pedestrian bridges, drinking fountains, concrete paving, footings and foundations, and other miscellaneous construction items.

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, and 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 Advertisement for Bid, the Information for Bidders, the General Project Requirements and Specifications provided by City, the Bid of the Contractor, Bid Bond, Drawings, 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 Capital Projects 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 a 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 (\$1,000,000) combined single limit per occurrence and two million dollars (\$2,000,000) 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. Professional Liability (Errors and Omissions) insurance written on an occurrence basis with limits no less than one half million dollars (\$500,000) combined single limit per occurrence.

D. 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 Six Hundred Forty One Thousand Nine Hundred Fifty Four Dollars (\$641,954.00) ("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 according to and in an amount not to exceed that detailed in the attached payment schedule (Attachment A) and 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 the concrete for the New Prospector Park shall be substantially completed by December 1, 2005 and the remainder of the work shall be completed by June 1, 2006. 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 **One Hundred Dollars (\$100.00)**, 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 therefor 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. CONSTRUCTION MANAGEMENT PLANS. Contractor shall submit a Construction Mitigation Plan to be approved by the Community Development Department, for all building permits. The Community Development Department may waive this requirement for minor remodels, additions and interior construction where the

impact on adjacent property is minimal. This plan shall be written and shall address, to the satisfaction of the Community Development Department.

A. Hours and Days of Operation. The Construction Mitigation Plan shall specify the daily construction start and finish times. Construction activity occurring outside of the times specified in Section 11-14-6 of the Park City Municipal Code may only be allowed by Special Permit issued by the Building Official or the City Engineer.

B. Parking. The Construction Mitigation Plan shall include a parking plan. Construction vehicle parking may be restricted at construction sites so as to not block reasonable public and safety vehicle access along streets and sidewalks. Construction parking in paid or permit only parking areas require the Public Works Department review and approve a parking plan. The plan shall also include anticipated temporary parking (e.g. delivery vehicles, large equipment parking).

C. Deliveries. The Construction Mitigation Plan shall identify proposed delivery locations and routes. Deliveries of construction materials and supplies including concrete may be regulated as to time and routing if such deliveries will cause unreasonable noise, parking, or access issues. In order to reduce the number of delivery trips to construction sites, the stockpiling of materials on or near the site may be required. In the case of multiple construction sites in close proximity, a common materials storage and staging site may be required.

D. Construction Phasing. Due to the narrow streets, small lot configuration, topography, traffic circulation, weather, construction parking and material staging problems, projects in the Historic District and other areas of the City may be required to be phased if more than one project is under construction in close enough proximity to create public safety or nuisance problems. In cases where phasing is deemed necessary by the Community Development Department, the first project to receive a building permit shall have priority, however, the Building Official shall have the authority to phase projects as necessary to assure efficient, timely and safe construction.

E. Trash Management and Recycling. Construction sites shall provide adequate storage and a program for trash removal.

F. Control of Dust and Mud on Streets. A program for the control of dust or other airborne debris shall be required. Provision must be made to eliminate the tracking of mud on streets and a program shall be required to remove any such mud daily.

G. Noise. Construction activity shall not exceed the noise standards as specified in Section 6-3-9 of the Park City Municipal Code.

H. Grading and Excavation. Because of the truck hauling involved in grading and excavation, restrictions on trucking routes as well as the hours of operation may be necessary to mitigate the adverse impacts from such operations. Destination and total cubic yards of excavated material shall be noted.

I. Construction Sign Requirements. A sign, indicating the name of the party responsible for the Project shall be posted in a location where such sign is readable from the street or driveway to the construction site. The sign shall not exceed 12 square feet in size, six feet in height and shall not exceed a letter type of 4". Information on the sign shall include, at a minimum:

1. Name, address and phone number of contractor;
2. Name, address, and phone number of person responsible for the project; and
3. Phone number of party to call in case of emergency.

No additional fee is required for this sign.

SECTION 22. TOILET FACILITIES AND CONTAINERIZED TRASH SERVICE REQUIRED.

A. The Contractor shall obtain and maintain on the site a container of suitable size and design to hold and confine trash, scraps, and other construction related refuse created or accumulated on the site. All such construction refuse shall be maintained in a closed container at all times, until transferred to the landfill. Containers may be placed in setback areas, provided that the placement of the container does not obstruct the view of motorists on adjoining streets and thereby create traffic hazards. Contractor shall not permit accumulated debris, litter, or trash on the construction site to blow or scatter onto adjoining properties, including the public street or to accumulate on the site outside of the container, or on transit to the landfill or dump. The owner or contractor shall service the container as frequently as needed to prevent trash from over-flowing.

B. The Project site shall have permanent toilets, or an approved temporary toilet facility positioned in a location approved by the Building Department, at the rate of one toilet per fifteen on-site employees (1-15 employees = one toilet, 16-30 employees= two toilets and so on).

SECTION 23. 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 24. 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 25. 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 26. PROJECT MANAGER/ENGINEER. The Project Manager/Engineer for this Project is Matthew A. Twombly, or such other person designated by the City Engineer or Public Works Director to the Contractor orally or in writing.

SECTION 27. 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: David Harrison, 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 28. 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.

DATE: September 8, 2005
DEPARTMENT: Public Works
AUTHOR: Pace Erickson, Operations Manager
TITLE: "Cooperative Agreement with the Summit County Cooperative Weed Management Area"
TYPE OF ITEM: Legislative

SUMMARY RECOMMENDATIONS: Adopt a resolution authorizing the Mayor to sign the Memorandum of Understanding (attached) with Summit County Cooperative Weed Management Area for cooperative practices for noxious weed management in a form approved by the City Attorney.

DESCRIPTION:

Topic. MOU for Noxious Weed Management

Background. The Federal Noxious Weed Act was passed in 1974(PL93-629). Subsequently, the Utah noxious weed Law, Title 4, Chapter 17, the Invasive Species Executive Order was passed on February 3, 1999 and the Watershed Restoration and Enhancement Agreement Authority enacted in 1999. Many weeds defined as "noxious" are defined as such due to the fact that they are either invasive, poisonous, present a public health hazard or inhibit livestock from grazing in areas where these defined plant species are growing.

Numerous noxious weeds are imports from other parts of the world where there are other plant and animal species that utilize those particular plants for food, nutrients, or shelter. Here they lack the natural predators which would normally utilize these plants and keep their populations in check. The Tumbleweed, Dandelion and Cheat grass are examples of plants which are not indigenous to North America but were brought here as either food, ornamental in nature or simply by mistake as passengers on airplanes, ships or in imported seed stocks.

Some weeds defined as noxious serve some purpose as food for some wildlife species. Thistle for example is a tremendous food source for some bird species such as Hummingbirds and Yellow (Gold) Finches. Therefore completely eliminating some noxious weeds may reduce the number of desired wildlife species simply due to increased competition for the remaining resources.

It is important to point out that noxious weed control is a management strategy and not an elimination strategy. This is due to the fact that seeds can lay dormant for years before germinating, disruption of the soil may bring these seeds into an environment suitable for germination and growth even if the soil is native to the site and has not been imported or contaminated with weed seeds from an outside source.

Because of the various life cycles of a myriad of plant species it is difficult to plan one spraying or treatment technique to eliminate all noxious weeds at one time. Even though Thistle for example can be treated in mid summer it is best treated in early fall before they over winter and bloom the following summer. Generally you don't know you've got them until it is too late and they've already bloomed and set seeds. The Parks staff maps each infestation and identifies each particular species of weed separately. This allows staff the ability to come up with the best management strategy according to plant life cycle.

Analysis. Park City Municipal Corporation has had a formal noxious weed program for City owned property since 1994 which is included as part of the Parks and Golf Departments Intergraded Pest Management Program (IPM). Park City Municipal Corporation has worked cooperatively with Jack Marchant and the Summit County Weed Board (SCWB) for several years primarily in terms of education, weed identification and mapping. This cooperative effort has resulted in the control of many noxious weeds on City owned properties and open space. Park City spends about \$10,000 a year for noxious weed control on City owned property and another \$15,000 in open space areas such as the Farm and Gilmore property. Since 1994, the acreage has increased to well over 1,000 acres of managed acreage and open space. However, only about 100 acres are treated annually.

The City received a letter and a copy of a proposal which was sent to the Summit County Commissioners from Summit County residents Mindy Wheeler and Bruce Glisson to perform professional services to identify, map and prepare a management program for the control of noxious weeds (attached). Park City is actively performing the functions identified in the proposal and have a management plan in place in the IPM. The Parks staff maps each infestation and identifies each particular species of weed separately. This allows staff the ability to come up with the best management strategy according to plant life cycle. Therefore staff does not believe additional services from Ms. Wheeler and Mr. Glisson are necessary to control noxious weeds on City property at this time.

The MOU with Summit County Cooperative Weed Management Area would simply formalize and recognize the cooperative efforts already in place with the Summit County Weed Board and strengthen the relationship with other large property holders in Summit County. Some of the larger property holders include PCMR, The Canyons, Mountain Trails, Recycle Utah, Summit County, Salt Lake County, Snyderville Basin Recreation District and Swaner Nature Preserve among others. A detailed list of the entities who intend to sign the MOU are listed individually on the attached MOU. The MOU does not bind Park City Municipal Corporation into any type of action, funding allocation or rules which are different than what is already in effect as described by The Federal Noxious Weed Act, and the Utah Noxious Weed Law.

Currently, Park City Municipal Code section 6-1-1 requires property owners to keep their property free of noxious weeds. Staff also has used language in the fire ordinance

specific to overgrown and unsightly vacant properties in order to get delinquent property owners to clean up their property. Concerns have been raised that by signing the MOU it requires a commitment on the part of Park City to monitor and enforce additional issues pertaining to noxious weeds. It is staffs understanding in discussing the MOU with representatives of the Summit County Weed Board, the MOU does not place enforcement of additional noxious weed ordinances in the hands of Park City Municipal Corporation. Enforcement of the Summit County Noxious Weed Ordinance would only apply if Park City adopts the County Weed Ordinance. Staff is not recommending adoption of the Weed Ordinance at this time.

By signing the agreement through resolution, Park City agrees to control noxious weeds within our jurisdiction of City property. Other property including state owned rights of way, Mountain Trails, resorts and other private property is the responsibility of the respective property owners and is enforced by Park City Ordinance, code section 6-1-1. This is generally enforced after a complaint has been filed with the Building Department Code Enforcement Officer (see attached municipal code 6-1-1).

Department Review. The MOU has been reviewed by Public Works, Parks, Building and Legal Departments.

ALTERNATIVES:

A. Adopt the resolution to enter into the Memorandum of Understanding with Summit County Cooperative Weed Management Area

(Staff recommends this alternative)

B. Change the scope of the MOU and present it to the Summit County Cooperative Weed Management Area

(Staff does not recommend this alternative).

C. Reject entering into the MOU with Summit County Cooperative Weed Management Area

(Staff does not recommend this alternative).

SIGNIFICANT IMPACTS: There aren't any significant impacts. By entering into the MOU we become a willing partner in the management of noxious weeds. Enforcement of the County Weed Ordinance remains with Summit County Weed Board and its agents.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION: Failure to enter into the MOU will be a significant impact. However, it may send the wrong message as far as interlocal cooperation with other entities in the area.

RECOMMENDATION: Alternative A: Adopt a resolution authorizing the Mayor to sign the Memorandum of Understanding with Summit County Cooperative Weed

Management Area for cooperative practices for noxious weed management in a form approved by the City Attorney.

rec'd 2/2/05

SUMMIT COUNTY COOPERATIVE WEED MANAGEMENT AREA

MEMORANDUM OF UNDERSTANDING

between

The Canyons
and
Colony Homeowners Association
and
Bruce Glisson
and
Greater Park City Properties
and
Hidden Cove Homeowners Association
and
Mindy Holbrook
and
Kamas City
and
Kamas Valley Soil Conservation District
and
Morning Star Estates
and
Mountain Trails Foundation
and
National Ability Center
and
Natural Resources Conservation Service
and
Park City Mountain Resort
and
Park City Municipal Corporation
and
Park City Resident – Betsy Thornton
and
Pinebrook Homeowners Association
and
Private Applicator – Brad and Robyn Bailey
and
Quarry Mountain Ranch
and
Recycle Utah
and
Rockport State Park
and
Salt Lake County
and
Snyderville Basin Recreation
and

**Snyderville Basin Water Reclamation District
and
State of Utah, Department of Agriculture and Food
and
State of Utah, Department of Transportation
and
Summit County
and
Summit County Weed Board
and
Summit County Extension
and
Summit Soil Conservation District
and
Summit Water Distribution Company
and
Sun Peak Homeowners Association
and
Swaner Nature Preserve
and
Uinta Headwaters Resource Conservation and Development
and
USDA Forest Service, Wasatch-Cache National Forest**

This **MEMORANDUM OF UNDERSTANDING (MOU)** is hereby entered into by and between **The Canyons**, hereinafter referred to as **The Canyons**; the **Colony Homeowners Association**, hereinafter referred to as the **Colony HOA**; the **Greater Park City Properties**, hereinafter referred to as the **Greater Park City Properties**; the **Hidden Cove Homeowners Association**, hereinafter referred to as the **Hidden Cove HOA**; **Kamas City**, hereinafter referred to as **Kamas City**; the **Kamas Valley Soil Conservation District**, hereinafter referred to as the **Kamas Valley SCD**; the **Morning Star Estates**, hereinafter referred to as **Morning Star Estates**; the **Mountain Trails Foundation**, hereinafter referred to as the **Mountain Trails Foundation**; the **National Ability Center**, hereinafter referred to as the **National Ability Center**; the **Natural Resources Conservation Service**, hereinafter referred to as the **NRCS**; the **Park City Mountain Resort**, hereinafter referred to as the **Park City Mountain Resort**; **Park City Municipal Corporation**, hereinafter referred to as the **Park City Municipal Corporation**; the **Park City Resident – Betsy** the **Park City Resident – Betsy Thornton**, hereinafter referred to as **Betsy Thornton**; the **Pinebrook Homeowner's Association**, hereinafter referred to as **Pinebrook HOA**; the **Private Applicator – Brad and Robyn Bailey**, hereinafter referred to as **Brad and Robyn Bailey**; the **Quarry Mountain Ranch**, hereinafter referred to as the **Quarry Mountain Ranch**; **Recycle Utah**, hereinafter referred to as **Recycle Utah**; the **Rockport State Park**, hereinafter referred to as **Rockport State Park**; **Salt Lake County**, hereinafter referred to as **Salt Lake County**; **Snyderville Basin Recreation**, hereinafter referred to as **Snyderville Basin Recreation**; **Snyderville Basin Water Reclamation District**, hereinafter referred to as **Snyderville Basin Water Reclamation District**; the **State of Utah, Department of Agriculture and Food**, hereinafter referred to as the **UDAF**; the **State of Utah, Department of Transportation**, hereinafter referred to as **UDOT**; **Summit County**, hereinafter referred to as **Summit County**;

Summit County Extension, hereinafter referred to as the **Summit County Extension**; the **Summit County Weed Board** hereinafter referred to as the **Summit County Weed Board**; the **Summit Soil Conservation District**, hereinafter referred to as **Summit SCD**; the **Summit Water Distribution Company**, hereinafter referred to as the **Summit Water Distribution Company**; the **Sun Peak Homeowners Association**, hereinafter referred to as the **Sun Peak HOA**; the **Swaner Nature Preserve**, hereinafter referred to as the **Swaner Nature Preserve**; the **Uinta Headwaters Resources Conservation and Development**, hereinafter referred to as **Uinta Headwaters RC&D**; the **USDA Forest Service, Wasatch-Cache National Forest**, hereinafter referred to as the **Forest Service**.

The entities listed above may be collectively referred to as the **Parties to this MOU**. It is made under the authority of the Federal Noxious Weed Act of 1974 (PL 93-629), the Utah Noxious Weed Law, Title 4, Chapter 17, the Invasive Species Executive Order of February 3, 1999, and the Watershed Restoration and Enhancement Agreement Authority of FY 1999 and Beyond, Section 323 (a.)

A. PURPOSE:

The purpose of this MOU is to document a framework of cooperation to address the effects of noxious/invasive weeds across jurisdictional boundaries within the border of Summit County area, by establishing the Summit County Cooperative Weed Management Area (CWMA) in accordance with this MOU and the incorporated Exhibits:

<u>Exhibit</u>	<u>Contents</u>
A	Summit County CWMA Map
B	Board Organization and Responsibility
C	Statutory Authorities and Agreement 1
D	Principal Contacts
E	Definitions

Exhibits missing

Needed?

Exhibits to this MOU may be revised or deleted by Board consensus. The latest revision of any Exhibit will automatically be incorporated into this MOU without necessitating a formal modification.

B. STATEMENT OF MUTUAL BENEFIT AND INTERESTS:

The above named agencies and cooperators have noxious weed control responsibilities and interests on adjacent and co-mingled lands in the Summit County CWMA through various authorities.

Each of the Parties to this MOU have or have access to financial resources for the management of noxious weeds, and/or maintains equipment and personnel for the purpose of controlling noxious weeds within their own jurisdiction.

Uncontrolled weed populations in one jurisdiction greatly affect the ability of other land managers to control weeds on lands they administer. The Cooperators desire to come together in a formal

manner and promote an integrated weed management program throughout the CWMA that includes public relations, education, and training in the noxious weed area as well as coordination of weed control efforts and methods, sharing of resources and designing other desirable resource protection measures relative to weed management. This will be accomplished under the general direction of a Board of Directors (Board) who shall designate Working Committees. *SEE "EXHIBIT B" FOR BOARD ORGANIZATION AND RESPONSIBILITIES. SEE "EXHIBIT E" FOR DEFINITIONS.*

The Federal agencies involved have been directed to complete and implement agreements with State agencies and other Cooperators under Sec. 15(3) of the Federal Noxious Weed Act and Watershed Restoration and Enhancement Agreement of FY1999 and beyond, Section 323 (a).

C. EACH OF THE PARTIES TO THIS MOU SHALL:

1. Agree to establish the Summit County CWMA as depicted on the CWMA map. *SEE "EXHIBIT A" FOR THE SUMMIT COUNTY CWMA MAP.*
2. Agree to the formation of a SUMMIT COUNTY CWMA Board (Board) to provide expertise and oversight to weed management activities within the CWMA.
3. Work through the Board to provide necessary information to:
 - a. Revise or delete the Exhibits to this MOU.
 - b. Establish an Integrated Noxious/Invasive Weed Management Strategic Plan.
 - c. Develop and implement an Annual Operating Plan (AOP).
4. Agree that the Strategic Plan and AOP will have goals, objectives and actions that are aligned with, the "Summit County's CWMA Strategic Plan for Managing Noxious/Invasive Weeds." The Strategic Plan will describe the goals and objectives for the CWMA and will be a guiding document for the management of noxious/invasive weeds within the CWMA. AOP's will describe the responsibilities associated with the implementation of these management strategies.
5. Recognize that each of the Parties to this MOU retains primary responsibility and management discretion for the lands under their jurisdiction.
6. Consider entering into separate agreements to implement management activities associated with the Strategic Plan and AOP's. Appropriate statutory authority shall independently authorize such agreements. **Situations where Parties to this MOU may desire to exchange or use others' equipment and/or personnel will be addressed separately in the individual agreements.**

(If working with the Forest Service, these agreements may include: Collection Agreements, Challenge Cost-Share Agreements, Participating Agreements, Volunteer Agreements, Grants, Cooperative Agreements and Procurements. *SEE "EXHIBIT C" FOR FOREST SERVICE AGREEMENT TYPES AND STATUTORY AUTHORITIES.*)

D. IT IS MUTUALLY AGREED AND UNDERSTOOD BY ALL PARTIES THAT:

1. **FREEDOM OF INFORMATION ACT (FOIA)**. Any information furnished to the Forest Service under this instrument is subject to the Freedom of Information Act (5 U.S.C. 552).
2. **PARTICIPATION IN SIMILAR ACTIVITIES**. This instrument in no way restricts the Parties to this MOU from participating in similar activities with other public or private agencies, organizations, and individuals.
3. **COMMENCEMENT/EXPIRATION/TERMINATION**. **Commencement/Expiration Date:** This MOU takes effect upon the signature of the Parties to this MOU and shall remain in effect for **five years** from date of execution. **Termination:** Any of the Parties herein may terminate this MOU by providing 60 days written notice to the other Parties to this MOU.
4. **RESPONSIBILITIES OF PARTIES**. The Parties of this MOU, and their respective agencies and offices, will handle their own activities and utilize their own resources, including the expenditure of their own funds, in pursuing these objectives. Each party will carry out its separate activities in a coordinated and mutually beneficial manner.
5. **PRINCIPAL CONTACTS**. *SEE "EXHIBIT D" FOR THE PRINCIPAL CONTACTS FOR THIS MOU.*
6. **NON-FUND OBLIGATING DOCUMENT**. Nothing in this MOU shall obligate the Parties to this MOU to obligate or transfer any funds. Specific work projects or activities that involve the transfer of funds, services, or property among the various agencies and offices of the Parties to this MOU will require execution of separate agreements and be contingent upon the availability of appropriated funds. Appropriate statutory authority must independently authorize such activities. This MOU does not provide such authority. Negotiation, execution, and administration of each such agreement must comply with all applicable statutes and regulations.
7. **ESTABLISHMENT OF RESPONSIBILITY**. This MOU is not intended to, and does not create, any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity, by a party against the United States, its agencies, its officers, any of the Parties to this MOU or any person.
8. **AUTHORIZED REPRESENTATIVES**. By signature below, the Parties to this MOU certify that the individuals listed in this document as representatives of the Parties to this MOU are authorized to act in their respective areas for matters related to this MOU.

In witness whereof, the Parties hereto have executed this MOU as of the last date written below

The Canyons

Colony HOA

(Signature)
Name: _____
Position: _____
Date: _____

(Signature)
Name: _____
Position: _____
Date: _____

SUMMIT COUNTY ORDINANCE NO. 484**AN ORDINANCE PROVIDING FOR THE
SUMMIT COUNTY NOXIOUS WEED ACT**

NOW, THEREFORE, the County Legislative Body of the County of Summit, the State of Utah, ordains as follows:

Section 1. Short Title.

This shall be known and may be cited as the "Summit County Noxious Weed Act". Promulgated under authority of Title 4, Chapter 17, Section 2, Utah Code Annotated 1953, as amended.

Section 2. Definitions.

As used in the chapter:

- (1) "Board" means the County Weed Control Board.
- (2) "County noxious weed" means any plant which is on the state noxious weed list, is especially troublesome in this particular county, and is declared by the County Commission to be a noxious weed within this county.

Section 3. County Weed Control Board - Appointment - Composition - Terms - Removal - Compensation.

- (1) The Summit County Board of Commissioners shall appoint a County Weed Control Board comprised of not less than three nor more than five appointed members and one member of the County Commission appointed by the Chairman of the Board of County Commissioners who acts as a coordinator between the County Commission and weed board. Two members of the board shall be farmers or ranchers whose primary source of income is derived from production of agriculture.
- (2) Members are appointed to four year terms of office and serve with or without compensation as determined by the County Commission.
- (3) Members may be removed by the County Commission for cause and any vacancy which occurs on a County Weed Control Board shall be filled by appointment of the County Commission for the unexpired term of the vacated member.

Section 4. County Weed Control Board - Powers and Duties.

- (1) Noxious weeds - Before removal of a noxious weed from the state list or county list, a public hearing shall be required.
- (2) The Summit County Weed Control Board is responsible, under the general direction of the County Commission, for the formulation and implementation of a county-wide

coordinated noxious weed control program designed to prevent and control noxious weeds within Summit County.

(3) Summit County Weed Control Board is required, under the general direction of its County Commission, to cooperate with other county weed control boards to prevent and control the spread of noxious weeds.

(4) The Summit County Commission may declare a particular weed or competitive plant, not appearing on the state noxious weed list, a county noxious weed within Summit County, or it may petition the State for removal of a particular noxious weed from the state noxious weed list. A noxious weed shall not be removed by petition without a public hearing conducted by the State after due notice.

(5) Summit County requires that a development project or construction, such as a subdivision, not limited to condominium, commercial, or utility transmission line/pipeline which disturbs an area

greater than 1/4 acre and proposes to disturb existing soils and/or imports soils, or any project which proposes to export more than 10 cubic yards of soil shall:

a) Contact the Summit County Weed Supervisor or other authorized person during the planning/permitting process to inspect the site, develop a noxious weed control plan, and receive a letter from the Summit County Weed Supervisor that the noxious weed control plan is approved, or approved with conditions

b) Receive a final authorization from the Weed Control Supervisor to implement the previously approved noxious weed control plan prior to beginning construction.

3) Implement the noxious weed control plan authorized by the Weed Control Supervisor.

d) The person, company, or agency responsible for the project is also responsible for controlling noxious weeds on all portions of the project which they own, have leased, or have a right-of-way over for a period of up to five (5) years. The performance of this responsibility shall be guaranteed by the posting of a cash Bond with the Summit County Treasurer in an amount to be determined by the Weed Control Supervisor.

(1) Summit County requires that any project located in the Public Right-of-way requiring a permit under ordinance 181D (as latest revised) shall pay a fee to Summit County, in an amount determined by the Weed Control Supervisor, which shall be the cost of the Summit County Weed Department to control the noxious weeds in the area disturbed by the project.

Section 5. Weed control supervisor - Qualifications - Appointment - Duties.

(1) The Summit County Commission may employ one or more Weed Control Supervisor qualified to detect and treat noxious weeds and to direct the weed control program for the County Weed Control Board. A person may be a Weed Control Supervisor for more than one county weed board. Terms and conditions of employment shall be prescribed by the County Commission.

(2) It is the duty of every supervisor, under the direction of the County Weed Control Board, to examine all land under the jurisdiction of the County Weed Control Board to determine whether the regulations of this chapter have been met, to compile data on infested areas, to consult and advise upon matters pertaining to the best and most practical method of noxious weed control and prevention, to render assistance and direction for the most effective control and prevention, to investigate violations of this chapter, to enforce noxious weed controls within the county, and to perform any other duties required by the County Weed Control Board.

Section 6. Notice of noxious weeds to be published annually in Summit County - Notice to particular property owners to control noxious weeds - Failure to control noxious weeds considered public nuisance - Methods of prevention or control specified.

(1) The County Weed Control Board before May 1st of each year shall post a general notice of the noxious weeds within Summit County in at least three public places within the county and publish the same notice on at least three occasions in a newspaper or other publication of general circulation within the county.

(2) If the County Weed Control Board determines that particular property within Summit County requires prompt and definite attention to prevent or control noxious weeds, it shall serve the owner or the person in possession of the property, personally or by certified mail, a notice specifying when and what action should be taken on the property. Methods of prevention or control may include definite systems of tillage, cropping, use of chemicals, and use of livestock.

(3) An owner or person in possession of property who fails to take action to control or prevent the spread of noxious weeds as specified in the notice is maintaining a public nuisance.

Section 7. Noxious weeds - Failure to control after notice a nuisance - Notice and

hearing - Control at county expense - County costs to control liability of owner - Charges lien against property.

(1) If the owner or person in possession of property fails to take action to control or prevent the spread of noxious weeds within five working days after the property is declared a public nuisance, Summit County may, after reasonable notification, enter the property without the consent of the owner or the person in possession, and perform any work necessary, consistent with sound weed prevention and control practices, to control the weeds.

(2) Any expense incurred by Summit County in controlling the noxious weeds is paid by the property owner of record or the person in possession of the property, as the case may be, within 90 days after receipt of the charges incurred by the County. If not paid within 90 days after notice of the charges, the charges become a lien against the property and are collectible by the County Treasurer at the time general property taxes are collected.

Section 8. Hearing before County Weed Control Board - Appeal of decision to Board of County Commissioners - Judicial review.

(1) Any person served with notice to control noxious weeds may request a hearing to appeal the terms of the notice before the County Weed Control Board within 10 days of receipt of such notice and may appeal any decision of the County Weed Control Board to the Board of County Commissioners.

(2) Any person served with notice to control noxious weeds who has had a hearing before both the County Weed Control Board and the Board of County Commissioners may further appeal any decision of the Board of County Commissioners by filing written Notice of Appeal with the Third Judicial District Court of Summit County.

Section 9. Jurisdiction of state and local agencies to control weeds.

The departments or agencies of state and local governments shall develop, implement, and pursue an effective program for the control and containment of noxious weeds on all lands under their control or jurisdiction, including highways, roadways, rights-of way, easements, game management areas, and state parks and recreation areas.

Section 10. County noxious weed control fund authorized.

Authority is hereby granted to establish and maintain a noxious weeds control fund for use in the administration of these regulations.

Section 11. Designation and Publication of State Noxious Weeds.

The following weeds are hereby officially designated and published as noxious for the State of Utah, as per the authority vested in the Commissioner of Agriculture under Section 4-17-3, Utah Noxious Weed Act:

Bermudagrass	<i>Cynodon dactylon</i> (L.) Pers.
Bindweed (Wild Morning-glory)	<i>Convolvulus</i> spp.
Broad-leaved Peppergrass (Tall Whitetop)	<i>Lepidium latifolium</i> L.
Canada Thistle	<i>Cirsium arvense</i> (L.) Scop.
Diffuse Knapweed	<i>Centaurea diffusa</i> Lam.
Dyers Woad	<i>Isatis tinctoria</i> L.
Perennial Sorghum spp., including but not limited to Johnson Grass (<i>Sorghum halepense</i> (L.) Pers.) and Sorghum Aluum (<i>Sorghum aluum</i> , Parodi)	
Leafy Spurge	<i>Euphorbia esula</i> L.
Medusahed	<i>Taeniatherum caput-medusae</i> (L.) Nevski
Musk Thistle	<i>Carduus nutans</i> L.
Quackgrass	<i>Agropyron repens</i> (L.) Beauv.
Russian Knapweed	<i>Centaurea repens</i> L.
Scotch Thistle (Cotton Thistle)	<i>Onopordium acanthium</i> L.
Spotted Knapweed	<i>Centaurea squarrosa</i> Roth
Whitetop	<i>Cardaria</i> spp.
Yellow Starthistle	<i>Centaurea solstitialis</i> L.

Section 12. Designations and Publication of Articles Capable of Disseminating Noxious Weeds.

As provided in Section 4-17-3, Utah Noxious Weed Act, the following articles are designated and published by the State as capable of disseminating noxious weeds:

- (1) Machinery and equipment, particularly combines and hay balers.
- (2) Farm trucks and common carriers.
- (3) Seed.
- (4) Screenings sold for livestock feed.
- (5) Livestock feed material.
- (6) Hay, straw, or other material of similar nature.
- (7) Manure.
- (8) Soil, sod and nursery stock.
- (9) Noxious weeds distributed or sold for any purpose.
- (10) Livestock.
- (11) Heavy equipment - dump trucks, track-hoes, back-hoes.

Section 13. Prescribed Treatment for Articles.

- (1) As provided in Section 4-17-3, Utah Noxious Weed Act, the State has determined that

the following treatments shall be considered minimum to prevent dissemination of noxious weed seeds or such parts of noxious weed plants that could cause new growth by contaminating articles:

(A) Machinery and Equipment.

(1) It shall be unlawful for any person, company or corporation to bring any harvesting or threshing machinery, portable feed grinders, portable seed cleaners or other farm vehicles or machinery into the County without first cleaning such equipment free from all noxious weed seed and plant parts; or move any harvesting or threshing machinery, portable feed grinders or portable seed cleaners from any farm infested with any noxious weed without first cleaning such equipment free from all noxious weed seed and plant parts.

(2) Immediately after completing the thrashing of grain or seed which is contaminated with noxious weeds, such machine is to be cleaned by:

(a) Removing all loose material from the top and side of the machine by sweeping with a blower;

(b) Opening the lower end of elevator, return and measuring device and removing infested material from shakers, sieves, and other places of lodgement;

(c) Running the machine empty for not less than five minutes, alternately increasing and retarding the speed; and

(d) Following the manufacturer's detailed suggestions for cleaning the machine.

(B) Farm Trucks and Common Carriers.

It shall be unlawful for any person, company or corporation to transport seed, screenings or feed of any kind containing noxious weed seed over or along any highway in this State or on any railroad operating in this State unless the same is carried or transported in such vehicles or containers which will prevent the leaking or scattering thereof. All common carriers shall thoroughly clean and destroy any noxious weed seeds or plant parts in cars, trucks, vehicles or other receptacles used by them after each load shall have been delivered to consignee before again placing such car, truck, vehicle or receptacle into service.

(C) Seed.

(1) It shall be unlawful for any person, firm or corporation to sell, offer or expose for sale or distribute in Summit County, any agricultural, vegetable, flower or tree and shrub seeds for seeding purposes which contain any seeds of those weeds declared noxious by the Commissioner of Agriculture.

(2) It shall be the duty of the State Agricultural Inspector to remove from sale any lots of seeds offered for sale which are found to contain noxious weed seeds. Such seed may be recleaned under the supervision of the inspector and, if found to be free from noxious weeds seeds, the same may be released for sale or distribution; otherwise, such seed shall be returned to point of origin, shipped to another state

where such seed is not noxious, or destroyed or processed in such a manner as to destroy viability of the weed seeds.

(D) Screenings Sold for Livestock Feed.

(1) All screenings or by-products of cleaning grains or other seeds containing noxious weed seeds, when used in commercial feed or sold as such to the ultimate consumer, shall be ground fine enough or otherwise treated to destroy such weed seeds so that the finished product contains not more than six whole noxious weed seeds per pound.

(2) All mills and plants cleaning or processing any grains or other seeds shall be required to grind or otherwise treat all screenings containing noxious weed seeds so as to destroy such weed seeds to the extent that the above stated tolerance is not exceeded before allowing the same to be removed from the mill or plant. Such screenings may be moved to another plant for grinding and treatment; provided that each container or shipment is labeled with the words "screenings for processing - not for seeding or feeding" and with the name and address of the consignor and the consignee.

(E) Livestock Feed Material.

It shall be unlawful for any person, company or corporation to sell or offer for sale, barter or give away to the ultimate consumer any livestock feed material, including whole grains, which contain more than six whole noxious weed seeds per pound. Whole feed grain which exceeds this tolerance of noxious weed seeds may be sold to commercial processors or commercial feed mixers where the manner of processing will reduce the number of whole noxious weed seed to no more than six per pound.

(F) Hay, Straw or Other Material of Similar Nature.

It shall be unlawful for any person, company or corporation to sell or offer for sale, barter or give away any hay, straw, or other material of similar nature, which is contaminated with mature noxious weed seeds or such parts of noxious weed plants which could cause new growth.

(G) Manure.

Manure produced from grain, hay, or other forage infested with noxious weeds shall not be applied or dumped elsewhere than upon the premises of the owner thereof.

(H) Soil, Sod and Nursery Stock.

No soil, sod or nursery stock which contains or is contaminated with noxious weed seeds, or such parts of the plant that could cause new growth, shall be removed from the premises upon which it is located until cleaned of such weed seed or plant parts, except

that such contaminated soil may be used for restrictive non-planting purposes upon permission and under direction of the County Weed Supervisor or a representative of the Utah Department of Agriculture.

- (I) Noxious Weeds Distributed or Sold for any Purpose.
It shall be unlawful for any person, company or corporation to sell, barter or give away any noxious weed plants or seeds for any purpose.
- (J) Livestock.
No livestock to which grain, hay, or other forage containing noxious weed seeds has been fed shall be permitted to range or graze upon fields other than those upon which they have been so fed for a period of 72 hours following such feeding. During such period, they shall be fed materials which are not contaminated with noxious weed seeds.

Section 14. Notices.

General and individual notices pertaining to the control and prevention of noxious weeds shall be substantially of the types prescribed herein; namely, General Notice to Control Noxious Weeds, Individual Notice to Control Noxious Weeds, and Notification of Noxious Weed Lien Assessment.

- (1) General Notice to Control Noxious Weeds.
General public notice shall be posted by the County Weed Control Board in at least three public places within Summit County and be published in one or more newspapers of general circulation throughout the county, on or before May 1st of each year and at any other times the County Weed Control Board determines. Such public notice shall state that it is the duty of every property owner to control and prevent the spread of noxious weeds on any land in his possession, or under his control, and shall serve as a warning that if he fails to comply with this notice, enforced weed control measures may be imposed at the direction of county authorities. Such general notice shall also include a list of weeds declared noxious for the State of Utah and for Summit County.
- (2) Individual Notice to Control Noxious Weeds.
Following publication of a general notice, if a County Weed Control Board determines that definite weed control measures are required to control noxious weeds on a particular property, the Board shall cause an individual notice to be served upon the owner or the person in possession of said property, giving specific instructions concerning when and how the noxious weeds are to be controlled within a specified period of time. The individual notice shall also inform the property owner of legal action which may be taken against him if he fails to comply with said notice.
- (3) Notification of Noxious Weed Lien Assessment.
If it is deemed advisable, the Board of County Commissioners may cause

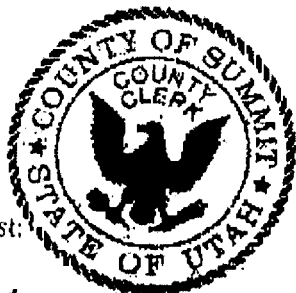
noxious weeds to be controlled on a particular property and any expenses incurred by the county shall be paid by the owner of record or the person in an itemized cost statement of the labor and materials necessarily used in the work of said control measures. This notice shall also state that the expense constitutes a lien against the property and shall be added to the general taxes unless payment is made to the County Treasurer within 90 days.

Section 15. Penalties.

Whenever under the provisions of these regulations an act is prohibited, each violation of any such provision shall be a Class "C" Misdemeanor, punishable by imprisonment not to exceed 90 days and fines not to exceed \$750.00. Each day a violation of these regulations continues shall constitute a separate offense, unless otherwise prohibited.

ADOPTED this 17 day of March, 2004

BOARD OF SUMMIT COUNTY COMMISSION



Attest:

Susan Follett
Susan Follett

Summit County Clerk

K.E. Woolstehulme
Chair

Voting of Commissioners:

Commissioner Richer

Commissioner Woolstehulme

Commissioner Kerr

yes
yes
yes

Approved as to form:

David L. Thomas
David L. Thomas
Chief Civil Deputy County Attorney

