

**PARK CITY COUNCIL WORK SESSION NOTES
SUMMIT COUNTY, UTAH
AUGUST 12, 2010**

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

Tom Bakaly, City Manager and Mark Harrington, City Attorney

1. Council questions/comments. Liza Simpson discussed the Planning Commission 4:2 vote last night approving the PC Heights pre-MPD application and indicated that Commission members shared many of the same concerns expressed by Council regarding connectivity and providing recreation amenities and commercial services within the development. The Commission strongly believes that affordable housing should be integrated with the other housing and provided good feed-back on PC Heights. Candace Erickson discussed the Recreation Advisory Board meeting where the new Recreation Center and Creekside Park projects were addressed. She reported on Mountainlands Community Housing Trust's many successes.

Alex Butwinski commented on the Planning Commission and Art Advisory Board meetings. He relayed that the HMBA has changed its branding name to the Historic Park City Association or HPCA and the group continues to productively discuss topics and arrive at unified decisions. Cindy Matsumoto reported that a letter will be sent to Summit County on the reciprocal borrowing program to keep the option open. Friends of the Library will be conducting its used book sale over Labor Day weekend. Liza Simpson stated that she attended the International Tourism Symposium at the Chamber/Bureau. She added that the Planning Commission requested an analysis of the community's affordable housing needs in consideration of the current housing market. She reminded staff that the skate park sign should be replaced with one naming it after Roger Harlan.

2. Quarterly goals. Mayor Williams guided the discussion by addressing each goal by category. There were no changes and the discussion mainly focused on clarifications.

3. Annual Open and Public Meetings Act training. Mark Harrington emphasized that the O&PM Act is the foundation of local governments and sets the threshold for publicly conducting business. (Act requirements are outlined in the meeting packet.)

Mr. Harrington pointed out that staff can provide advice but it is the individual's responsibility to completely follow state requirements and these rules are more than just a bureaucratic exercise. He spoke about balancing technical requirements with the opportunity of maintaining our sense of place and accessibility outside of a formal setting. The reasons for closing a meeting are also intended to reach a balance (litigation, personnel, property and security), recognizing that government operates as a corporation and should not be disadvantaged by being a public entity. The Act ensures

that the public's business is openly conducted and balanced by qualified closed sessions which should be held when it is strategically advantageous. There is no legal requirement to discuss these things in closed and the item must be introduced publicly before taking formal action.

With regard to personnel or employee matters, Mr. Harrington explained that Council may not be able to talk about the issue publicly. He distinguished ex parte communications and the need to hold some discussions at the regular meeting which is posted, published and open to the public. Public hearings require additional notice requirements.

The City Attorney stated that the six-member Council, including the Mayor, with authorities delegated to the City Manager is a somewhat unique form of government. The Mayor can not constitute a quorum for holding a meeting but can be part of a voting majority. He discussed the practice of not more than two Council members meeting outside of a Council meeting. It is the individual's responsibility to follow the law and violations go beyond the situation by breeding discontentment with and distrust of the system. He encouraged members to contact him with questions about closed session or discussing certain matters with the public. Members are encouraged to deliberate and debate issues publicly, even in the case of appeals when a decision can be legally reached in closed session. He advised to err on the side of "*open*"; specific rules of conduct for other boards was discussed. In response to a question from Liza Simpson, Mark Harrington explained that the written approved minutes are the official record of the meeting not the recording.

Prepared by Janet M. Scott, City Recorder

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
AUGUST 12, 2010**

I ROLL CALL

Mayor Dana Williams called the regular meeting of the City Council to order at approximately 6 p.m. at the Marsac Municipal Building on Thursday, August 12, 2010. Members in attendance were Dana Williams, Alex Butwinski, Candace Erickson, Joe Kernan, Cindy Matsumoto, and Liza Simpson. Staff present was Tom Bakaly, City Manager; Mark Harrington, City Attorney; and Wade Carpenter, Chief of Police.

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

None.

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

Hours of operation on patios and decks - James Oleck, O'Shucks manager, expressed confusion about the time patios are required to close and information among businesses varies from 10 p.m. to 2 a.m. He understood that after midnight patrons can not smoke on a deck and establishments must send them out to the street with the potential of creating litter and noise. There is much better control of people within a business.

Mark Harrington clarified that alcohol and food are not allowed on decks after 10 p.m. but patrons can use the decks until midnight. He advised that this ordinance went through a very lengthy public process and the intent was to balance the interests of residents and businesses. There is also a public safety issue of objects being thrown from second story decks. Mr. Harrington explained that enforcement of decks and patios is considered a low priority and situations are typically handled on a complaint basis. If this issue is revisited, the residents and business owners will all be involved and the conditional use permit approved for businesses also governs hours.

Candace Erickson recalled the public input on this issue years ago where residents on Prospect Avenue testified that they could hear glasses and silverware clink from Main Street. Our quiet time starts at 10 p.m. in Park City.

Mr. Oleck added that during the summer, people want to sit outside and often leave when told to come inside by the management. He commented on the night all of the decks were shut down at 10 p.m. by the police. Chief Wade Carpenter explained that 180 marines were partying on Main Street during Arts Festival and things were getting out of control. Their Commanding Officer called the Chief and asked for assistance and the Chief made the decision to be proactive and close all decks on Main Street to avoid problems.

The Mayor indicated that the ordinance has been adopted for some time and appears to be working. He cautioned that revisiting the issue is *reopening a can of worms* and there is the possibility that residents will request that the ordinance be stricter than currently written. Alex Butwinski discussed the interest in creating energy on Main Street which is not consistent with *turning off the lights at 10 p.m.* and believed that Old Town residents chose to be in an area with a lot of activity. Mr. Oleck interjected his comments with regard to maintaining more control by keeping patrons on the premises.

Liza Simpson indicated that she was present for the prior debate and separated the discussion in two parts. She suggested that Mr. Oleck and Chief Carpenter meet so there is clarity about enforcement and the Arts Festival incident. In her opinion, the ordinance is working because Council has not been receiving complaints and business owners should be able to manage patrons. Another hearing could be scheduled in the spring on this issue, but as a whole, Ms. Simpson believes the current ordinance and enforcement practices are working.

In response to a comment from Alex Butwinski, Candace Erickson pointed out that outdoor dining is over by 10 p.m. and that time was determined through a public process with the neighborhoods and businesses. She emphasized that outdoor dining was intended to be a *bonus*. Businesses are benefitting from more space and are not being charged for it. James Oleck appreciated the clarifications. The Mayor suggested he meet with the Police Chief and if there is still interest in changing the ordinance, the Council can consider it. Joe Kernan stated that he would like to review it sometime in the winter as businesses have contacted him about this issue, acknowledging that it is a matter of balance.

IV WORK SESSION NOTES AND MINUTES OF MEETING OF JULY 29, 2010

Candace Erickson pointed out a spelling error in the work session notes. Joe Kernan, "I move approval of the work session notes and minutes of July 29, 2010 (as corrected)". Alex Butwinski seconded. Motion unanimously carried.

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

1. Consideration of the Fourth Addendum to the Professional Services Agreement, in a form approved by the City Attorney, with Bowen Collins & Associates, for General Engineering Services in an amount of \$310,229 - and
2. Consideration of a Resolution declaring Park City's vision, goals, policies, and action plan in promotion of environmental initiatives for Park City Municipal Corporation and the community and replacing Resolution No. 02-09 in its entirety – Staff

recommends approval. Joe Kernan, "I move to approve Consent Agenda Items 1 and 2". Liza Simpson seconded. Motion unanimously carried.

VI ADDITIONAL DISCUSSION – AGENDA ITEMS

None.

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 2:30 p.m. Members in attendance were Mayor Dana Williams, Alex Butwinski, Candace Erickson, Joe Kernan, Cindy Matsumoto, and Liza Simpson. Staff present was Tom Bakaly, City Manager; Jon Weidenhamer, Economic Development Manager; Tom Daley, Deputy City Attorney; Michael Kovacs, Assistant City Manager; Diane Foster, Environmental Manager; Jason Christensen, Legal Intern, Kathy Lundborg, Water Manager; and Mark Harrington, City Attorney. Cindy Matsumoto, "I move to close the meeting to discuss property, personnel and litigation". Liza Simpson seconded. Motion carried unanimously. The meeting opened at approximately 4:45 p.m. Liza Simpson, "I move to open the meeting". Alex Butwinski seconded. Motion unanimously carried.

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

