PARK CITY WORK SESSION NOTES
SUMMIT COUNTY, UTAH
AUGUST 12, 2004

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; Eric DeHaan, City Attorney; Myles Rademan, Public Affairs Director; Pace Erickson, Parks and Streets Superintendent; Jonathan Weidenhamer, Planner; and Kent Cashel, Transportation Director; and Patrick Putt, Planning and Zoning Administrator

Mike Sweeney, HMBA President

1. **Council questions/comments** – Joe Kernan relayed that he received a complaint from Dick Welch about the noxious emissions from Burger King. Tom Bakaly stated that he would pass this along to code enforcement to investigate. Kay Calvert felt that the second home owners' reception during Arts Festival was a great outreach effort and hoped to do this again. She continued that she liked the booths in the center of the street, but is strongly in favor of holding this event on a grassy area like City Park. Marianne Cone was pleased to observe Festival patrons in Main Street stores and felt the art was high quality. Ms. Cone reported on the progress of the public art board, which is very qualified. Candace Erickson thanked Myles Rademan for organizing the second home owners reception, which meant a lot to the people she met over the weekend. She agreed that it appeared that the Main Street merchants profited over the Art Festival weekend and she thanked staff for the extra work and hours during the event.

Jim Hier commented that the last two Planning Commission meetings have been extremely lengthy and he encouraged staff to examine upcoming schedules. He felt some information covered at Commission meetings could be more appropriately introduced to the public through separate community meetings. Patrick Putt acknowledged the full work load before the Commission at this time and will work to better manage meetings while balancing accommodating applicants during the construction season. There were two major public hearings on the agenda last night, and staff aired on the side of providing as much information as possible.

Jim Hier pointed out damage to a portion of the Main Street sidewalk which should be repaired to avoid injuries to pedestrians. Mayor Dana Williams discussed a video recently released to promote wind power and understood there are 30 applications submitted to the state for wind farms over the last eight months. He pointed out citizen requests for additional speed limits signs on the eastern end of Prospector on SR248 because of speeding motorists leaving town. Eric DeHaan indicated that the would follow-up with UDOT. Myles Rademan discussed a visit from Dr. Terry Stephens, British Minister of Tourism, who is surveying resort communities throughout the states.

It seems prudent to develop criteria to define priorities, i.e., fist priority linking neighborhoods, etc. He acknowledged the benefits the business community brings to the City and perhaps the density of commercial units could justify the service. Mr. Hier emphasized that responding to requests should be based on established criteria. As a prior tenant on Main Street, Marianne Cone believes that it is appropriate for the City to make a sweep after a big storm, but business owners should be responsible for continuing to keep their store fronts clear of snow and ice. Pace Erickson clarified that the ordinance still requires adjacent business owners to remove snow and ice. Ms. Cone continued that some owners clear snow and others don't which makes walking Main Street difficult. In response to a question from Kay Calvert, the City Attorney advised that claims for injuries are the adjacent property owner's liability. However, some sidewalks are located on private property, some within the public right-of-way or shared in varying degrees.

Joe Kernan asked if the areas contemplated for increased enforcement will be identified. Pace Erickson suggested delineating a map with serviced areas and criteria. With regard to the mail boxes, Mr. Hier suggested establishing a standard mail box value and offer that to owners. If owners want to invest more in a mail box, it shouldn't be the City's responsibility to accept that liability.

With regard to the prohibition of throwing snow in the street, Mr. Erickson explained that this is mainly intended for commercial snow removal operators. In fact, on sunny days, the snow melts quickly in the street. He emphasized that there are on average only five to ten damaged mail boxes a year and the cost is insignificant. Marianne Cone was pleased with the new provision of special parking permits for downtown residents. Joe Kernan felt it appropriate to compensate property owners for damage occurring when the City is removing snow. He feels that the City efficiently removes snow and should be responsible for sidewalks throughout town. Kay Calvert disagreed; it is every property owners' responsibility to keep snow off their sidewalks and the cost of providing the service would be astronomical. Mr. Kernan understood there are three types of snow removal; one that the City performs, one that is required of property owners, and a third that the City doesn't care about. There should just be two; either the City does it, or the property is not required to be plowed. He doesn't support increasing enforcement. Pace Erickson acknowledged that the City isn't concerned with removing snow from trails or sidewalks that don't go anywhere or service anything, especially if it is a short section. He agreed that it is inconsistent to require one property owner to plow and not require it of another owner living five blocks away, for instance. He felt that it will be helpful to have an opportunity to take a methodical look at preparing a map and prioritizing pedestrian ways. It is likely that Prospector Square and the Deer Valley area would be designated to remove snow and Deer Valley already removes snow from walkways. Joe Kernan expressed that this plan makes sense. Candace Erickson agreed and encouraged staff to continue to work with Prospector on out that master festival licenses are exempt from the noise ordinance, i.e., 4th of July parade. There is a standard for noise at the property line, special legislation regulating the outdoor concert series, and MFLs. Joe Kernan stated that he supports efforts to bring vitality to Main Street. Tom Bakaly understood Council direction to be to hold a community meeting before a draft ordinance is introduced. This process may take a couple of months.

4. Review of regular meeting:

Insurance renewal – The City Attorney explained that an RFP process was conducted. The valuation was structured on record of performance, services provided, quality of personnel, etc. and based on that analysis staff is recommending that the City stay with Marsh USA, as recommended in the staff report.

Environmental assessment contract – Kent Cashel stated that staff is recommending an award of contract with Montgomery, Watson and Harza to conduct an environmental assessment on the old sewer plant site. This is required by the government before funding is appropriated. The Park Meadows treatment plant is estimated at $1 million and Senator Bennett's office relayed that there is about $10 million that will become available in October 2005. Staff believes that by conducting this study, Park City will be in a good position to qualify for appropriations.

Revised personnel policies and procedures – Tom Bakaly explained that over the past two years, there has been an effort to streamline operations and functionally align self-directed teams. When there is an opening for a position, especially at the supervisory level, filling the vacancy with employees might be a preferred option. Increasing the salary to assume these responsibilities is not allowed in the personnel policy and procedures. Rather than amending the budget mid-year or waiting until the budget process, staff would like the ability to make those changes. Per the resolution, the City Manager would advise Council of the proposal, proceed accordingly, and make changes in the upcoming budget. This policy allows for a trial period. He relayed that Jim Hier suggested adding a sentence under criteria to state, "The financial impact of the interim reorganization will result in a net expenditure reduction." Joe Kernan felt that there are benefits of providing staff with autonomy and the City Manager added that this allows departments flexibility without a formal process. He relayed that he met with non-supervisors, mainly at the analyst level, about whether they want to be included in the policy. The group decided to look at career development opportunities separate from a reorganization policy and will be making recommendations to you as a part of the budget process. Marianne Cone stated she liked this non-bureaucratic approach.

Prepared by Janet M. Scott, City Recorder

PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
AUGUST 12, 2004

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, 2004. 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; Lloyd Evans, Chief of Police; Patrick Putt, Planning and Zoning Administrator; Max Paap, Special Events and Facilities Coordinator; Kent Cashel, Transportation Director; Ken Fisher, Recreation Manager; and Patrick Putt, Planning and Zoning Administrator.

II COMMUNICATIONS FROM COUNCIL AND STAFF

1. Swearing-in of Police Officers Kris Phillips and Daniel Holdaway – Chief Lloyd Evans introduced Officers Phillips and Holdaway and the Mayor administered the oath of office.

2. Planning Commission actions – Patrick Putt reported that last night the Planning Commission formally adopted the conclusions, representing the areas of consensus among both jurisdictions. The Red Cloud (aka Pod D) MPD was approved as well as forwarding a positive recommendation on two proposed amendments to the Flagstaff Development Agreement. These amendments will be before Council for consideration in a couple of weeks.

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

The Mayor invited the public to comment:

1. Upper Park Avenue reconstruction - Ramona Meyer, 416 Park Avenue, expressed her appreciation in reconstructing Park Avenue but feels that she and her husband were not adequately represented in the planning of the project. In the future, they feel they should be provided an opportunity for input through proper channels.

Jack Meyer stated that UPAPA has not communicated information very well and they feel they were left out of the process. They had no idea what was going on until they were noticed about commencement of the work. The west side received all of the "goodies" while the east side nothing. The Mayor replied that this project has been planned for at least two years and a half years and the City noticed and held a half dozen neighborhood meetings. Mr. Meyer indicated that too much effort has been devoted to aesthetics and not good street design.

2. Police appeals board, outdoor display of merchandise, closing Main Street for the Arts Festival, and snow removal – Dave Shaffner, Main Street merchant, asked if there has been an oversight committee established for the Police Department. Kay Calvert advised that there is an appeals board not an oversight board. There was discussion about the process for filing an appeal and the City Manager offered to provide him with a copy of the policy. He asked how many Council members walked the street on Friday and pointed out that there were only a few businesses displaying merchandise, which in his opinion, is an indication that allowing outdoor display will be manageable. He complained about Main Street being closed at any time, and stated that Kimball Art Center gets whatever it asks for when in fact, they are in competition with many businesses on Main Street. The artists took the whole street setting up on Friday, then it was the sidewalk, then it was driving on the sidewalk, and then it was selling "crap" on the sidewalk. When he finally found and talked to "Butz", it never changed. Marianne Cone thought that perhaps there was some confusion because the booths were being set up in the middle of the street for the first time and she urged him to talk to the KAC. He compared this situation to being in an occupied country. He asked Marianne Cone where the merchants should put the snow from the sidewalks (see work session notes). She responded that the snow should go in the gutter; snow is hauled off Main Street. He asked Council members if they have been to other resorts around the world and asked if they have outdoor displays.

Mayor Williams reminded Mr. Shaffner, who attended the earlier work session that Council has already decided to move ahead with meetings on display of merchandise, so there will be an opportunity for him to express his views as part of that process. He stated that Mr. Shaffner "bucks" the law more than anybody in the City and drilling the Council about vacations is not productive. Dave Shaffner asked what members thought about the length of time it takes to process anything when they were running for office. Candace Erickson responded that the process will never move quickly and added that she visits Durango, Boulder, Vail, Aspen, Steamboat, Breckenridge and Sun Valley where outdoor display is not allowed. She stated that staff can't find any legislation on this topic. He complained that this affects merchants every day. There's a lot of turn-over on Main Street. Mayor Williams emphasized that this discussion is not going anywhere. Council gave direction to staff to proceed with public dialog. The Mayor noted that Mr. Shaffner is the only one who has approached him about outdoor display, the only one who continues to break the law on a daily basis, and is rude to City employees. The Council gave direction earlier and he doesn't know what he wants tonight. Mr. Shaffner asked if the delay is due to the way he approaches the City. The Mayor stated that he didn't think so, but admitted that he is offended when he learns about a rude confrontation with a City employees. He stated that always responds to Mr. Shaffner requests and believes the City has been sympathetic. For a year, staff has been advising him to get other support for outdoor display, but no one else has contacted the City. The Mayor believes that Mr. Shaffner has been treated fairly. This public input session is not the appropriate forum for this discussion. The Mayor reiterated that Mr. Shaffner was sitting here during work session when Council went against the staff's recommendation and decided to proceed with exploring an amendment to the code. Mr. Shaffner left the Council Chambers.

With no further public input, the session was closed.

IV WORK SESSION NOTES AND MINUTES OF MEETINGS OF JULY 22, 2004 AND JULY 29, 2004

Candace Erickson, "I move we approve the work session notes and minutes of meetings of July 22 and July 29". Marianne Cone seconded. Motion carried unanimously.

V RESIGNATIONS AND APPOINTMENTS

1. Appointment of two members to the Recreation Advisory Board for terms expiring June 30, 2007 – The Mayor requested a motion to reappoint Rich Miller and appoint Mailer Buker. Kay Calvert, "I move to approve the appointments for terms expiring June 30, 2007". Candace Erickson seconded. Motion carried unanimously.

2. Appointment of two members to the Historic Preservation Board for terms expiring April 30, 2007 – The Mayor recommended the

will be no parking for film patrons at the Racquet Club and Ampco has been hired by Sundance to monitor the lot. Barricades and signs will be placed on Monitor Drive, Little Kate Road and the entrance to the condos to discourage street parking. The City is would run from 6:30 p.m. to 7:30 p.m. If there is a band, it will not be amplified. Hearing no further comments or questions, the pubic hearing was closed.

3. Ordinance approving a subdivision plat for Marsac Avenue and Chambers Street, Park City, Utah – Patrick Putt explained that approval of the subdivision will formally create Marsac Avenue from Sandridge to the Guardsman Pass connector. This is a 50 foot right-of-way required under the Flagstaff Development Agreement. The Planning Commission forwarded a positive recommendation. Hearing no comments or questions from the Mayor or the public, the public hearing was closed.

4. Ordinance amending Ordinance No. 03-37 approving a single lot subdivision at 445 King Road, Park City, Utah with an extended date of expiration – The Planning and Zoning Administrator explained that this single lot was part of the Sweeney Master Plan approved in 1986. On July 31, 2004, the approval expired because the plat wasn't recorded. There were delays associated with negotiating utility service. The applicant is requesting a six month extension to January 31, 2005 and the Planning Commission forwarded a positive recommendation. The Mayor opened the public hearing and hearing no input, closed the hearing.

VII CONSENT AGENDA

Jim Hier, "I move we approve Consent Agenda Items 1 through 7". In response to a question from Marianne Cone, Jim Hier explained that his motion contemplates approval of the Sundance addendum as requested. Motion unanimously carried.

1. Addendum to Sundance Film Festival license and service agreement – See staff report and public hearing.

2. Notre Dame Club of Utah Pep Rally Master Festival License to be held in City Park on September 3, 2004 – See staff report and public hearing.

3. Ordinance approving a subdivision plat for Marsac Avenue and Chambers Street, Park City, Utah - See staff report and public hearing.

4. Ordinance amending Ordinance No. 03-37 approving a single lot subdivision at 445 King Road, Park City, Utah with an extended date of expiration - See staff report and public hearing.

5. Insurance services:

- Authorize contract with Marsh USA Inc. for standard commissions broker services contract for a three year period, September 1, 2004 through August 31, 2007 – and
- Authorize contract with Olympus Insurance Agency in the amount of $2,500 for performance of a cost study on workers compensation - See staff report and work session notes.

6. Authorization to staff to execute a professional services contract, in a form approved by the City Attorney, with Montgomery, Watson and Harza in the amount of $41,430 for the preparation and submittal of an environmental assessment - See staff report and work session notes.

7. Resolution adopting revised Personnel Policies and Procedures for Park City Municipal Corporation - See staff report and work session notes.

VIII NEW BUSINESS

Annexation and zoning of property known as the Spiro Tunnel Parcel – Paladin – See staff report. Patrick Putt explained that this is a 12.32 acre annexation located west of the Spiro Tunnel water treatment facility on Three Kings Drive and Crescent Road. Applicant Rory Murphy is present to answer any questions. Approval of the annexation ordinance would designate the zoning RDM and approve an annexation agreement. A recent amendment to the agreement would include the property in the soils management area which Paladin has agreed to. There is a comprehensive analysis of the project's compliance with all annexation requirements. The project has gone through many public hearings and the public will have further opportunities to comment on specifics through public hearings associated with the MPD application pending before the Planning Commission.

- Continuation of public hearing – The Mayor invited the audience to comment. Hearing no input, the public hearing was closed.

- Ordinance annexing approximately 12.32 acres of property located on Three Kings Drive in the southeast quarter of Section 8, Township 2 South, Range 4 East, Salt Lake Base and Meridian, into the corporate limits of Park City, Utah and amending the Official Zoning Map of Park City to include the annexed area – Marianne Cone asked the potential of the soils contaminating the Spiro Tunnel water source. Rory Murphy explained that the water from the Spiro is piped from almost a half mile away and does not travel through the soil on the property. He emphasized that there are no tailings stored there and the soil has been tested and will be capped to comply with the ordinance, where necessary. Jim Hier asked if there have been any other changes. Patrick Putt responded that any modifications are very minor and there no substantive changes. There was discussion about the possibility of features of the plan, like the artists residence, being modified or eliminated through the MPD process. Joe Kernan, "I move we approve the annexation and annex the Spiro Tunnel parcel into Park City and amend the Official Zoning Map to include the annexed area". Marianne Cone seconded. Motion carried unanimously.

IX ADJOURNMENT

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

MEMORANDUM OF CLOSED SESSION

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

The meeting opened at approximately 4:15 p.m.

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

SUMMIT COUNTY UTAH CORPORATE Seal MARCH 1, 1884

City Council Staff Report

Author: Pace Erickson, Operations Manager
Subject: Snow Removal Ordinance Revisions
Date: August 12, 2004
Type of Item: Discussion

PARK CITY 1884

Public Works

Summary Recommendations: Provide direction to staff for recommended changes to Section 9 - Parking Chapter 4 – Seasonal; and Section 14 – Streets, Chapter 4 - Snow Removal to enhance the snow removal efforts.

Description:

Topic: Changes to Winter Snow Removal Ordinances

Background:

Snow removal has long been a core service provided by Park City Municipal Corporation and is a large portion of the Streets and Parks budgets. Advances in technology and improvements in equipment design have enabled the City to provide a very high level of service to facilitate vehicle and pedestrian traffic around Park City during heavy snow years even though the budget is for an average year rather than a heavy snow year. Periodic adjustments to the snow removal ordinance are needed to facilitate changes in community needs and snow removal procedures. These adjustments have reduced community impacts during the snow removal process.

Snow routes have been set up on a priority basis to accommodate the greatest community good with the allocated resources; with bus routes, main business core areas, main parking areas, upper elevation streets and Old Town as first priority. Through streets within residential areas and business core parking areas second priority. Cul-de-sacs and all other public streets are third priority. Snow hauling has typically been performed on Lower Park Ave, Main Street, Deer Valley Drive and areas of Old Town. This allows for greater accommodation of traffic, parking and pedestrians in areas that typically have narrow or heavily traveled streets.

Sidewalks and stairs are designated in the snow removal ordinances as the adjacent homeowners responsibility. However, in the early 80's City Council wanted to insure the smooth flow of pedestrian traffic on Main Street and between the resorts but because of number of vacant lots and stores existing in these areas, elected to plow these sidewalks and stairways more of a courtesy rather than eliminate the responsibility of the adjacent homeowners. Park City later began removing snow on selected sidewalks as critical pedestrian corridors to connect neighborhood areas to other areas of Park City. Extensive trail development has occurred during the 1980's and 1990's much of which achieved the goal of connecting neighborhoods and public schools to other neighborhoods.

The trail system has been enhanced dramatically, on city property and adjacent to private property. Under the current ordinance all private homes and businesses would be responsible for the pedestrian snow removal efforts.

Analysis:

As a world-class resort area, it is important that a consistent level of snow removal be completed on streets and active pedestrian areas. Parking needs have changed creating potential interference with snow removal activities. New residents may be unfamiliar with the impacts caused by a heavy snowstorm or even a normal snow year.

[redacted]

changes are:

- 9-4-1(C)- Allow parking in Swede Alley with a Parking Services permit
- 9-4-1(D)- Unlawful to park in city parking lots without a Parking Services permit between the hours of 2AM and 6AM.
- 9-4-2- Better definition of defining obstruction of snow removal.
- 9-4-3- The City Manager or designee can declare a snow removal emergency.

Staff is requesting discussion and direction on and Section14 – Streets, Chapter 4 -

plowing. Staff has interpreted this to mean the weight of the snow is normal snow removal activity and is not responsible. If the mailbox is physically hit by the plow, Public Works is responsible for the replacement. This position has caused many arguments and unhappy residents. Staff would like a clear policy direction.

Public safety has always been our number one priority and in order to better serve the community, changes in the snow removal ordinance are required to meet the needs of the citizens and visitors while facilitating snow removal in the most efficient and cost effective manner. The proposed changes are meant to clarify requirements and stipulate particular areas of responsibility. In particular, the changes will define responsibility to declare a snow emergency, parking hours in designated parking lots, obstruction of snow removal services, snow storage, sidewalk snow removal responsibility and damage caused by snow removal practices.

Request for Elevated Levels of Service

A "Request for Elevated Level of Service" (RELS) process has recently been developed in which neighborhoods and businesses can request these ordinances be waived, altered or additional City service be provided. The RELS process allows residents and business owners an opportunity to formally request additional or an elevated level of City services. However, clear reasoning needs to be demonstrated in order to show the need for new or enhanced levels of service.

Staff is currently working with Prospector Square Property Owners Association (PSPOA) in such a fashion to provide new service for sidewalk snow removal around Prospector Square. We are still in the discussion stages with the PSPOA and will be forwarding a recommendation to City Council at a later date. The PSPOA have been a willing partner both in terms of cooperation and financial support during this process and understand there are several challenges which must be addressed in order to develop a plan to plow the sidewalks around Prospector Square. Some of these include: sidewalk widths, landscaping, parking lot plowing and other obstructions (see attached pictures and map).

It is important to point out that additional cost will be incurred when any new or elevated level of service will be reducedany new or elevated levels of service. Additional staff, code enforcement, equipment and supplies will undoubtedly be needed as new areas of responsibility and levels of service are increased.

Department Review: The Public Works, Building and Legal Departments have reviewed the proposed changes in the snow removal policy.

Alternatives:

- **Discuss and provide staff with input on proposed snow removal ordinance.** (Staff Recommended)

- **Make no changes to the ordinances.**

(Staff Does Not Recommend This Alternative).

Significant Impacts:
The snow removal ordinance is designed to maintain a reasonably high level of service and minimize the disruption to residents and visitors to Park City. Clearly defining the ordinance will reduce issues, questions and confusion regarding levels of service and areas of responsibility.

Recommendations:
Direct staff to make changes to Section 9 - Parking Chapter 4 – Seasonal; and Section 14 – Streets, Chapter 4 - Snow Removal to enhance the snow removal efforts.

SECTION 9 PARKING -CHAPTER 4 - SEASONAL

9- 4- 1. SPECIAL WINTER LIMITATIONS.

Notwithstanding the foregoing general parking regulations, there shall be additional regulations which apply during the winter season to facilitate the snow removal and emergency access during the winter months. The winter seasonal regulations shall apply from November 1 to April 30. The special winter regulations are as follows:

(A) It shall be unlawful to park any vehicle on the downhill side of any street south of 12th Street. The downhill side of the street is the side on which the natural slope is away from the street surface, and the side to which the natural drainage flows. Main Street, Park Avenue north of Heber Avenue, and Swede Alley are not included within this regulation.

(B) Additional parking limitations may be posted by signs stating the nature and effective period for the additional regulations.

(C) It shall be unlawful to park any vehicle without a Parking Services permit on Heber Avenue, Main Street, or Swede Alley surface parking between the hours of 2:00 a.m. and 6:00 a.m. during the winter months. Additional streets may be designated as no parking areas during these periods as necessary to facilitate snow removal.

(D) It shall be unlawful to park any vehicle without a Parking Services permit in the following city parking areas: City Park, Mawhinney Lot, Library & Education Center,Marsac North & South Lots, Public Works, Prospector Park, Rotary Park and Racquet Club surface parking between the hours of 2:00 a.m. and 6:00 a.m. during the winter months. Additional Public Parking Facilities may be designated as no parking areas as necessary to facilitate snow removal

9- 4- 2. PARKING TO OBSTRUCT SNOW REMOVAL.

~~It shall be unlawful to park any vehicle in a manner that obstructs snow removal by failing to leave adequate room for passage of plows and other removal equipment, and vehicles as parked are subject to impoundment.~~ No person shall interfere with the snowplowing or snow removal efforts of any portion of City streets by obstructing the travel and parking areas during the operations of snowplowing or snow haulage for the City by placing an object, vehicle or one's person in a manner that prevents the movement or depositing of snow in any location.

9- 4- 3. SNOW REMOVAL EMERGENCY ROUTES.

In order to maintain a free flow of traffic during periods of four inches or more of snow accumulation, and immediately following said storms, ~~the Police Department~~ the City Manager or designee may declare a snow removal emergency, during which time it shall be unlawful to park any vehicle on the following streets:

- Any street which is on a Park City Transit bus route;

- Swede Alley;

- Kearns Boulevard: U-248 to City limits;

- U-224 from Kearns Blvd. to the City limits;

- Marsac Avenue;

- Lucky John Drive from Little Kate Road to Evening Star Drive;

- Payday Drive from Thaynes Canyon Drive to Park Avenue (U-224);

- Thaynes Canyon Drive from Silver King Drive to Payday Drive;

- Meadows-Evening Star to American Saddler;

- American Saddler-Meadows to Meadows;

- Meadows-American Saddler to U-224; and

Such other streets as may be necessary to add from time to time in order to meet the needs of the snow removal emergency.

During a snow removal emergency declared by the ~~Chief of Police or~~ the City Manager or designee, any vehicle parked on one of the streets listed above shall be deemed illegally parked, and subject to impound. The state of emergency shall be declared and notice given in the best manner possible under the circumstances, including giving notice of the emergency parking regulations to local news outlets. ~~The primary objective of declaring the emergency is to clear the streets of parked vehicles. Thus, impound fees on vehicles impounded for illegal parking on streets designated as streets to be kept free of parked vehicles in the emergency, shall be reduced by half of the normal rate for the violation.~~

SECTION 14 STREETS -CHAPTER 4 - SNOW REMOVAL

14- 4- 1. SNOW REMOVAL PRIORITIES FOR PUBLIC STREETS.

Snow removal is provided for public streets within the corporate limits of Park City on a priority basis. Main arterial streets receive first priority; residential streets second priority; and cul-de-sacs third priority. The City provides limited sidewalk and stairway clearing when possible; see Section 14-4-11 regarding snow removal of City walks and stairs.

14- 4- 2. PRIVATE STREETS: DUTY TO REMOVE SNOW.

It shall be the duty of every condominium owners association, property owners association, corporation, partnership, or other entity having control over a private street system within the corporate limits of Park City, and the owners of properties abutting on such private streets which are provided access from those streets, to provide regular and adequate snow removal service on those private streets in accordance with the standards established in Section 14-4-4 .

14- 4- 3. SEASONAL LIMITATIONS ON PARKING.

See Title 9, Chapter 4 regarding special winter parking regulations which are adopted to protect the health and safety of residents of Park City. The City will not be responsible for injury and/or damage claims related to snow removal services if the claimant has violated provisions of Title 9.

14- 4- 4. SNOW REMOVAL STANDARDS.

"Regular and adequate snow removal service" shall mean that snow shall be cleared from the roadway to a width of twenty feet (20') within a period of eight hours from the end of each snow storm which deposits an accumulation of four inches (4") of snow or more. It shall be unlawful to permit an accumulation of more than four inches (4") of snow to remain on the private street for more than eight (8) hours at a time.

14- 4- 5. SNOW STORAGE ON SITE.

It is the duty of all property owners to make arrangement for the storage of accumulation of snow, either on their own premises, or on the premises of another with the permission of the other. The owner, and his employees, agents, and contracts, shall confine the accumulated snow to the owner's premises of another with the other's permission.

14- 4- 6. UNLAWFUL TO DEPOSIT SNOW IN PUBLIC WAY.

It shall be unlawful for any person to deposit, haul, push, blow, or otherwise deposit snow accumulated on private property within the traveled portion of any public street in a manner that impedes the reasonable flow of traffic on that street.

14- 4- 7. TRAVELED PORTION DEFINED.

As used in this Chapter, the term "traveled portion of any public street" shall mean and refer to that portion of the public right-of-way that is paved and maintained for vehicular or pedestrian traffic. It shall not include the portions of the right-of-way outside of the paved area, and it shall not be a violation of this Chapter for any property owner, or his employees, agents, or contractors, to place accumulated snow within the non-traveled portion of the public right-of-way.

14- 4- 8. IMPAIRMENT OF TRAFFIC.

In determining whether an accumulation of snow is such that it impedes the reasonable flow of traffic, the Court shall look at whether a driver of ordinary skill and experience in snowy climates, driving a typical passenger car with tires reasonably suited for winter road conditions could pass over the area in question without having to leave the normal lane of travel, getting stuck on the accumulated snow, or risking damage to his vehicle.

14- 4- 9. PRIVATE SNOW REMOVAL ON PUBLIC STREETS.

It shall be the duty of every condominium owners association, property owners association, corporation, partnership, or other entity having the responsibility for snow removal on a public street pursuant to plat restriction, conditional use approval or other permit or agreement with the City, and the duty of every owner of property abutting on and provided access from such public street to provide regular and adequate snow removal service on those public streets according to the regular and adequate snow removal service standards cited in Section 14-4-4 .

14- 4-10. FAILURE TO REMOVE SNOW FROM PUBLIC STREETS.

In the event the party or parties responsible for private snow removal on public streets as provided in Section 14-4-8 , fail to remove snow to the required standards of Section 14-4-3 , the City may, at its discretion, perform the snow removal necessary to achieve the required standards, and obtain reimbursement of its snow removal costs from the responsible party or parties.

14- 4-11. SIDEWALKS TO BE CLEARED.

It shall be the duty of every property owner to clear the sidewalks and stairways at the perimeter of his property from accumulation of snow within a period of eight hours from the end of each storm. It shall be unlawful to permit an accumulation of more than eight inches (8") of snow to remain on the sidewalk for more than eight (8) hours at a time.

The following sidewalks are exempt from these regulations:
Park Avenue- King Road to Heber Avenue
American Saddler- Lucky John to Meadows Drive
Meadows Drive- Hwy 224 to curve
Westside Monitor Drive- Moray Court to Little Kate

14- 4-12. CITY MAINTAINED WALKS AND STAIRS.

The City may, but is not obligated to, maintain walkways and stairs within the City which, in the opinion of the City officials, are so heavily used by the general public that the use of City equipment and labor is justified. The fact that the City has undertaken maintenance of a given area of sidewalk shall not act to relieve the owner of abutting properties from their obligations to clear accumulations of snow from the sidewalks or stairs.

14- 4-13. FIRE HYDRANTS TO BE UNCOVERED.

It shall be the duty of every property owner with a fire hydrant located on the perimeter of their property to uncover and remove accumulated snow and windrows of snow from over and around fire hydrants. The hydrants shall be uncovered for a distance of not less than three feet (3') on all sides so the hydrants are accessible for emergency use. Hydrants shall be uncovered within seventy-two (72) hours of the time they are buried by a plowed windrow of snow or from the time they become buried from drifts.

14- 4-14. HYDRANT LOCATIONS TO BE MARKED.

All fire hydrants on private street systems shall be marked with a pole or other sign that extends well above the normally anticipated depth of accumulated snow and may windrows at that location so the location of the hydrant can be readily determined even during periods when it is covered.

14- 4-15. UNLAWFUL TO REMOVE MARKERS.

It shall be unlawful to remove or destroy the hydrant markers on either public or private road systems, except that they may be removed in the spring for storage until the following fall when they are again necessary. Hydrant markers shall be continuously in place from November 15 to May 1 of the following year.

14- 4-16. IMPROVEMENTS INSTALLED AT OWNER'S RISK.

The City rights-of-way for most streets in the newer portions of Park City, and many of the other major streets, are wider than the paved area to allow for space for utility services and snow storage. Property owners may install sprinklers, mailboxes, lights, plant trees, shrubs, or install other above-grade landscaping in these areas, but do so at their own risk.

14- 4-17. DAMAGE TO IMPROVEMENTS.

The City will not assume any liability for damage to improvements or landscaping in the public rights-of-way which results from normal snow removal activity. The City will replace mailboxes with material for an approved postal installation only if replacement is required from direct damage by City equipment. The weight of snow is not considered direct damage.

14- 4-18. FLAGGING IMPROVEMENTS.

Owners of improvements within the right-of-way are requested to flag the location of improvements, and to the extent it is reasonable to do so, city snow removal efforts will avoid flagged areas. This shall not be construed as a waiver or abandonment of the right-of-way or an acceptance of liability for damage to encroachments that are hidden with snow.

14- 4-19. PENALTIES.

Any person convicted of a violation of this chapter is guilty of a Class "C" misdemeanor.

City Council
Staff Report

Planning Department

Author: **Jonathan Weidenhamer**
Subject: **Main Street Vitality – Regulations on Noise & Display of Merchandise**
Date: **August 12, 2004**
Type of Item: **Informational update & request for direction**

Summary Recommendation:
Review the existing Municipal and Land Management Code regulations and provide policy direction.

Description:
Topic:
Requests from Main Street Business Alliance and other Main Street merchants to amend/relax existing regulations on: types of outdoor display of merchandise allowed; and noise. All relevant code language is attached as Exhibit A.

Background & Analysis
Staff has recently received requests geared at increasing downtown vitality by loosening some existing ordinances. The City's initial economic development visioning sessions identified these topics as potential areas worth investigating. As the City has received the most recent inquires into these proposals to amend the City's current codes, they have been forwarded to the Historic Main Street Business Alliance for discussion. Please find the HMBA's input attached as Exhibit B.

<u>Display of Merchandise</u>
<u>Background</u>
Section 15-2.6-12 of the by the Land Management Code (LMC) clarifies that the Outdoor Display of Goods is specifically prohibited. Section 4-3-2 of the Park City Municipal Code requires all business Citywide to be conducted within a fully enclosed building except for outdoor dining and other permanent conditional uses, which are permitted by the LMC. On Main Street, those conditional uses are, Outdoor Dining, Outdoor Grills/Beverage Service Stations, Outdoor Storage and Display of Bicycles, Kayaks, and Canoes, and Outdoor Events and Music.

<u>Analysis</u>
City Council liaisons met with staff to discuss potential options. One option considered would be to increase the number and frequency of Outdoor (sidewalk)

sales. A second option would be attempt to identify specific types of merchandise that could be permitted to be displayed with specific review criteria. The Planning and Legal Departments continue to be concerned that trying to differentiate between allowing certain types of displayed merchandise and outdoor activities, while prohibiting others, significantly reduces our ability and effectiveness of enforcing our ordinance.

After a preliminary survey of a number of diverse cities and resort communities in the mountain west and southern California, staff has been unable to identify any appropriate ordinance models. We remain acutely aware of the potential negative implication of loosening these existing regulations and do not support continuing discussion on amending the existing regulations.

This issue was discussed at the HMBA Board of Directors meeting on July 27, 2004. At that time the Board supported not changing the ordinances to allow outdoor display of goods and merchandise (Exhibit A).

Noise

Background

City Codes prohibit outdoor music and dining after 10:00 pm (Exhibit A). The Police Department has received a number of reoccurring complaints from the surrounding neighborhoods concerning noise levels from Main Street bars, restaurant decks and patio's after the 10:00 cut off (Exhibit A). Although the police department has not, to this point, issued citations, officers are more frequently contacting business managers, than in the past, and requesting compliance to the noise ordinance. This has caused a number of Main Street restaurants and bar owners to seek relief from existing restrictions.

Analysis

Regulations pertaining to restaurants and outdoor dining are regulated differently than noise from Bars. Outdoor music approved with Outdoor Dining permits is currently allowed until 10:00pm. The HMBA is requesting an extension to 11:00 pm every night. Staff supports this position and recommends further discussion and input.

Liquor licensed establishments are required to shut all their windows and doors at 10:00 pm to prevent music and other noise from emanating off the premises. The HMBA is requesting the Council consider extending this cutoff until midnight on Thursday-Saturday nights. Staff would be willing to recommend extending the noise ordinance on Friday and Saturday nights, but only until 11:00 pm.

Department Review: The City Manager's Office, Planning, Police and Legal Departments have reviewed this report.

Issues for Discussion

- At this point no public input has been garnished. The impacts of these activities could impact the surrounding residential neighborhoods. If the Council is contemplating moving forward with either of these actions, public input should be gathered.
- Loosening our regulations on outdoor display of merchandise and activities reduces our ability to prevent other 'undesirable' activities.

Alternatives:

A. Direct staff to move forward gathering public input, and return to Council for a public hearing and further discussion on modifying existing noise regulations but, not to hold further discussion on outdoor display of merchandise and to keep existing regulations; or

B. Direct staff to continue discussion on both items.

C. Direct staff to not move forward until a later date when the City's Economic Development goals and strategies can be addressed on a broader basis; or

D. Direct staff not to move forward on either item.

Recommendation:

Staff recommends Alternative A. In addition to a public hearing, the public input process should involve some type of neighborhood meeting or public forum with both the HMBA and old town residents.

Exhibits

Exhibit A – Existing ordinances relating to Noise and Outdoor Display
Exhibit B – Letter from the HMBA

Exhibit A – Existing Regulations

<u>Outdoor Display of Merchandise</u>

<u>Municipal Code</u>
CHAPTER 3 - PEDDLERS AND SOLICITORS LICENSING
4- 3- 2. BUSINESS CONFINED TO ENCLOSED BUILDING.
Except as authorized by this Title, all businesses within Park City are to be conducted within a fully enclosed building, except for outdoor dining or other permanent conditional uses which have been given approval under Title 13 Land Management Code.

4- 3A- 7. ART EXHIBIT FOR SALE ON PUBLIC PROPERTY.

It is the purpose and object of this chapter that the City establishes reasonable and uniform regulations governing the registrations and manner of operations of artists using available City property in Park City. This chapter shall be construed to protect the legitimate and important governmental interests recognized by this chapter in a manner consistent with constitutional protectoins provided by the United States and Utah Constitutions. The purpose of these regulations is to provide for the regulation and registration of artists within the City in a manner which will protect the property values of surrounding businesses and neighborhoods, and residents from adverse secondary effects, while providing to those who desire to exhibit their works of art for sale the opportunity to do so. This chapter also aims to prevent and control the adverse effects of artists who exhibit their artistry in public places, including without limitation, creating visual blight and aesthetic concerns; blocking reasonable access and sight easements to businesses; preventing the free flow of vehicular and pedestrian traffic in the City's narrow, historic Main Street sidewalks; and forcing citizens to be exposed to unwanted and unwelcome messages, with no avenue of escape. These strong substantial and compelling governmental interests compete with public and private interests in freedom of expression and the private commercial interests of artists and the interests of the public. Therefore, the City desires, in reasonable time, place and manner regulations which are content neutral, to balance those interests, and thereby protect the health, safety, and welfare of the citizens and guests of Park City, preserve the quality of life, and preserve the property values and character of the surrounding neighborhoods.

(B) EXHIBIT FOR SALE ON SIDEWALKS PROHIBITED.

No artist may exhibit for sale his or her art on public streets, sidewalks, or public property other than specifically designated available City property as set forth in this chapter. It is unlawful to exhibit art for sale on publicly owned sidewalks. Furthermore, it is unlawful to exhibit art for sale without a license under this chapter or chapter 8, in park strip areas, pocket parks, and City-operated or otherwise public parks

4- 3-10. OUTDOOR SALES.

The Finance Department may grant a license to regularly licensed Park City businesses, excluding restaurants and food and beverages services, to hold outdoor sales five (5) times a year for a duration of no longer than five (5) days for each outdoor sale, either within the business' own property or on public sidewalks or streets adjoining the business...

(B) PROMOTION BY MERCHANT'S ASSOCIATION. An association representing tenants in a shopping center or other merchant's association representing the businesses in a specific area may apply for an outdoor sale license for the members of that association by providing a list of the merchants participating, and paying a fee which shall be in lieu of and not in addition to the fee assessed against individual businesses.

<u>Land Management Code HCB District</u>
15-2.6-12. GOODS AND USES TO BE WITHIN ENCLOSED BUILDING.
(A) OUTDOOR DISPLAY OF GOODS PROHIBITED<u>. Unless expressly allowed as an Allowed or Conditional Use, all goods including food, beverage and cigarette vending machines must be within a completely enclosed Structure.</u> New construction of enclosures for the storage of goods shall not have windows and/or other fenestration which exceeds a wall-to-window ratio of thirty percent (30%). This section does not preclude temporary sales in conjunction with a Master Festival License, sidewalk sale, or seasonal plant sale. See Section 15-2.6-12(B)(3) for outdoor display of bicycles, kayaks, and canoes.

(B) OUTDOOR USES PROHIBITED/EXCEPTIONS. The following outdoor Uses may be allowed by the Community Development Department upon the issuance of an Administrative Permit. The Applicant must submit the required Application, pay all applicable fees, and provide all required materials and plans. Appeals of departmental actions are heard by the Planning Commission.

(1) OUTDOOR DINING. Outdoor dining is subject to the following criteria:
(f) No Use after 10:00 p.m.
(2) OUTDOOR GRILLS/BEVERAGE SERVICE STATIONS. Outdoor grills and/or beverage service stations are subject to the following criteria:
(3) OUTDOOR STORAGE AND DISPLAY OF BICYCLES, KAYAKS, AND CANOES.
(4) OUTDOOR EVENTS AND MUSIC. Outdoor events and music require an Administrative Use permit. The Use must also comply with LMC Chapter 15-1-10, Conditional Use Review. The Applicant must submit a Site plan and written description of the event, addressing the following:
(b) No violation of the City Noise Ordinance, Municipal Code Title 6.

<u>Noise</u>

6- 3- 8. SPECIFIC NOISE PROHIBITIONS.

(C) PUBLIC LOUDSPEAKERS. The use or operation of a loudspeaker or sound amplifying equipment in a fixed or movable position or mounted upon any sound vehicle in or upon any street, alley, sidewalk, park, place, or public or private property for the purpose of commercial advertising, giving instructions, directions, talks, addresses, lectures, or transmission of music to any persons or assemblages of persons in violation of § 6-3-9, or cause a noise disturbance, unless a permit is first obtained as provided by § 6-3-11 or approval is granted in a master festival license.

(J) LIQUOR LICENSED PREMISES:
(1) FAILURE TO CONTROL NOISE. Permitting or providing either live or recorded amplified music without first having closed all exterior doors and windows of the licensed premises to control noise. Doors may be opened to provide ingress and egress, but shall not be blocked in the open position to provide ventilation. Doors shall be equipped with automatic closing devices to keep them in the closed position except to permit ingress and egress of patrons.

(2) OUTDOOR SPEAKERS. Permitting or causing to exist any loud speaker or sound amplification equipment on any outdoor balcony deck, patio, or garden associated with the licensed premises other than speaker systems or sound amplification equipment in conjunction with approved outdoor dining. As defined in the Land Management Code conditional use approval review, music is limited to 11 a.m. to 10 p.m. and may not emanate beyond the boundaries of the outdoor dining area.

(K) MAIN STREET BUSINESSES - OUTDOOR SPEAKERS. Permitting or causing to exist any speaker or sound amplification equipment on the outside of any premise on Main Street with the exception of those businesses which are allowed to have outside speakers as a part of their conditional use permit for outdoor dining or performances or events approved by staff as a part of a master festival license. As defined in the Land Management Code, conditional use approval review, music is limited to 11 a.m. to 10 p.m. and may not emanate beyond the boundaries of the outdoor dining area.

6- 3- 9. NOISE LEVELS.

The making and/or creating of excessive or unusually loud noise or sound within the City as identified in the following Subsection (A), or identified and measured in the manner prescribed in Subsection (B), or in violation of restricted hours as outlined in Subsection (C) is unlawful.

(A) On the public right-of-way or upon public property, from the source or device as to be plainly audible at a distance of fifty feet (50') or on private property, as to be plainly audible at the property line.

(B) The noise shall be measured at a distance of at least twenty-five feet (25') from the source of the device upon public property or within the public right-of-way or twenty-five feet (25') from the property line if upon private property, and shall be measured on a decibel or sound level meter of standard design and quality operated on the "A" weighing scale. A measurement of sixty-five (65) decibels shall be considered to be excessive and unusually loud.
(C) Hours of restriction are as follows:
Residential- 10 pm to 7 am Monday through Saturday
Not before 9 am Sunday
Commercial 10 pm to 6 am- Monday through Saturday

4- 2-28. OUTDOOR SPEAKERS ON MAIN STREET.
No licensed business shall permit or cause to exist any speaker or sound amplification equipment on the outside of any premise on Main Street with the exception of those businesses, which are allowed to have outside speakers as a part of their conditional use permit for outdoor dining or performances or events approved by staff as part of a master festival license or community celebration.

HISTORIC MAIN STREET BUSINESS ALLIANCE

August 9, 2004

Jonathan Weidenhamer, Planner
Park City Municipal Corporation
P.O. Box 1480
Park City, Utah 84060

Re: Request from Main Street Business Alliance for review and amendment of City Ordnances pertaining to outdoor activities and noise in the Historic Main Street District.

Dear Jon,

The HMBA board has directed me to ask the City Council to review and amend Ordnances pertaining to outdoor activities including dinning and associated noise. The HMBA would like to participate in this process and make recommendations that pertain to issues that affect its members and how they are allowed to conduct business in the Historic Main Street District after 10:00pm.

The City is now enforcing an ordnances on the books, which in the past were not enforced. These ordnances deal with outdoor activities and noise in the Historic Main Street District not allowed after 10:00pm. These ordnances have the effect of closing down Historic Main Street District. This does not make sense when the City, Chamber and HMBA are marketing Park City as a destination recreational resort town, i.e. "Attract more visitors to Park City through masterful marketing, sales, promotional, and communications campaigns." Many of these visitors come to Park City because it is known as the place to have fun day and night year round. Utah residents come to Park City to get out of Utah. We believe the enforcement of these ordnances has a negative impact on the efforts to make Park City a destination recreational resort community and therefore they should be reviewed and amended where appropriate.

We look forward to working with all stakeholders including near by residents in addressing these ordnances.

Sincerely,
HMBA

President

City Council
Staff Report

Author: **Alison Butz**
Subject: **Sundance Film Festival**
Date: **August 12, 2004**
Type of Item: **Administrative – Supplemental Plan**

PARK CITY
1884

Special Events and
Facilities Department

Summary Recommendations:
Conduct a public hearing, and approve the 3rd Amendment and Supplemental Plan for the Sundance Film Festival between the Sundance Institute and Park City Municipal Corporation.

Topic:
Review of the 3rd Amendment and Supplemental Plan between the Sundance Institute and Park City Municipal Corporation.

Background:
The Sundance Institute has been working with the City and has requested the use of the Racquet Club gym during the 2005 festival to use as a screening room. Staff and Sundance have since addressed all issues within and outside of the building to make sure this could be a successful addition to their venues.

The 2005 Sundance Film Festival will run from January 20 through January 30, 2005. At this time the latest screening will start at 9:30pm. Other times will be determined based on the spinning classes.

Analysis:
The supplemental plan for the Sundance Film Festival outlines the use of the Racquet Club as a screening and awards ceremony venue.

The gym would be a public screening venue, seating approximately 700, from January 21st through January 28th. The awards ceremonies will still be held at the location on Saturday, January 29th. The wait list line and entrance will be on the east side of the building. To help minimize noise, the wait list line will be placed within a tent in the parking lot.

With the use of the gym as a screening venue, the Building Department worked with Sundance to ensure adequate power supply is available so that no generator will be needed to operate the screening room and none will be needed for the awards ceremony. This should reduce any noise impacts to the neighborhood. The City is aware of noise impacts that have occurred during the loading and unloading of the awards ceremony venue, and will work diligently to make sure there are no impacts during the set-up and take-down in 2005 by setting hours.

Exiting Programming at the Racquet Club
Staff rescheduled any activities that occur in the gym at other venues and Sundance is required to work around the spinning schedule and allow the cardio loft and the remainder of the facility to remain open.

Neighborhood Notification
Staff called and wrote to the president of the Racquet Club Condos and contacted a citizen that is usually concerned about activity in the Racquet Club. Staff informed each person of the date and time of the public hearing. At this time Staff has not been asked to address any additional issues.

Transportation and Parking
There will be no parking for theater goers at the Racquet Club. Sundance will hire AMPCO to monitor the lot use. All patrons to the theater will need to take the transit system. Staff is currently working with Sundance to redesign the theater loop and other supplemental routes Sundance provides to increase the frequency of buses at the facility.

Traffic
The City will barricade to prevent street parking on Monitor Drive and Little Kate Road to make sure traffic can moves smoothly through the area. Signs can be placed at the entrances to the Racquet Club Condos stating "resident parking only" and entrances of residential streets.

Fees
Sundance will be paying $1,400 a day for use of the gym. This is the same per day price pay for the use of the gym for the awards ceremony. Staff proposes that the rental fee go into the Racquet Club CIP fund to help fund improvements for the facility.

Department Review:
The Transit, Parking, Streets, Police, and Building Departments have reviewed this plan. Their comments were included when developing the overall plan. Friends of the Racquet Club have reviewed this issue and are supportive of Staff's recommendation.

ALTERNATIVES

A. Approve the 3rd Amendment and Supplemental Plan to the Memorandum of Understanding between the Sundance Institute and Park City Municipal Corporation to allow the use of the Racquet Club as a screening venue.

B. Modify the parameters of the plan and approve the 3rd Amendment and Supplemental Plan to the Agreement between the Sundance Institute and Park

City Municipal Corporation to allow the use of the Racquet Club as a screening venue.

C. Deny the 3rd Amendment and Supplemental Plan, thereby preventing the barricading of parking spaces on Main Street.

D. The City Council may continue the hearing for more information and discussion.

Recommendation:
Staff recommends approval of the 3rd Amendment and Supplemental Plan to the Agreement between the Sundance Institute and Park City Municipal Corporation allowing the use of the Racquet Club as a screening venue based upon the following:

Findings of Fact:

1. The Racquet Club gymnasium will be used as a screening room during the 2005 Sundance Film Festival. No parking for film patrons will be allowed at the Racquet Club. All attendees will need to use the transit system to arrive at the venue.
2. By barricading Monitor Drive and Little Kate Road, traffic should flow through the area. The use of the Racquet Club as a screening venue will not substantially interrupt or prevent the safe and orderly movement of public transportation or other vehicular and pedestrian traffic in the area of its Venue.
3. The use of the Racquet Club as a screening venue will not require the diversion of so great a number of police, fire, or other essential public employees from their normal duties as to prevent reasonable police, fire, or other public services protection to the remainder of the City.
4. The existing shuttle lots available during the festival will be used to reduce impact of traffic surrounding the Racquet Club. The City will barricade for no parking on Monitor Drive and Little Kate Road to keep the flow of traffic open. The concentration of persons, vehicles, or animals will not unduly interfere with the movement of police, fire, ambulance, and other emergency vehicles on the streets or with the provision of other public health or safety services.
5. The organizer will provide adequate insurance for the event.
6. The Racquet Club will have adequate numbers of security and volunteers to ensure that the use of the gym as a screening venue will not create an imminent possibility of violent disorderly conduct likely to endanger public safety or cause significant property damage.
7. The applicant has been working with City Staff and applicable departments to address all event concerns. The Applicant does not demonstrate an inability or unwillingness to conduct the event pursuant to the terms and conditions of this Chapter or has failed to conduct a previously authorized event in accordance with the law or the terms of a license, or both.
8. The 3rd Amendment and Supplemental Plan to the Agreement between the Sundance Institute and Park City Municipal Corporation is consistent with the City Council's Goal #4 which is to continue to promote Park City by maintaining its status as a World Class Resort.

Conclusions of Law:

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

Conditions of Approval:

1. The Applicant, at its expense, shall incorporate measures as directed by Staff in order to ensure that any safety, health, or sanitation equipment, and services or facilities reasonably necessary to ensure that the event will be conducted with due regard for safety.
2. The Applicant shall provide to the Special Events Manager proof of liability insurance as may be required by the Special Events Manager or the City Attorney's Office, and shall further name Park City Municipal Corporation as an additional insured.
3. Load-in and load-out restrictions, as approved by Special Events Manager and Recreation Department Manager will be established to minimize disruption to the adjacent neighborhood.

Exhibits:

Exhibit A - Supplemental Plan, Exhibit "B"
Exhibit B – Conceptual Site Plan

EXHIBIT "B" TO
MASTER FESTIVAL LICENSE AND CITY SERVICES AGREEMENT

USE AREA: Racquet Club

Use Area: Gymnasium, Indoor tennis courts, storage room and adjacent hallways, all associated furnishings, fixtures and equipment; and 35 parking spaces in the adjacent parking lot (for staff use only)

Use Period: ~~1/23 – 1/26, 2003~~ January 15 – 30, 2005

Contact Person: ~~Cindy Pullman~~ Sarah Pearce

Intended Use: Awards Ceremony and Screenings

Type of Use: Parking – Nonexclusive; All Other - Exclusive

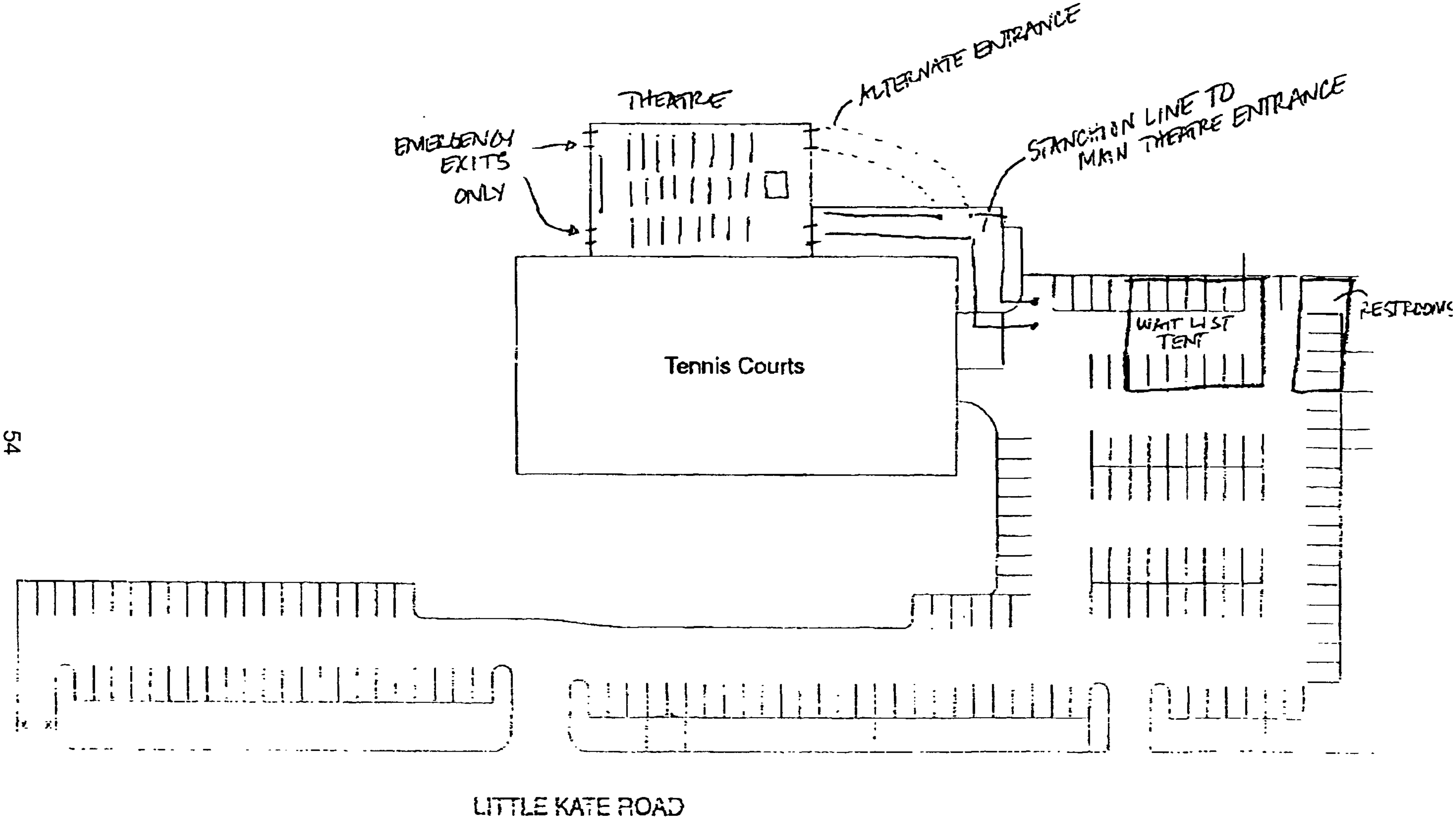
Basic City Services: Park City shall provide Cleaning, Waste Removal and snow and ice removal inside and outside the use area

Access Control: Sundance

Traffic Control: Sundance and Park City

CONCEPTUAL

Sundance Film Festival



City Council
Staff Report

Author:	**Max Paap**
Subject:	**Notre Dame Club of Utah Pep Rally**
Date:	**August 12, 2004**
Type of Item:	**Administrative – Master Festival License**

PARK CITY 1884

Special Events and Facilities Department

Summary Recommendations:
Review the Master Festival License application, conduct a public hearing, and approve the license for the Notre Dame Club of Utah Pep Rally.

Description:

Topic:
Review the Master Festival License Application, submitted by the Notre Dame Club of Utah, for the Pep Rally at City Park on September 3, 2004.

Background:
The Notre Dame Club of Utah submitted an application requesting a Master Festival License to hold a pep rally at City Park. The event would run from 6:30pm-7:30pm on Friday, September 3, 2004.

The Notre Dame Club of Utah Pep Rally is consistent with the City Council's Goal #4 which is to continue to promote Park City as multi-seasonal resort by maintaining its status as a World Class Resort which hosts such events as this and to increase the number of events.

Analysis:
The event organizers have requested to hold their event on September 3, 2004. The event would begin at 6:30pm at the park with a pep rally and portion of the marching band performing live music. Activities at the park will include food vending, beer sales and a concert. This application is being reviewed as a Master Festival License due to its location on City property and the request for a variance from the noise ordinance.

<u>City Park Activities</u>
The partial band will perform and selected speakers will address the crowd in the bandshell located in the south end of City Park. In that area there will be food vendors and beer sales. The activity in the park will be similar to what is seen during Fiesta del Sol and Miners Day. The activities in City Park will begin at 6:30pm and will conclude by 7:30pm. No other activities are planned for City Park on September 3, 2004.

Parking

Parking for the anticipated crowd size can be accommodated within City Park and on Park Avenue.

Department Review:

All applicable departments have reviewed the Notre Dame Club of Utah Pep Rally and their comments have been incorporated into the report.

Alternatives:

Approve the Request:

Approve the Master Festival License allowing the Notre Dame Club of Utah Pep Rally occur as described.

Deny the Request:

Deny the Master Festival License, preventing the addition of the Notre Dame Club of Utah Pep Rally to Park City's schedule of events.

Continue the Item:

The City Council may continue the discussion in order to receive additional information

Significant Impacts:

City Park has haled many similar events to the Notre Dame Club of Utah Pep Rally. The activities will be contained within the venue and will conclude by 7:30pm.

Consequences of not taking the recommended action:

The Notre Dame club of Utah Pep Rally would not take place.

RECOMMENDATION:

Staff recommends the City Council conduct a public hearing and approve a Master Festival for the Notre Dame Club of Utah Pep Rally on September 3, 2004 based on the following Findings of Fact, Conclusions of Law and Conditions of Approval.

Findings of Fact:

1. The Notre Dame Club of Utah Pep Rally will be held Friday, September 3, 2004. The event will last from 6:30pm to 7:30pm and will occur in City Park.
2. Parking for the anticipated crowd of 200 people can be accommodated with the existing parking in and around City Park. The conduct of the Notre Dame Club of Utah will not substantially interrupt or prevent the safe and orderly movement of public transportation or other vehicular and pedestrian traffic in the area of its venue.
3. The event is oriented towards families and youth. The events associated with the Notre Dame Club of Utah Pep Rally will not require the diversion of so great a number of police, fire, or other essential public employees from their normal duties as to prevent reasonable police, fire, or other public services protection to the remainder of the City.
4. The event will be held in City Park. The concentration of persons, vehicles, or animals will not unduly interfere with the movement of police, fire, ambulance, and other emergency vehicles on the streets or with the provision of other public

health or safety services.

5. No other Master Festival License has been approved for September 3, 2004
6. The Notre Dame Club of Utah Pep Rally will not substantially interfere with any other Special Event or Master Festival for which a license has already been granted or with the provision of City services in support of other such events or governmental functions.
7. The organizer will provide adequate insurance for the event.
8. The size of the crowd and nature of the event will not create an imminent possibility of violent disorderly conduct likely to endanger public safety or cause significant property damage.
9. The applicant has been working with City Staff and applicable departments to address all event concerns. The Applicant demonstrates an ability and willingness to conduct the event pursuant to the terms and conditions of this Chapter and has not failed to conduct a previously authorized event in accordance with the law or the terms of a license, or both.

Conclusions of Law:

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

Conditions of Approval:

1. The applicant, at its' cost, shall incorporate such measures as directed by Staff in order to ensure that any safety, health, or sanitation equipment, and services or facilities reasonably necessary to ensure that the event will be conducted with due regard for safety are provided and paid for by the applicant.

2. The applicant shall provide to the Special Events Manager proof of liability insurance as may be required by the Special Events Manager or the City Attorney's Office, and shall further name Park City Municipal Corporation as an additional insured if necessary.

City Council
Staff Report

PARK CITY 1884

Author: Brooks T. Robinson
Subject: Marsac Avenue and Chambers Street Rights of Way Subdivision Plat
Date: August 12, 2004
Type of Item: Legislative

Summary Recommendations:
The Planning Department recommends the City Council open the public hearing, take any public comment, and consider approval of the Marsac Avenue and Chambers Street Rights of Way Subdivision Plat.

Applicant United Park City Mines Company
Location Marsac Avenue from the Sandridge parking lots to the Guardsman Connection to Silver Lake
Zoning HR-1, ROS Master Planned Development
Adjacent Land Uses Residential, Open Space
Reason for Review Subdivision Plats require Planning Commission review and City Council approval.

Background
On June 24, 1999, Council adopted Ordinance 99-30 approving the annexation and development agreement for the 1,655 acre Flagstaff Mountain area. Ordinance 99-30 granted the equivalent of a" large-scale" master planned development (MPD) and set forth the types and locations of land use; maximum densities; timing of development; development approval process; as well as development conditions and amenities for each parcel.

The Flagstaff Annexation Development Agreement section 2.10.2 stipulates certain road and intersection improvements, including widening the road, drainage improvements, a passing lane and runaway truck ramp. As part of this roadwork, a dedication to the public of the right-of-way is necessary.

On May 26, 2004, the City received a subdivision application for the Marsac Avenue and Chambers Street rights-of-way. The existing Marsac Avenue, State Route 224, is unplatted from the Guardsman Connection above (south of) the Ontario Mine to south of the Prospect/Hillside intersection. The road is partially aligned in the platted Chambers Street right-of-way and, further north, the Marsac Avenue right-of-way.

The proposed subdivision will formally dedicate the unplatted rights-of-way to the public.

The roadway improvements will include straightening Marsac Avenue near the Hillside intersection, creating Chambers Street to the south as a frontage road for those residences currently along SR 224. A landscaped median will separate the two roads. The Hillside/Prospect intersection will also be improved for public safety.

Analysis
The proposed plat is consistent with the Flagstaff Development Agreement and the Land Management Code regarding subdivisions.

Department Review
This project has gone through an interdepartmental review. No additional issues have been raised.

Notice
The property was posted and notice was mailed to property owners within 300 feet. Legal notice was also put in the Park Record. No public input has been received by the time of this report.

Alternatives

A. The Planning Commission may forward a positive recommendation to the City Council with the conditions stated, or modify the conditions, or

B. The Planning Commission may forward a negative recommendation and direct staff to prepare findings supporting this recommendation, or

C. The Planning Commission may continue the discussion to a later date.

Significant Impacts
There are no significant fiscal or environmental impacts from this Subdivision Plat.

Consequences Of Not Taking The Recommended Action
The road would remain in its current configuration.

Recommendation
The Planning Department recommends the Planning Commission open the public hearing, take any public comment, and consider forwarding a positive recommendation to the City Council for the Marsac Avenue and Chambers Street Rights of Way Subdivision Plat based on the following findings of fact, conclusions of law and conditions of approval:

Findings of Fact:

1. The property is located between platted Marsac Avenue at the Sandridge parking lots and the Guardsman Connection to Silver Lake.
2. The zoning along the road is HR-1 and ROS.
3. The City Council adopted Ordinance 20-99 On June 24, 1999, approving the annexation and development agreement for the 1,655 acre Flagstaff Mountain

area.

4. The Flagstaff Annexation Development Agreement section 2.10.2 stipulates certain road and intersection improvements, including widening the road, drainage improvements, a passing lane and runaway truck ramp.

<u>Conclusions of Law:</u>

1. There is good cause for this Subdivision Plat.
2. The Subdivision Plat is consistent with the Master Plan Development Agreement, Park City Land Management Code, the General Plan and applicable State law regarding Subdivision Plats.
3. Neither the public nor any person will be materially injured by the proposed Subdivision Plat.
4. Approval of the Subdivision Plat, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

<u>Conditions of Approval:</u>

1. The City Attorney and City Engineer will review and approve the final form and content of the Subdivision Plat for compliance with State law, the Land Management Code, and the conditions of approval prior to recordation of the plat.
2. The applicant will record the Subdivision Plat 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.

EXHIBITS

Exhibit A – Proposed subdivision plat (3 pages)

Ordinance No. 04-

AN ORDINANCE APPROVING A SUBDIVISION PLAT FOR MARSAC AVENUE AND CHAMBERS STREET, PARK CITY, UTAH.

WHEREAS, the owners of the property known as the Flagstaff Annexation have petitioned the City Council for approval of the subdivision plat; and

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

WHEREAS, proper legal notice was sent to all affected property owners; and

WHEREAS, the Planning Commission held a public hearing on July 28, 2004, to receive input on the subdivision;

WHEREAS, the Planning Commission, on July 28, 2004, forwarded a positive recommendation to the City Council; and,

WHEREAS, on August 12, 2004 the City Council approved the subdivision; and

WHEREAS, it is in the best interest of Park City, Utah to approve the subdivision.

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

SECTION 1. APPROVAL. The Subdivision Plat as shown in Exhibit A is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The property is located between platted Marsac Avenue at the Sandridge parking lots and the Guardsman Connection to Silver Lake.
2. The zoning along the road is HR-1 and ROS.
3. The City Council adopted Ordinance 99-30 On June 24, 1999, approving the annexation and development agreement for the 1,655 acre Flagstaff Mountain area.
4. The Flagstaff Annexation Development Agreement section 2.10.2 stipulates certain road and intersection improvements, including widening the road, drainage improvements, a passing lane and runaway truck ramp.
5. The Planning Commission heard this application at its regular meeting of July 28, 2004, and forwards a positive recommendation.

Conclusions of Law:

1. There is good cause for this Subdivision Plat.
2. The Subdivision Plat is consistent with the Master Plan Development Agreement,

Park City Land Management Code, the General Plan and applicable State law regarding Subdivision Plats.
3. Neither the public nor any person will be materially injured by the proposed Subdivision Plat.
4. Approval of the Subdivision Plat, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

Conditions of Approval:

1. The City Attorney and City Engineer will review and approve the final form and content of the Subdivision Plat for compliance with State law, the Land Management Code, and the conditions of approval prior to recordation of the plat.
2. The applicant will record the Subdivision Plat 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 2. EFFECTIVE DATE. This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this 12th day of August, 2004.

SURVEYOR'S CERTIFICATE

John Demkowicz

MARSAC AVENUE RIGHT-OF-WAY DESCRIPTION

[illegible]

OWNER'S DEDICATION

UNITED PARK CITY MINES COMPANY

ACKNOWLEDGMENT

OWNER'S DEDICATION

JORDANELLE SPECIAL SERVICE DISTRICT

ACKNOWLEDGMENT

OWNER'S DEDICATION

PARK CITY MUNICIPAL CORPORATION

ACKNOWLEDGMENT

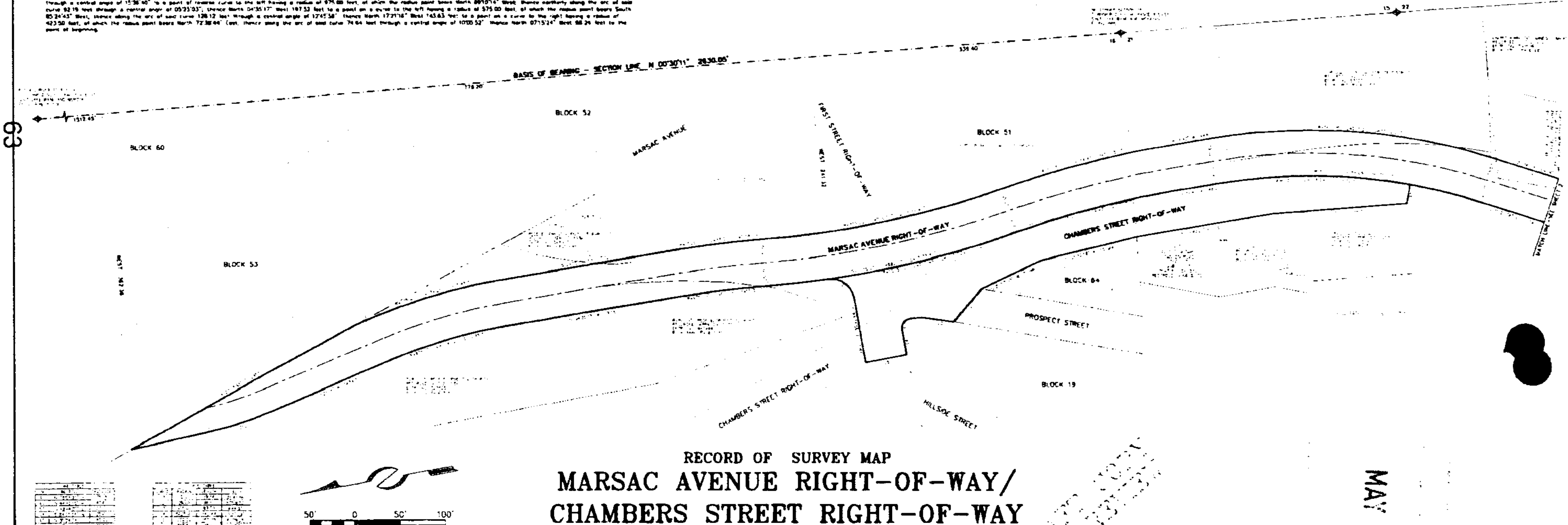
OWNER'S DEDICATION

DEER VALLEY RESORT COMPANY

ACKNOWLEDGMENT

CHAMBERS STREET RIGHT-OF-WAY DESCRIPTION

[illegible]



RECORD OF SURVEY MAP

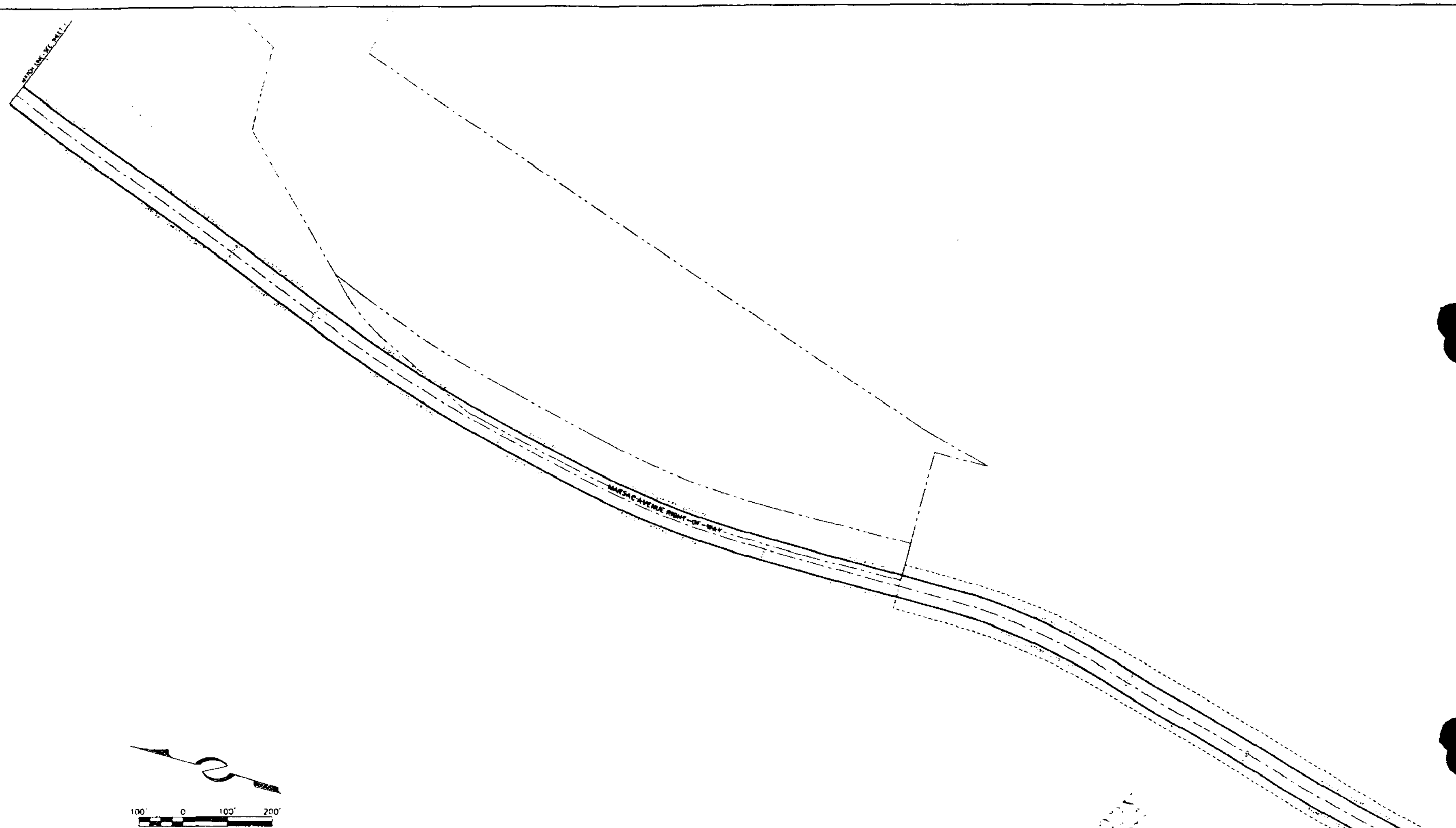
MARSAC AVENUE RIGHT-OF-WAY/ CHAMBERS STREET RIGHT-OF-WAY

LOCATED IN SECTIONS 16, 21 AND 28
TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN
PARK CITY, SUMMIT COUNTY, UTAH

MAY 26 2005

SHEET 1 OF 3

SNYDERVILLE BASIN WATER RECLAMATION DISTRICT	PLANNING COMMISSION	ENGINEER'S CERTIFICATE	APPROVAL AS TO FORM	CERTIFICATE OF ATTEST	COUNCIL APPROVAL AND ACCEPTANCE	RECORDED
REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN WATER RECLAMATION DISTRICT STANDARDS ON THIS ______ DAY OF __________ 2004 A.D. BY __________ S.B.W.R.D.	APPROVED BY THE PARK CITY PLANNING COMMISSION THIS ______ DAY OF __________ 2004 A.D. BY __________ CHAIRMAN	I FIND THIS PLAT TO BE IN ACCORDANCE WITH INFORMATION ON FILE IN MY OFFICE THIS ______ DAY OF __________ 2004 A.D. BY __________ PARK CITY ENGINEER	APPROVED AS TO FORM THIS ______ DAY OF __________ 2004 A.D. BY __________ PARK CITY ATTORNEY	I CERTIFY THIS RECORD OF SURVEY MAP WAS APPROVED BY PARK CITY COUNCIL THIS ______ DAY OF __________ 2004 A.D. BY __________ PARK CITY RECORDER	APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS ______ DAY OF __________ 2004 A.D. BY __________ MAYOR	STATE OF UTAH, COUNTY OF SUMMIT, AND FILED AT THE REQUEST OF __________ DATE ______ TIME ______ BOOK ______ PAGE ______ FEE __________ RECORDER



RECORD OF SURVEY MAP

MARSAC AVENUE RIGHT-OF-WAY/ CHAMBERS STREET RIGHT-OF-WAY

LOCATED IN SECTIONS 16, 21 AND 28
TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN
PARK CITY, SUMMIT COUNTY, UTAH

SHEET 2 OF 3

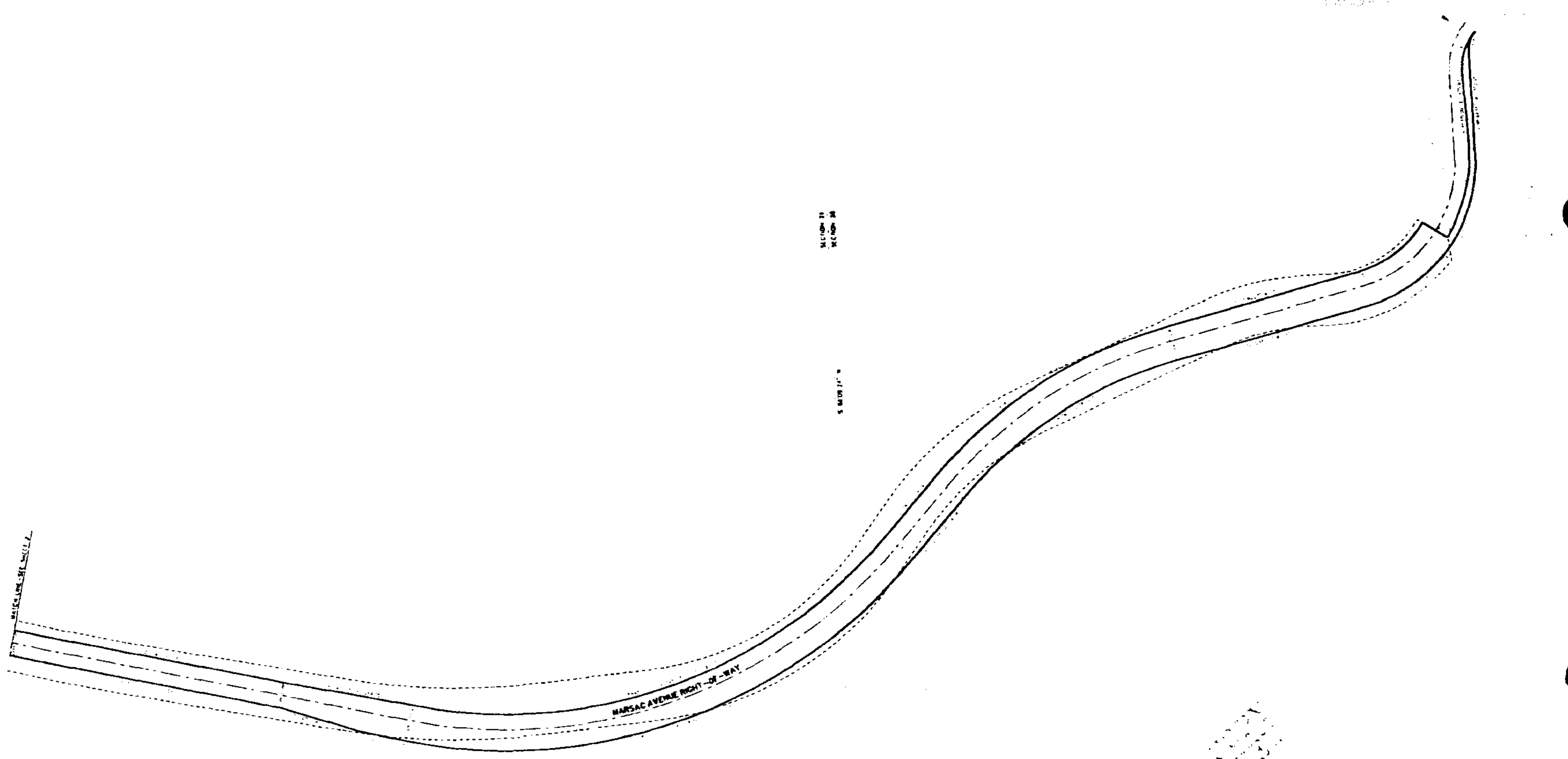
JOB NO.: FILE:

RECORDED

STATE OF UTAH, COUNTY OF SUMMIT, AND FILED
AT THE REQUEST OF ____________
DATE ______ TIME _____ BOOK _____ PAGE _____
______ FEE ______ RECORDER

CONSULTING ENGINEERS LAND PLANNERS SURVEYORS

MAY 26 2004



RECORD OF SURVEY MAP

MARSAC AVENUE RIGHT-OF-WAY/ CHAMBERS STREET RIGHT-OF-WAY

LOCATED IN SECTIONS 16, 21 AND 28
TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN
PARK CITY, SUMMIT COUNTY, UTAH

100' 0 100' 200'

SHEET 3 OF 3

JOB NO. FILE

RECORDED

STATE OF UTAH COUNTY OF SUMMIT, AND FILED
AT THE REQUEST OF ____
DATE ____ TIME ____ BOOK ____ PAGE ____
____ FEE ____ RECORDER

MAY 26 2004

City Council
Staff Report

Author:	**Brooks T. Robinson**
Subject:	**Six-month extension of 445 King Road Subdivision Plat**
Date:	**August 12, 2004**
Type of Item:	**Legislative**

Summary Recommendations:
The Planning Department recommends the City Council open the public hearing, take any public comment, and consider approval a six-month extension of the 445 King Road Subdivision Plat.

Applicant	Sweeney Land Company
Location	445 King Road at upper switchback
Zoning	Recreation Open Space (ROS) as part of the Sweeney Master Planned Development (MPD)
Adjacent Land Uses	Park City Mountain Resort, 555 King Road, Open Space

Background
On October 16, 1986 the Sweeney Master Planned Development was approved by the City. The Treasure Hill Phase I subdivision consisting of four building lots (two off of Upper Norfolk and two off of King Road) and one open space lot was recorded in April of 1996.

The Sweeney Master Plan Approval document of 1986 identifies Miscellaneous Properties including, "...a third lot to be situated up on top of Treasure Mountain (possible future access predicated on United Park City Mines Company's plans for development off of King Road). Development would be restricted to single-family homes with no greater than 3500 square foot footprints and maximum building heights of 25 feet."

The City Council approved the subdivision plat on July 31, 2003. A Condition of Approval was that the plat must be recorded with Summit County within one year or the plat and approval are void. On July 15, 2004, staff received a request from the applicant (Exhibit A) for a six-month extension on the approval.

Analysis
There are no provisions or criteria within the Land Management Code for extensions of approved subdivisions. Technically, the Council is being asked to amend the prior ordinance and its conditions of approval. Typically, the City has granted extensions if they are due to technical difficulties such as corrections to the plat, signatures, or getting financing in place and these issues were close to being resolved. The request for this extension is based on resolving the joint utility services with 555 King Road. Those negotiations have taken longer than expected. In order to grant the extension, the Council should find "good cause" for the extension and that no person nor the public will be materially injured.

Recommendation
The Planning staff recommends that the City Council approve the six-month extension based on the Findings of Fact, Conclusions of Law, and Conditions of Approval listed in the Ordinance.

EXHIBITS
Exhibit A – Request for Extension, July 15, 2004

Ordinance No. 04-

AN ORDINANCE AMENDING ORDINANCE 03-37 APPROVING A SINGLE LOT SUBDIVISION AT 445 KING ROAD, PARK CITY, UTAH WITH AN EXTENDED DATE OF EXPIRATION.

WHEREAS, the owners of the property located at 445 King Road have petitioned the City Council for approval of the Subdivision plat extension; and

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

WHEREAS, proper legal notice was sent to all affected property owners; and

WHEREAS, the Planning Commission held a public hearing on July 23, 2003, to receive input on the subdivision;

WHEREAS, the Planning Commission, on July 23, 2003, forwarded a positive recommendation to the City Council; and,

WHEREAS, on July 31, 2003, the City Council held a public hearing and approved the subdivision;

WHEREAS, the plat approval expired on July 31, 2004;

WHEREAS, the applicant filed for an extension of the Plat Approval on July 15, 2004; and

WHEREAS, it is in the best interest of Park City, Utah to approve the subdivision.

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

SECTION 1. APPROVAL. The subdivision as shown in Exhibit A is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The property is located at 445 King Road and is known as lot 12 of the Treasure Hill Subdivision Phase 4, part of the Sweeney Properties Master Plan. The property is currently zoned Recreation Open Space - RD-MPD with a request for zone change pending. The property is vacant.
2. The Sweeney Properties Master Plan (SPMP) was approved by the City Council on October 16, 1986 and amended on October 14, 1987, December 30, 1992, and November 7, 1996.

3. One lot of record will be created with the subdivision.
4. The Treasure Hill Subdivision Phase 4 plat includes plat notes regarding building footprint, heights, setbacks, massing, building pad footprints, limits of disturbance, access, re-vegetation, utilities, and fire protection.
5. Utilities are available to sustain the anticipated property uses. Utilities will generally tie into Woodside Avenue, follow the Quittin' Time ski run in its lower extent and connect to the Building Pad along a future ski run to the Payday area.
6. The Chief Fire Marshall has reviewed the Fire Protection Plan and has conceptually approved it.
7. A financial guarantee for all public improvements is necessary to ensure completion of these improvements and to protect the public from liability and physical harm if these improvements are not completed by the developer or owner.
8. The Planning Commission held a public hearing on July 23, 2003 and forwarded a positive recommendation to the City Council.

<u>Conclusions of Law:</u>

1. There is good cause for this subdivision plat.
2. The subdivision plat is consistent with the Park City Land Management Code, the General Plan and applicable State law regarding subdivision plats.
3. Neither the public nor any person will be materially injured by the proposed subdivision plat.
4. Approval of the subdivision plat, subject to the conditions stated below, does not adversely affect the health, safety and welfare of the citizens of Park City.

<u>Conditions of Approval:</u>

5. The Conditions of Approval for the Sweeney Properties Master Planned Development remain in full force and effect.
6. The design of the Main House and any Guest House will follow the Conditional Use Permit process in accordance with the Sweeney Properties Master Plan (SPMP).
7. All standard project conditions shall apply.
8. The Building Pad is 29,084 square feet in which all construction activity must take place, excepting the driveway and utility construction.
9. The Main House footprint is limited to 3500 square feet. A single caretaker's or guest house may have a footprint up to 1500 square feet.
10. The Height of the Main House is 25 feet measured from natural grade for ridges that run parallel to the natural contours and 30 feet from natural grade for ridges perpendicular to the existing contours. Such perpendicular ridges may not comprise more than 20 percent of the roof plan. The Guest House may not exceed 20 feet from natural grade in height.
11. All trails, as indicated on the Treasure Hill subdivision plat, which have not yet been constructed and approved, shall be completed prior to issuance of a certificate of occupancy for the residences. Relocation of said trails shall be reviewed and approved by City Staff.

12. The applicant must record an Open Space Easement, or other instrument of record, for that area outside of the Building Pad to forever preserve the natural state. Ski runs and those public trails dedicated on this plat may be allowed in this open space.
13. The City Engineer shall review and approve appropriate grading, utility, public improvements and drainage plans for compliance with City standards as a condition precedent to permit issuance.
14. Final details of the Fire Protection plan are required to be approved prior to plat recordation.
15. The Snyderville Basin Water Reclamation District shall review and approve the sewer plans.
16. A financial guarantee, for the value of all public improvements, landscaping, re-vegetation, and trails to be completed, shall be provided to the City prior to building permit issuance. All public improvements shall be completed according to City standards and accepted by the City Engineer prior to release of this guarantee.
17. Re-vegetation of the disturbed areas, including utility installation areas, shall be done with native species acceptable to the Planning Department Landscape Architect.
18. The applicant will record the plat at the County ~~within one year from the date of City Council approval~~ by January 31, 2005. If recordation has not occurred ~~within one year's time~~ by January 31, 2005, this approval and the plat will be void.

SECTION 2. EFFECTIVE DATE. This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this ~~31st day of July, 2003~~ August 12, 2004.

CONSULTING ENGINEERS **LAND PLANNERS** **SURVEYORS**

July 15, 2004

FILE COPY

Mr. Brooks Robinson
Park City Municipal Corporation
P.O. Box 1480
Park City, UT 84060

RE: 445 King Road-Treasure Hill Phase 4 Subdivision Plat

Dear Brooks:

This letter is a request for a six (6) month extension for the recording of the 445 King Road-Treasure Hill Phase 4 Subdivision Plat.

Coordination of combined water and sewer services to 445 King Road and the adjacent King Road Estate parcel have been ongoing but negotiations have taken longer than expected. We have been working with the PCMC staff to resolve these issues and feel we can satisfy the conditions of approval without coordination with the King Road Estates owners but need additional time to complete the requirements for recordation.

Your help and attention with this is appreciated.

Sincerely,

Rob McMahon
Alliance Engineering, Inc.

RECEIVED
JUL 15 2004

Copy: Pat Sweeney; Sweeney Land Co.

323 Main Street **P.O. Box 2664** **Park City, Utah 84060** **435-649-9467** **FAX 435-649-9475**

City Council
Staff Report

LEGAL DEPARTMENT

Author: Cindy LoPiccolo
Subject: Insurance Broker Service Contract
Date: August 12, 2004
Type of Item: Administrative

Summary Recommendations: 1) Authorize contract with Marsh USA Inc. for standard commissions broker services contract for a three year period, September 1, 2004 through August 31, 2007; and 2) Authorize contract with Olympus Insurance Agency in the amount not to exceed $2,500 for performance of a cost study on workers compensation.

Description:

Topic
Insurance Brokerage Services

Background
Park City Municipal Corporation currently has a three-year insurance broker contract with Marsh USA Risk & Insurance Services which expires August 31, 2004. Legal Department staff is recommending entering into a new broker services contract for the period September 1, 2004 through August 31, 2007. The broker selected will procure continued insurance coverage for Public Entity Liability, Commercial Property and Crime/Public Employee Dishonesty.

Analysis
Requests for Proposal were mailed to ten insurance broker firms licensed to do business in the State of Utah and also published in the Park Record on June 19 and 23, 2004. Five firms responded to the RFP: Arthur J. Gallagher & Co., Marsh USA Inc., Fred A. Moreton & Company, Olympus Insurance Agency, and AON Consulting. A proposal and service comparison analysis was prepared and is attached for review.

Additionally, the Legal Department is recommending that a cost analysis on workers compensation should be conducted in order to obtain a professional review and recommendation primarily due to the escalating workers compensation premiums by the Workers Compensation Fund. Workers compensation premiums have been affected by steadily increasing medical costs. This analysis will review the City's past workers compensation loss and evaluate and determine the best course of action in regard to workers compensation.

Department Review

The Legal Department has reviewed the information contained in each of the five proposals and also contacted representative clients for references. The proposals are comparable and references were outstandingly positive concerning all five firms. All five firms have exceptional brokerage qualifications and risk management expertise and would be able to provide the services Park City requires.

The standard commission fees for Marsh, Gallagher, Olympus and Aon would be determined by brokered insurances and are equitable. Fred A. Moreton and Company broker fees are comparable to the standard commission fees.

Marsh Inc. has been the City's broker for the past 10 years, and the Legal Department has enjoyed a good working relationship with Marsh representatives. Marsh has provided Park City with excellent professional and responsive service, including assistance with unusual and immediate insurance requirements and recommendations. Marsh Inc. is the world's leading risk and insurance services firm and has provided the City with exceptional essential and consulting services.

Alternatives:

Approve the Request. This is the recommended action. Park City staff has been very satisfied with the level of service provided by Marsh USA Inc.

Deny the Request. Deny the request and award the broker services contract to Gallagher, Olympus, Fred A. Moreton or Aon.

Continue the Item. The Council may continue the item if there is a desire to further evaluate the selection of a broker. The City's contract with Marsh may be extended.

Do Nothing. This is not an effective option as Park City needs the services of an insurance broker in order to perform the annual insurance renewal.

Consequences of not taking the recommended action:

Park City would have to hire a broker and obtain insurance coverage within a tight time frame, as current insurance policies expire on December 31, 2004.

Recommendation:

Authorize contract with Marsh USA Inc. for a three year standard commissions brokerage services contract, and an amount not to exceed $2,500 to Olympus Insurance Agency for performance of a workers compensation cost analysis.

Insurance Broker Proposal Analysis

Proposals Received: 5

- **Arthur J. Gallagher & Co., LLC**
  John Chino, Regional Director of the National Public Entity
  & Scholastic Division
  15 Enterprise, Suite 200
  Aliso Viejo, CA 92656
  (949) 349-9800
  Tom Boobar, Account Executive / Producer
  (949) 349-9871
  Fax (949) 349-9900
  tom_boobar@ajg.com

  Fee: Standard commission paid by insurance carriers utilized by Broker for the insurance coverages obtained for City under agreement

  Utah References: Utah Counties Insurance Pool; Utah Association of Counties Insurance Mutual; City of St. George

  - Works with 300 insurance companies.
  - Founded 1927 – provides true risk management services by identifying exposures, then developing and implementing ways to reduce those risks; reducing the financial and the human cost of risk is a cornerstone for Gallagher as the firm helped create the universe of self-insurance and alternative markets, formed the first non-Workers' Compensation self-insurance program.
  - Access to the Worldwide Insurance Marketing
  - Master Park City Coverage Document Maintenance and Consulting
  - Underwriting Consulting (2005)
  - Park City Administration Consulting
  - Program Design and Maintenance for WC, Public Liability, Public Property, Crime
  - Risk Services
  - Other Services/Requests

- **Marsh USA Inc.** – MMC, Marsh & McLennan Companies

Jeff R. Larsen, Client Executive
15 West South Temple, Suite 700
Salt Lake City, UT 84101
(801) 533-3643
jeff.larsen@marsh.com
Nicole Barker, Client Advisor
(801) 533-3642
Fax (801) 533-3610

Fee: Marsh is in agreement to take standard commissions as offered by the insurance carriers or work on a fee basis (with the exception of workers' compensation) as they have in the past with Park City. Marsh has market service agreements with most of its principal insurance markets. Amounts paid under MSA Agreements would be in addition to any other compensation Marsh may receive such as retail, excess and surplus lines and wholesale brokerage fees of commissions, administrative fees and similar items. Additional information with respect to payments to Marsh under MSA agreements is available from the Marsh client executive (Jeff Larsen).

Utah References: Sandy City; Salt Lake County; UTA; Weber Human Services District; Jordan Valley Water; Central Valley Water

- Marsh has been Park City's broker on record for the past 10 years.
- Marsh will provide guidance, advice, resources, and stability.
- Marsh will develop cost-effective strategies to reduce Park City's total cost of risk.
- Marsh expects Park City's 2004 renewal to be confronted by continuing difficult issues of the current market; that Park City will face premium increases in casualty, higher retentions, higher costs in public officials errors and omissions coverage. Communicating Park City's story and safe operations is imperative.
- #1 Broker with each of Top 15 insurers to the public entity industry.
- Dedicated public entity practices within Marsh.
- Internally imposed client service standards of client executive practice and Marsh excellence.
- Marketing, administration, consultation.
- NROR (New Reality of Risk)
- Research Reports
- Market Watch Reports

► **Fred A. Moreton & Company**

Kery D. Oldroyd, Vice President
709 East South Temple
P.O. Box 58139
Salt Lake City, Utah 84158-0139

(801) 715-7040
Fax (801) 531-6117
koldroyd@famoreton.com

Fee: 2004-05 $27,500
2005-06 $29,000
2006-07 $30,500

Utah References: State of Utah; Salt Lake Organizing Committee for the Winter Games of 2002; Summit County; Tooele City; Utah County

- Low Cost Provider
- Access to all Markets
- Local Experience and Staff
- One of the largest independent regional brokers in the west
- Privately owned
- Separate public entity division
- Cost savings and risk management programs
- Goal is enthusiastic and aggressive representation of clients in designing innovative, cost effective insurance programs.
- Claims and loss management
- Risk management information
- Alternative risk financing
- Legal consulting for employee practices liability issues
- Property / Casualty Loss Exposure Management
- Property / Casualty Claims Management
- Risk Management Consulting
- Property / Casualty Products Brokerage
- Excess / Self Insurance Programs
- Alternative Financing Options
- Wrap Up Programs
- Discontinued Operations Liability
- Speciality Product Liability
- Environmental Impairment Liability
- Directors and Officers Liability
- Errors & Omissions Coverage
- Employment Practices Liability
- ADA Compliance

▶ **Olympus Insurance Agency**
B. Darrell Child, Executive Vice President
220 East Morris Ave., Suite 340
P. O. Box 65608
Salt Lake City, UT 84165-0608
(801) 486-1373

Fax (801) 485-6943

Fee: Commission and/or fee that is mutually agreed upon for the servicing of the City's insurance program.
Step 1: Olympus follows an action plan to understand the unique characteristics of its client. They then propose a service plan.
Step 2: Olympus develops a budget based upon the scope of services and the service plan.
Step 3: Olympus tracks their costs of servicing the account and adjusts annually for future service periods.
If Olympus receives commission on the placement of coverage then this is applied to their total compensation. If it is in your best interest to place all or part of your coverages either on a net or low commission basis, then our compensation is supplemented with fee income. Under this service arrangement all compensation is disclosed to Olympus's clients annually, along with their service cost.

Utah References: Provo City (letter of recommendation, 20 years service); Murray City (letter of recommendation, 24 years service); Bountiful City (letter of recommendation, 20 years service); Davis County (letter of recommendation, 19 years service).

- Enhanced Service Program: standard broker services/remarket to comparable markets generally every 3 to 5 years in order to cultivate a long term underwriting relationship; loss analysis review / loss trend analysis / limit planning; assist in setting up outside support services in claims administration, loss prevention activities, or outside property appraisals; claim handling consultation and facilitation between adjustors, defense attorneys and insured; assist with effective management of risk
- Insurance planning
- Cost effective insurance solutions
- Claim settlement
- Action Plan: Loss review; financials; operations; risk management; insurance coverage
- Establishing service plan – focusing on understanding the unique nature of Park City and its insurable risks, then will find qualified underwriters to develop effective risk partnerships
- Set specific risk criteria
- Marketing of coverage
- Alternative risk support – quarterly meetings, review coverage offering and material changes, overview changes in the nature of municipal risk, including changes in the status and the case law; information sharing
- Does not employ certified appraisers, however, will assist in securing these services.

- Review of exposure implications of interlocal cooperative agreements, joint ventures and contractual risk transfer.
- Consultation services: exposures, cost study on workers compensation, consultation services or assessments in workers compensation, cost analysis and review of coverages.

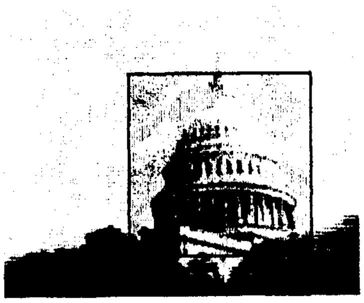
▶ **Aon Consulting**
Brent B. Crane, Vice President
5 Triad, Suite 500
Salt Lake City, UT 84180
(801) 488-2575

Fee: Standard commission paid by insurance carriers (check if this includes overrides / contingent income), with 25% of their compensation put at risk under the consulting contract. This "at risk" compensation will be based on a formal evaluation of specific performance measures agreed upon by both Aon and Park City. Aon welcomes discussions regarding the structure of its fees and the method of payment during the formal interview and/or contracting process.

Utah References: Salt Lake County; University of Utah

- Company has size and depth to provide experienced, highly qualified service
- Cost control
- Employee benefits consulting program and services
- Aon is the largest reinsurance broker, largest captive insurance company manager, largest U.S. multi-line claims services provider, largest U.S. wholesale broker and underwriting manager, second largest insurance brokerage, third largest employee benefits consultant.
- Services: Property & Casualty, Alternative Risk, Claims and Risk Control, Risk Management Consulting, Online Services, Benefits Consulting
- Scope of Services: Strategy and Planning; Risk Identification and Evaluation; Program Design, Submission, Preparation and Review; Insurance Program Negotiation and Placement; Program Execution; Ongoing Account Service; Safety and Loss Control Services; Claims Services; Transaction / Project Work (may require separate / additional fee)
- Task Outline for Major Renewal
- Public Sector Plan
- Benefits Handbook
- Open Enrollment
- New Employees
- Personalized Information
- Savings Plan Materials
- Insurance Market Overview

Public Entities



Public entities face a new world of risk today. Emerging threats such as terrorism and schoolroom violence have added yet another dimension to the already unique challenges that public entities deal with day in and day out.

As such, public entities need a trusted advisor with the resources and in-depth knowledge of the business of government to provide customized, cost-effective solutions designed to mitigate risk and contain costs.

Marsh's Public Entities Practice excels in every discipline critical to the effective management of public entity risks by developing responses and implementing solutions customized to the needs of public entities and their constituencies. Experience and a tradition of innovation translates to state-of-the-art risk management programs at a lower cost to public entity insureds.

Marsh is one of the leading providers of risk management and insurance services to public entities. With access to all the major insurance markets in the world, Marsh works closely with insurers that specialize in public entity risks to develop tailored solutions to meet the specific needs of our public entity clients.

Marsh offers these services to its public entity clients:

Traditional broking services

- Claims management
- Reinsurance
- Program design

Risk Consulting Services

- Crisis management and operational contingency planning consulting
- Strategic risk assessment
- Operational risk analyses
- Workplace hazard management evaluations

Public Entity Specific Services

- Public officials errors & omissions coverage

- Law enforcement liability
- Educators legal liability
- Public official bond
- Specialized property insurance for public entities and non-profits

Alternative Risk Services

- Loss portfolio transfers
- Risk retention groups
- Self-insurance programs
- Captives

City Council
Staff Report

PARK CITY 1884

Author: **Kent Cashel, Asst PW Directo**
Subject: Authorization to conduct an Environmental Assessment for the Park Meadows Well.
Date: **August 12, 2004**
Type of Item: **Administrative**

Public Works

Summary Recommendations: Authorize staff to a execute professional services agreement with Montgomery, Watson, Harza (MWH), in a form approved by the City Attorney, for the preparation and submittal of an environmental assessment (EA) covering the placement of a small water treatment facility on the City owned parcel at the old sewer plant. This EA will enable and favorably position Park City to apply for federal reimbursement for 75% of construction costs of the facility.

Background:

In 2000 the Park Meadows well which had previously provided 1000 gallons per minute (gpm) began to decline in production. By 2002 the well had declined to 500 gpm. In the same year Council authorized the drilling of a replacement well next to the Park Meadows well. This well was drilled, developed, produced 1000 gpm and was approved for culinary use by the State of Utah. After approximately 30 days of operation testing indicated that the well water contained bacteria. Staff suspected that the well may be connected via rock fissures to Mcleod Creek which flows within several hundred feet to the west of the well sight. Subsequent testing confirmed the well water is being contaminated by a connection to surface water. The only solution to this contamination is treatment of the water to remove the bacteria.

Staff explored treatment alternatives, as well as alternative water sources that would provide the required 1000 gpm and ultimately recommended the drilling of a test well site in Aspen Springs. Staff, based upon the best geological information available at the time, believed this well had the potential to produce water in the quantity and the quality required. Unfortunately, this test well did not meet expectations. Staff conducted an assessment of options and recommended the City abandon the test well and constructs a treatment facility for the new Park Meadows well at the well site.

Staff believes there is a good probability that the City can secure federal funding through the Army Corps of Engineers to assist in the financing of the required treatment facility (initial estimated cost of $1,000,000). To secure this federal funding the City must first complete an environmental assessment (EA) that details and documents the potential environmental impacts of building the small facility (approximately 800 sq'). Staff believes, based upon its experience in pursuing federal funding, that it is in the best interest of the City to secure a consulting engineering firm to complete this assessment as soon as possible.

Analysis:

The City's purchasing polices exempts professional service contracts from any requirement for competitive bidding. According to this policy contractors are chosen by selecting the firm whose experience, past performance and capabilities best meet the needs of the project.

Montgomery,Watson, Harza (MWH) is one of two firms the City has pre-qualified to provide engineering services. MWH designed and provided construction management services for the arsenic filtration upgrade that was recently completed at the Spiro plant. The firm is also providing engineering services for the City's filtration piloting project to be conducted this fall at the new Park Meadows well. MWH's involvement with the Spiro upgrade and the new Park Meadows well piloting project will provide much of the project knowledge that will be required to complete the EA. Staff believes MWH is the best pre-qualified firm to complete this study.

Staff has developed and negotiated a scope of work for the environmental assessment with MWH (see attached). MWH provided a quote of $ 41,430 to complete this study. Staff, based upon previously completed EA's, believes this quote is usual and customary for a project of this type and scope.

Funds for this project were approved during the 2004 budget process and are contained in CIP account number 51-45092-7319-000-000.

Staff recommends Council and the Mayor authorize staff to execute a professional services contract, in a form approved by the City Attorney, with Montgomery, Watson and Harza in the amount of $41,430 for the preparation and submittal of an environmental assessment for a filtration facility to be placed at the new Park Meadows well.

Alternatives:

A. **Approve the Request:** Staff recommends Council and the Mayor authorize staff to execute a professional services contract, in a form approved by the City Attorney, with Montgomery, Watson and Harza in the amount of $41,430 for the preparation and submittal of an environmental assessment for a filtration facility to be placed at the new Park Meadows well.

B. **Deny the Request: Council could deny Staff's request.** This action will negatively affect the City's ability to apply for federal funds for the filtration project.

C. **Continue the Item:** preparation of the EA will take several months. Delaying this action will negatively affect the City's ability to apply for and receive federal funds

D. **Do Nothing:** This alternative will have the same impact of Alternative C.

Significant Impacts:
Completing and submitting the environmental assessment for the new Park Meadows treatment facility does not guarantee the City will successfully receive federal funding. However, Staff believes this investment will greatly enhance the City's chances of securing these funds.

Recommendation:

Staff recommends Council and the Mayor authorize staff to execute a professional services contract, in a form approved by the City Attorney, with Montgomery, Watson and Harza in the amount of $41,430 for the preparation and submittal of an environmental assessment for a filtration facility to be placed at the site of the new Park Meadows well.

PARK CITY MUNICIPAL CORPORATION
PARK MEADOWS WELL TREATMENT
ENVIRONMENTAL ASSESSMENT
SCOPE OF WORK

The objective of this work is to prepare an Environmental Assessment (EA) for potential treatment solutions for the Park Meadows Well (well) for Park City Municipal Corporation (PCMC). The EA will be prepared to meet the requirements of the US Army Corps of Engineers under Section 595 Program.

TASK 1 - REVIEW OF EXISTING INFORMATION

The MWH project team will review Project information supplied by PCMC to be come familiar with the project, project site and related issues and concerns that will be addressed in the EA. Information that will be reviewed includes preliminary designs and site specific resource information.

TASK 2 – PROJECT KICK-OFF MEETING AND FIELD SITE TOUR

Two MWH EA team members will attend a project kick-off meeting and field site tour. The purpose of the field site tour is to review the existing site conditions and the area that could be potentially affected by construction of water treatment facilities. MWH will take field notes and digital photographs to document the existing site conditions. This information will be used with information supplied by the PCMC to prepare the Project Description and Affected Environment Section of the EA.

TASK 3 - PREPARE CHAPTER 1 - PURPOSE AND NEED FOR ACTION

MWH will use information provided by PCMC and MWH design team as well as information collected during the field site tour to prepare Chapter 1 of the EA which will include the Draft Purpose and Need Statement, a description of the Proposed Project and preliminary issues to be addressed in the EA. The Project Description will be prepared from design information and construction requirements developed by MWH in the site plan conceptual development. The preliminary list of issues will be those identified by the MWH EA leader and PCMC staff..

An electronic draft version of Chapter 1 will be submitted via e-mailed to PCMCand the USFS for review. MWH will incorporate any revisions into the document and prepare Chapters 1 of the Draft EA.

TASK 4 - PROJECT SCOPING

MWH will condense the contents of Chapter 1 into a one page Scoping Document that will be sent to interested individuals and agencies identified by the PCMC. PCMC will provide the contact information for the list of interested entities. Initially it is anticipated that MWH will send out 50 copies of the one-page Scoping Document.

MWH will review scoping comments received from interested agencies and individuals to identify additional issues. The MWH EA Leader will coordinate develop the final list of issues to be addressed in the EA with review by PCMC.

TASK 5 - DEVELOP PROJECT ALTERNATIVES AND PREPARE CHAPTER 2 - ALTERNATIVES

The MWH EA Team Leader will development at least one action alternatives to the Proposed Project that meets the Project Purpose and Need. No Action also will be evaluated. Appropriate mitigation measures will be developed for each alternative and monitoring requirements will be identified.

MWH will prepare Chapter 2 – Alternatives, documenting each alternative and associated mitigation measures and monitoring requirements. Chapter 2 will include a comparative assessment of the environmental effects of each alternative including the No Action Alternative. MWH will submit the preliminary version of Chapter 2 to PCMC for review. MWH will incorporate revisions and prepare the Draft Chapter 2.

TASK 6 – PREPARE CHAPTER 3 AFFECTED ENVIRONMENT/ENVIRONMENTAL CONSEQUENCES

MWH will prepare the Chapter 3 Affected Environment and Environmental Consequences. This Chapter will document the existing environmental conditions (Affected Environment) and potential impacts from construction and operation of the Proposed Action and alternatives including the No Action Alternative. Information to prepare this Chapter will be gained through the field investigation, review of the conceptual site plan, development of alternatives and assessment of potential impacts. MWH will submit the preliminary version of Chapter 3 to PCMC for review. MWH will incorporate revisions and prepare the Draft Chapter 3.

TASK 7 – PREPARE APPENDICES

MWH will prepare appendices with technical information to support the EA assessment. It is anticipated there will be one to three appendices. Appendices could include but are not limited to Section 7 Consultation, Conceptual Design Drawings, etc.

TASK 8 – MAINTAIN PROJECT NEPA FILES AND COMPILE ADMINISTRATIVE RECORD

MWH will maintain the project NEPA files and compile an Administrative Record. The administrative Record will include but is not limited to technical data, maps, photographs, preliminary design plans, record of scoping activities, agency and public comments, and EA meeting notes. The administrative record will be delivered as one hard copy and electronically in PDF format on a CD.

TASK 9 – PROJECT MANAGEMENT AND COORDINATION

This task covers the project management, coordination, scheduling and meeting management. Internally MWH will monitor schedule, budget and perform internal QA/QC under this task. The work will be invoiced monthly using a standard MWH invoice format. Project coordination will include routine discussions with Park City staff and USACE technical contacts, a formal project kick-off meeting and site visit at the Project site. All meeting minutes will be recorded and retained for the Project NEPA files.

CLIENT FURNISHED MATERIAL

PCMC will provide MWH with the following information:

- Reports, site maps, and design information applicable to the Project.
- PCMC to provide names and contact information for interested agencies and individuals to receive scoping information.
- Design alternatives to be provided by PCMC.
- Preliminary list of issues to be considered in the EA

City Council
Staff Report

Author: Tom Bakaly, City Manager
Subject: Personnel Manual Revisions
Date: August 12, 2004
Type of Item: Administrative

PARK CITY 1884

Executive

Summary Recommendations:
Authorize the Mayor to adopt a resolution (attached) revising the Personnel Policies and Procedures Manual (personnel manual).

Description:
Topic:

Recommended revisions to the Personnel Policies and Procedures Manual

Background:

Over the last 2 years, the City has undergone efforts to streamline City operations and functionally address City Council's goal of open and responsive government to the community. What used to be City departments are now self-managed teams of managers. Up until now, streamlining efforts have been mainly focused at the manager level.

In an effort to encourage streamlining efforts throughout the organization, the City Manager has articulated objectives for Park City Corporation including the following:

- Streamline the organization, reducing costs and management/supervisory positions where feasible
- Enhance the utilization of employee competence and skills across the organization
- Create culture of responsibility, accountability and teamwork throughout the organization
- Create opportunities and incentives for career development of non-management employees

Some managers are beginning to look within their operations to identify opportunities to improve operations. Changes such as those accomplished by the Police Department were done as part of the budget process. Sometimes, opportunities to meet the objectives listed above occur outside the budget

process. Our personnel policies allow acting staff assignments only within approved and budgeted positions. Our current personnel manual does not allow reorganizations outside the budget process or without a formal budget amendment process. Staff would like to pursue an option that allows reorganizations to occur outside the budget process under certain circumstances, and allows temporary or acting appointments to occur until the next annual budget process.

Analysis:

Staff has come to the conclusion that in order to be a high performance organization, high performance policies are needed. Waiting for up to a year until the budget process, or formally amending the budget during the year may cause departments to not make necessary operational changes. A recent example of this exists in the Public Works Department. Due to some recent staff departures and retirements, an opportunity exists to streamline operations through a reorganization process. In order to encourage high performance and promote clarity throughout the organization, a group of managers developed an administrative policy (attached) to evaluate all proposed reorganizations that occur outside the budget process.

Under the administrative policies, several criteria need to be met in order for there to be salary adjustments outside the pay plan. A key criterion is that the proposed change must demonstrate a streamlining effort by eliminating an existing supervisor or manager position. Other indicators of high performance must also be demonstrated before the change can occur.

In order to implement this administrative policy, an adjustment to the personnel manual is needed. In the attached resolution, staff is recommending that section 5.8 Interim Re-Organization/Reclassification Exception be added. The new section reads:

Upon written approval of the City Manager in conformance with the administrative Policy for Salary Adjustments Outside Adopted Play Plan July, 2004, an employee may be reclassified and paid outside the Pay Plan for a period not to exceed the existing budget period without the approval of the City Council. The City Manager shall provide the City Council with notice of the approval in the first available Manager's Report. If the City Council fails to approve the reclassification in the next budget cycle, the employee(s) shall be entitled to return to his/her prior position at the prior pay classification and benefits

If the criteria are met under the administrative policy and proposed revisions to the personnel manual, the City Manager may make a temporary appointment outside of the adopted pay plan. Under the revised personnel manual, the City Manager would inform the City Council of this change. The temporary adjustment would then be formally reviewed by the Council and the decision of

whether to make the position change permanent would be done as part of the budget process each year.

One of the benefits of the proposed change is that employees and self-managed teams have an opportunity to demonstrate high performance resulting from the temporary reorganization and assignment. Then, if operations are improved as expected, Council can decide to make the change permanent as part of the budget process.

Department Review:

The proposed personnel manual changes have been reviewed and recommended for approval by the management team.

Alternatives:

E. Approve the Request: This is Staff's recommendation

F. Amend the Request: Council could ask staff to amend the proposed personnel manual changes and return for approval.

G. Deny the Request: Council could deny the request and keep the current policies in effect. Council has copies of the personnel manual that was approved in June, 2004. Additional copies are available upon request.

H. Do Nothing: Current policies would remain in effect.

Significant Impacts:

The proposed changes will not increase expenditures as the proposed amendments to the personnel manual are geared towards streamlining operations and reducing costs. Additional opportunities for career development of City staff may be created by adoption of these personnel manual changes.

Consequences of not taking the recommended action:

The current personnel manual will remain in effect and temporary salary adjustments outside of the pay plan will not be allowed except as stipulated under current acting assignment language.

Recommendation:

Staff recommends approval of the attached revisions to the Policies and Procedures Manual.

Attachments:
Personnel Manual Resolution
Administrative Policy for Salary Adjustments Outside of Adopted Pay Plan

Resolution No. __-04

A RESOLUTION AMENDING THE PERSONNEL POLICIES AND PROCEDURES MANUAL, DATED JULY 1, 2004 FOR PARK CITY MUNICIPAL CORPORATION TO AUTHORIZE INTERIM POSITION CLASSIFICATIONS BY THE CITY MANAGER

WHEREAS, personnel policies and procedures may be adopted and amended at the discretion of the City Council and are subject and subordinate to applicable federal and state laws, rules, and regulations, and local ordinances; and

WHEREAS, the City Manager, Legal Department, Human Resources Department, management team and non-management staff has reviewed the proposed amendment and recommends adoption by the City Council; and

WHEREAS, the City Council deems it in the best interest of the employees of Park City Municipal Corporation to formally adopt the amendment;

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

SECTION 1. ADOPTION . The Revised Personnel Policies and Procedures, dated July 1, 2004, are hereby amended by adding a new Section 5.8 as follows:

Section 5.8 Interim Re-Organization/Reclassification Exception

Upon written approval of the City Manager in conformance with the administrative Policy for Salary Adjustments Outside Adopted Play Plan July, 2004, an employee may be reclassified and paid outside the Pay Plan for a period not to exceed the existing budget period without the approval of the City Council. The City Manager shall provide the City Council with notice of the approval in the first available Manager's Report. If the City Council fails to approve the reclassification in the next budget cycle, the employee(s) shall be entitled to return to his/her prior position at the prior pay classification and benefits.

SECTION 2. EFFECTIVE DATE. This Resolution shall be effective upon adoption.

Administrative Policy for Salary Adjustments Outside of Adopted Pay Plan
July, 2004

A. PURPOSE

The City Manager has articulated objectives for Park City Corporation that include the following:

- Streamline the organization, reducing costs and management/supervisory positions where feasible
- Enhance the utilization of employee competence and skills across the organization
- Create culture of responsibility, accountability and teamwork throughout the organization
- Create opportunities and incentives for career development of non-management employees

Opportunities may be identified outside of the annual budget cycle to realize these objectives via organizational restructuring. Where such restructuring results in the reduction of a management or supervisor position, it is assumed that the remaining positions within the restructured organization take ownership of the role/ tasks of the vacated position.

These roles/tasks may be assimilated by the restructured organization in several ways, including:

- The assignment of additional roles and tasks across the board to existing positions without significant impact to workload.
- The assignment of additional roles and tasks to a few key positions, with a significant increase in workload and/or performance expectations.
- The assignment of the vacated roles and tasks to a newly created supervisory or team leader position at a lower grade than the vacated position.

New positions cannot be created or reclassified without the approval of the City Manager and City Council, according to the adopted process.

In cases where the affected department/team determines that a pay increase is warranted for existing positions commensurate with increased roles and tasks, and when the proposed pay increase falls outside the adopted pay plan, a team/department head may request that the City Manager approve an interim pay increase for the affected employee(s).

Requests for interim pay increases must meet the criteria outlined below.

B. CRITERIA

In order to have a position considered for an interim pay increase, the following criteria must be met:

1. **An existing supervisor/manager position must be proposed for elimination from the existing organizational structure.**
2. **The department must demonstrate that the urgency of implementing any reorganization effort, that requires action under this policy, does not allow for waiting to implement that effort as part of the normal budget process.**
3. The department must demonstrate that proposed restructuring of the organization will result in improved communication and accountability. The department must also demonstrate that its reorganization plan has identified and mitigated all potential impacts to internal and external customers caused by the reorganization.
4. The department must demonstrate that the proposed interim pay increase is commensurate with an increased level of roles and tasks (i.e., increased budgetary responsibility, increased technical oversight, increased supervisory responsibility/span of control, increased public information responsibility, etc.)
5. An internal selection process will be conducted to allow qualified individuals to apply for any interim appointment. The successful candidate for the interim appointment must have demonstrated a high-performance mentality and the ability to work within a self-managed team.

C. PROCESS FOR CONSIDERATION

Approvals for interim pay increases will be considered as follows:

1. The department will submit a written demonstration that the proposal meets the above criteria, with a complete job description, to Human Resources.
2. The Salary and Compensation Committee will review the request, conduct a market analysis using the latest available payroll benchmarks and the interim position job description to determine the interim pay increase meets the City definition of "Market Pay" and forward a recommendation to the City Manager.

3. The City Manager will make a finding to deny the request, approve the interim appointment and/or pay increase, or take to council for a permanent appointment.

D. EFFECTIVE DATE

This Policy shall become effective upon adoption of the necessary amendment to the Employee Policies and Procedures Manual to authorize City Manager approval of interim positions as provided herein. However, requests and market analysis may commence immediately.

Executed this ___ day of August, 2004

CITY MANAGER

Tom Bakaly

City Council
Staff Report

PARK CITY 1884

Planning Department

Author:	**Kirsten Whetstone**
Subject:	**Spiro Tunnel Annexation**
Date:	**August 8, 2004**
Type of Item:	**Legislative**

Summary Recommendations:
Staff requests the Council hold a public hearing, consider input, and approve the Spiro Tunnel Annexation and Annexation Agreement by Ordinance and amending the official Park City Zoning Map.

Description:

A. Topic

Project Name:	Spiro Tunnel Annexation
Applicant:	Rory Murphy, Paladin, LLC (owner)
Location:	12.32 acres located west of the Spiro Tunnel Water Treatment Facility on Three Kings Drive and north of Crescent Road.
Zoning:	Summit County -West Mountain Neighborhood- base zoning of 1:20, 1:40 depending on slopes, potential for increased density for Mountain Recreation/Resort Support Uses subject to the Snyderville Basin General Plan matrix/community benefits/SPA.
Proposed Zoning:	RDM (Residential Development Medium Density)
Adjacent Land Uses:	single family residential, condominiums, golf course, water treatment facility, PCMR undeveloped lands, open land

Background

On October 29, 2003 the property owner submitted to the City an annexation petition application and zoning map amendment for one metes and bounds described parcel of land, currently within Summit County's jurisdiction. The parcel is located on the west side of Three Kings Drive, north of Crescent Road, directly west of the City's Spiro Tunnel water treatment facility and the Park City Golf Course. This parcel is approximately 12.32 acres in area.

The applicant also submitted, as required by the Annexation Policy Plan, a Master Planned Development application for the annexation parcel combined with 1) an adjacent 5.26-acre parcel and 2) an adjacent 2.26 acre parcel, both already within the Park City municipal boundary. The total project area of the MPD is approximately 19.84 acres.

The applicant is requesting RDM-Residential Development Medium Density zoning for the proposed 12.32-acre annexation parcel. The adjacent 5.26 acre parcel is zoned RD, Residential Development and the adjacent 2.26 acre parcel is zoned SF, Single Family. The applicant is not requesting a rezone of these parcels, but there could be a transfer of density between these parcels, during the MPD process. The RD district allows Master Planned Developments with residential and transient lodging uses, as well as MPDs with support retail and office, and minor service commercial uses.

The RDM district allows Master Planned Developments with residential, support retail, and minor service commercial, as well as general office uses associated with redevelopment of existing buildings. Developments reviewed and approved as a Master Planned Development in the RDM zoning district may "approach a maximum density of 8 units (UE) per acre" (61.6 UE to 98.6 UE). Developments within the RD may "approach a maximum density of 5 units per acres (15.8 UE to 26.3 UE). The SF District allows up to 3 units per acre (6.78 UE). Possible density ranges from 84.18 UE to 131.68 UE. The applicants proposed 99 UE with the preliminary MPD submittal.

Several large historic buildings and mining related structures exist on the site, which is currently used as a construction staging and storage area and for mine maintenance. The applicants propose extensive restoration of these historic mining structures as an integral part of this project. Restoration of these buildings is a significant cost and provides a public benefit. An Historic Building Restoration Plan has been submitted to staff for review. These buildings are currently within Summit County unincorporated area, and are not currently subject to the Park City Historic District Design Guidelines. Approval of this annexation would put these historic buildings within the Park City limits.

Access to the proposed annexation parcel is from Three Kings Drive, a public city street. The proposed annexation parcel has approximately 588 linear feet of frontage on Three Kings Drive.

Information regarding ownership, slopes, geology, vegetation, soils, environmental and mining impacts, sensitive lands, historic structures, roads, utilities, water rights, wildlife, school impacts, fiscal impacts, traffic and parking, skiing, trails, proposed uses/site planning for the proposed MPD, has been submitted as part of the annexation and MPD application, and is on file at the Planning Department.

The property is currently zoned in the County as ED "Existing Development" and DL (Developable Lands) with development subject to the Snyderville Basin General Plan. The parcel is included in the West Mountain neighborhood area, an area where ski resort related development is considered appropriate and could be proposed as part of a Specially Planned Area (in Summit County). Existing uses include an excavating company utilizing several old buildings, outdoor storage of construction equipment and materials, and the Spiro Tunnel water works.

C. Procedural History

Municipal annexation is a legislative act governed procedurally by Utah state law. On January 8, 2004, the Park City Council accepted the petition for annexation. The City reviewed the petition against the criteria stated in Sections 10-2-403 (2), (3), and (4) of the Utah Code of the Utah Code, Annotated, 1953, as amended, and made findings that the petition complies with all applicable requirements of the Utah Code. On February 9, 2004, letters were sent to the "affected entities" giving notice that the petition had been certified and the 30-day protest period had begun. March 8, 2004 was the deadline for "affected entities" to file a protest with the Summit County Boundary Commission. No protests were filed.

Procedurally, the Planning Commission forwards a recommendation on annexation petitions and zoning to the City Council for final action. On June 23, 2004 the Planning Commission conducted a public hearing and forwarded to City Council a positive recommendation on the proposed Spiro Tunnel annexation and zoning. Once the City Council enacts an ordinance annexing the unincorporated Area all applicable zoning and Land Management Code sections shall apply to the annexed Property.

The Planning Commission conducted public hearings on March 14, May 12, and June 23, 2004. There was no public input in opposition to the annexation expressed at these public hearings. There were concerns expressed related to the proposed Master Planned Development, which the applicants will continue to address when the MPD returns to the Planning Commission for public hearing and discussion. These concerns included traffic, parking, building location and massing, buffering and screening of uses and parking from adjacent residential areas and trail access.

D. Analysis

The Annexation Policy Plan requires an annexation evaluation and staff report to be presented that contains certain items (see Section 15-8-5 (B)). The staff analysis is as follows:

1. <u>General Requirements of Section 15-8-2</u>

The annexation meets the general annexation requirements as stated in Section 15-8-2. See Section E. of this staff report for a detailed analysis of the annexation as it relates to Section 15-8-2.

2. <u>Map and natural features</u>

The property consists of one 12.32 acre parcel that is contiguous to the Park City Municipal boundary along Three Kings Drive and along the northern boundary with the SF zoned Donile parcel. (See annexation submittal). The parcel is within the Annexation Expansion Area, as described by the adopted Annexation Policy Plan. The parcel is currently zoned SL (Sensitive lands) and DL (Development lands) in Summit County, subject to the Snyderville Basin General Plan. The applicant proposes to combine the parcel with an adjacent RD, Residential Development parcel and an adjacent SF parcel that are both within the City limits, for a mixed-use development, known as the Spiro Tunnel MPD. The applicant is requesting RDM, Residential Medium Density, zoning. The applicants have submitted an accurate map of the area showing the boundaries, property ownership, topography, natural features, and environmentally sensitive areas. Proposed development is located in areas previously disturbed due to mining operations and in the gulch area between the two ridges at the north end of the property.

3. Residential Density

Annexation of this property does not vest the owner in any particular density. A Density Determination will be discussed in detail at the time the MPD is reviewed by the Planning Commission. Density proposed for the overall MPD (submitted as a requirement of the Annexation Policy Plan), includes 24 cottage units and 75 condominium units on 19.84 acres. This density of approximately 4.98 units per acre is less than the existing density in the surrounding areas and within the range allowed by the RD and RDM zones. Three Kings (8 units per acre), Crescent Ridge (7 units per acre) and Payday (10 units per acre) condominiums were developed in the 1970's under the RC, Resort Commercial zone. The Thaynes Canyon single-family development is in the range of 3-4 units per acre. Open space (area not covered by buildings or parking) is proposed at 76% of the entire 19.84 acres. Twenty-four cottage units (paired units) are proposed on the annexation parcel. If the City Council approves this annexation, MPD review for LMC compliance will take place.

4. Land Uses-existing and proposed

Several historic buildings and mining related structures exist on the site, which is currently used as a construction staging and storage area and for mine maintenance. A major Park City water source and separate water transmission line occupy the site. The applicants propose extensive restoration of these historic mining structures as an integral part of the proposed MPD. This restoration of historic buildings is a public benefit that is consistent with the City's General Plan- Historic Preservation element. Proposed land uses are detailed above. These buildings are not currently within the Park City limits, and therefore not currently subject to the Park City Historic District Design Guidelines. Never the less, the applicant has worked extensively with the Chief Building Official and City staff on strategies for restoration of these historic buildings.

5. Character and Development of adjacent property

Surrounding land uses include single family lots to the north, a water treatment plant and offices to the east, a municipal golf course and maintenance shop to the east, condominiums to the southeast and the south, vacant lands to the west that are for the most part very steep and part of the Park City Mountain Resort Master Plan to be used for skiing, hiking, biking, and open space. These lands are designated as sensitive lands, view shed hillsides, and sensitive ridgeline areas. Development potential of these lands is limited. The applicant has also prepared a document, entitled, "Land Development Potential for Properties Adjacent to the Spiro Tunnel Site." This study arrives at a similar conclusion per discussions with County staff. The most likely scenario for development of these sensitive lands is to transfer the density to a more developable receiving area. If low-density residential development is permitted, access to that property can be achieved from Snow's Lane and annexation of this subject property would not impact future development or access to adjacent lands.

6. Zoning- existing and proposed

Zoning has been described in the above Project Description section. The proposed zoning of RDM is compatible with the surrounding zoning and allows the proposed uses. Staff recommends that the Sensitive Lands Overlay zone not be applied over the RDM zoning because 1) the property is a relatively small infill site, 2) the site topography is predominately a result of man-made (mining overburden and existing dirt roads) disturbance, 3) the slope analysis map submitted indicates no proposed development is located on Sensitive Lands such as visible ridges, very steep (naturally occurring) slopes, wetlands, entry corridor areas, or sensitive wildlife habitat areas. Additionally, the preliminary MPD complies with the SLO design criteria.

7. Goals and Policies of the Park City General Plan

This annexation is consistent with the goals and policies of the Park City General plan in that the annexation provides the ability to propose a development that 1) provides open space and resort related residential development, 2) provides for renovation and adaptive reuse of several historic mining buildings, 3) facilitates an artist-in residence program and provides space for non-profit uses that further off-season economic development, 4) facilitates a resort related ski-in/ski-out mixed use development, 5) enhances skiing, and 6) preserves existing trails. It is logical, reasonable, and consistent with the General Plan to provide municipal level services to this property and to combine it with surrounding vacant property already within the City limits, under common ownership, as part of a Master Planned Development to further the goals and policies of the Park City General Plan.

8. Assessed valuation

Current assessed valuation of the annexation parcel is $491,580, according to the Summit County assessor's office.

9. Demand for municipal services

Whether the development is within the City or not, most essential services will be provided by the same entities, ie. Park City Fire District, SBWRD, Park City School District, Park City Police (by interlocal agreement with the County Sheriff Office), gas, electric, cable, phone, and trash removal. If annexed, prior to issuance of any building permits for this property, a fire protection plan addressing the long private driveway for the cottages, wild land interface issues, defensible space around structures, fire sprinkler systems, and other fire protection and emergency access issues would need to be reviewed and approved by the Chief Building Official and Fire Marshall.

Police

Currently the property is within the Summit County Sheriff's jurisdiction. However, the City police currently respond to service calls in the area, as part of a mutual assistance/interlocal agreement. According to Chief Evans, the Sheriff is responsible for criminal investigation.

Sewer service
Snyderville Basin Water Reclamation District provides sewer service regardless of whether the property is annexed or not.

School District and Recreation service
The property is located within the Park City School District and the Snyderville Basin Recreation District. The Wikstrom Fiscal Analysis indicates that 90% of these units are likely to be second homes and a majority of the property taxes go to the Park City School District. The Fiscal Analysis concludes that there is an overall benefit to the School District. According to the Recreation District the District's rate for general obligation debt service cannot be changed. Properties within the proposed annexation area have been pledged to the Recreation District to service the debt on bonds issued in 1996, 1997, and 2002. The property may also be subject to general obligation bond property tax levies associated with bonds authorized in November of 2001 for future bond issuance of up to $4.5 million. According to the Basin Recreation District Director, annexed lands would continue to be in the Recreation District after annexation by Park City.

Planning and Building regulations and code enforcement
If annexed, the City would provide Planning and Building Code review of any proposed developments. This includes the application of the City's Land Management Code (including lighting, architecture, materials and colors, and landscaping). The City's Historic District Design Guidelines and MPD review criteria will apply if the property is annexed.

10. <u>Effect on City boundaries</u>
The proposed annexation is a logical extension of the City's boundaries. Properties both to the north and south of the proposed annexation are within the City limits. The property has over 588 feet of frontage on a City street and is directly opposite land that is within the City limits on the other side of the street. This property utilizes City streets for ingress and egress.

11. <u>Timetable for extending services</u>
Services can be extended to the property upon approval of a Master Planned Development and subsequent platting of the property and issuance of building permits for approved development. The applicant currently has a City water meter, which serves the existing uses. The property is located in close proximity to Sewer Service (a line extension agreement with SBWRD will be required before additional services can be extended). Most other services are readily available upon annexation (see #9 above).

12. <u>Revenue versus costs</u>

A fiscal analysis report prepared by Wikstrom Economic and Planning Consultants, Inc., October 2003, was included with the annexation petition. The analysis summarizes that once completed; the proposed Spiro site will "produce positive fiscal impacts to Park City". The ski- in/ski-out access to PCMR, second home condominiums (study estimates 90% of the units will be second homes), and associated resort related commercial will generate over $681,000 annually in revenues while requiring services with an estimated cost of approximately $82,000 annually, resulting in net revenues to Park City taxing agencies and service providers of $599,000 annually. The Wikstrom study estimates net revenue of $7.5 million over a fourteen-year period from, and including, 2004 to 2017.

13. Tax consequences

Tax consequences to the property owner are the difference between the County and the City mill levy for property in this part of the County. The Fiscal Impact Analysis outlines this in detail. The difference in tax rate on $150,000 is approximately $56.00 more in the City than in the County.

14. Impact on Summit County

The Fiscal Impact study details the impacts on Summit County. Currently property taxes are $12,000. Animal control and garbage collection are nearly $6,500 annually, equating to $5,500 net annual revenue to Summit County. As a majority the tax revenue (in terms of property taxes) will go to the Park City School District whether annexed or not, the fiscal impacts on Summit County are primarily due to a loss of sales tax revenue. Potential retail sales associated with resort support retail (2,000 sf) and non-profit artist-in residence programs are minimal, roughly $6,000 annually, compared to the property tax element. Given the location of the property and its proximity to Park City, it would cost the County more than the City to provide services, such as water, Planning, Engineering, Building inspection, etc. With development proposed with the associated Spiro Tunnel MPD, the net benefit to the County is approximately $61,500 annually (over the current $5,500 net revenue generated by the current uses).

15. Historic and cultural resources

The Spiro Tunnel MPD proposes significant historic renovation of several large mining buildings located on site and the applicant has submitted an Historic Building Restoration Plan for staff review. The applicant proposes to renovate three major existing mine building for adapted re-use and proposed to restore several other mining icons that exist on the property. Included in the proposal is a small museum on the premises to highlight the importance of the Spiro Tunnel site, from a mining and skiing perspective. This restoration project is a significant public benefit in that preserving Park City's mining heritage is a community goal and an objective of the General Plan.

E. Annexation Policy Plan

Purpose (Section 15-8-1)

Chapter 8 of the Land Management Code is considered Park City's annexation policy plan and declaration. In Section 15-8-1 the Code states the following:

The annexation requirements specified in this Chapter are intended to protect the general interests and character of the community; assure orderly growth and development of the Park City community in terms of utilities and public services; preserve open space, enhance parks and trails; ensure environmental quality; protect entry corridors, view sheds and environmentally Sensitive Lands; preserve Historic and cultural resources; create buffer areas; protect public health, safety, and welfare; and ensure that annexations are approved consistent with the Park City General Plan and Utah State Law.

Staff finds that the proposed annexation meets the above stated purposes in that this annexation contributes to the achievement of the goals and policies of the Park City General Plan and further protects the general interests and character of Park City by 1) preserving and dedicating open space and trails; 2) preserving and renovating historic and cultural resources, and 3) contributing to the resort economy of Park City.

In addition the Annexation Policy Plan states:

If practical and feasible, boundaries of an Area proposed for annexation shall be drawn:

(A) Along the boundaries of existing special districts for sewer, water, fire, and other services, along the boundaries of school districts whose boundaries follow City boundaries... and along the boundaries of other taxing entities;
(B) To eliminate islands and peninsulas of territory that is not receiving municipal type services;
(C) To facilitate the consolidation of overlapping functions of local government;
(D) To promote the efficient delivery of services; and
(E) To encourage the equitable distribution of community resources and obligations.

It is the intent of this Chapter to ensure that Property annexed to the City will contribute to the attractiveness of the community and will enhance the resort image which is critical for economic viability, and that the potential deficit of revenue against expense to the City is not unreasonable.

Staff has reviewed this annexation proposal against these stated purposes and finds that the proposal is consistent with and furthers the interest of the Park City Annexation Policy Plan in that the historic buildings on this property are part of Park City's heritage and it is in the best interest of Park City to facilitate renovation and adapted re-use of these buildings. Development within Park City of an artist-in-residence program, employee housing, a resort residential community with a ski lift to facilitate skiing for not *only the residents of the development, but also of the surrounding residential area, is consistent with the Community Character and Economic Development policies of the City Council and General Plan.*

General Requirements (Section 15-8-2)
Staff has reviewed the proposed annexation and preliminary plat against the following general requirements (findings in *italics*).

The following specific requirements are hereby established for annexation to Park City:

(A) Property under consideration of annexation must be considered a logical extension of the City boundaries.

Complies. *The property is directly adjacent to the City boundary along Three Kings Drive. North and South of the property are subdivisions located within Park City. The property is within the boundary of the Park City Annexation Expansion Area. The proposed Master Planned Development is compatible with the surrounding land uses. Additionally, this parcel is a logical extension of the existing boundary and existing developed properties in this area.*

(B) Annexation of Property to the City must be consistent with the intent and purposes of this Chapter and the Park City General Plan.

Complies. *This annexation proposal has been submitted and processed consistent with the intent and purposes of the Annexation Policy Plan. The annexation petition has been accepted by the City Council and the petition certified by the City Recorder. The applicant submitted all required documents and information, per LMC Section 15-8-3 (A)-(J)) and including all submittal requirements as stated on the application form. The property has been posted and affected property owners have been notified of the public hearing. Legal advertisement has been posted in the Park Record. The property falls within the Park City Annexation Expansion Area boundaries.*

(C) Every annexation shall include the greatest amount of Property possible that is a contiguous Area and that is contiguous to the City's municipal boundaries.

Complies. *Property is defined in the Land Management Code as Any Parcel, Lot, or tract of land, including improvements thereon, in the possession of or owned by, or recorded as the real Property of the same Person or Persons. The property owners do not own any other parcels contiguous to this metes and bounds described 12.32 acres parcel, which is contiguous to the City Boundary, that are outside of the City limits.*

(D) Piecemeal annexation of individual small Properties shall be discouraged if larger contiguous Parcels are available for annexation within a reasonable time frame in order to avoid repetitious annexations.

Complies.

This parcel is the only parcel that the Property owner holds or controls in this area that is not already within the City limits. This property owner does own and control the two adjacent parcels that are in the City limits and that are included within the proposed MPD. The key words are "within a reasonable timeframe" and "that would avoid repetitious annexations". Timely annexation of this parcel will ensure that renovation of the historic structures are done subject to the Park City Historic District Design Guidelines. Unincorporated property adjacent to this annexation is described in detail in the "Land Development Potential for Properties Adjacent to the Spiro Tunnel Site". The applicant has approached these property owners and they are not interested in annexation at this time or in the near future.

The Commission discussed this requirement on May 12, 2004 and expressed concern about future repetitious annexation proposals of additional metes and bounds parcels by the same owner, expressing desire that annexations include all of the property owned in common at the time of annexation petition. The applicant described the surrounding properties and ownerships, and stated that the 12.32 acre parcel subject to this annexation petition was the only unincorporated land they owned in this general area. The applicants also expressed concerns that timely annexation of this parcel will ensure that renovation of the historic structures are done subject to the Park City Historic District Design Guidelines. The applicant's MPD plan includes restoration of the buildings as a part of the initial phase of construction. Based on the Commission's discussion and information presented by the applicant at the May 12, 2004 hearing, Staff finds that the proposed annexation complies with this requirement.

Islands of county jurisdiction shall not be left or created as a result of the annexation and peninsulas and irregular boundaries shall be avoided.

Complies. *This annexation does not create an island, peninsula (which by definition is a long projection of land into water (or in this case land), or an irregular boundary.*

(E) In addition to services provided by existing districts, such as sewer, fire protection, and public schools, the following urban level services, consistent with those normally provided in the rest of the incorporated boundaries will be provided to annexed Areas: Complies as outlined below.

a. Police protection *City Police protection currently provided by special agreement with the County Sheriff for routine calls. Criminal investigation currently responsibility of the County Sheriff and would transfer to the City.*
b. Snow removal on Public Streets *(not applicable as no new public streets are proposed)*
c. Street maintenance *(not applicable for private streets)*

d. Planning, zoning, and Code enforcement *(Currently Summit County Planning and Building Department and would transfer to the City departments of planning and building)*

e. Availability of municipal sponsored parks and recreational activities and cultural events and facilities *(parks are public and open to County and City residents, racquet club fees don't differentiate county/city residents now, library card for City is free for residents and $40.00 for families in the County)*

f. Water services as the Area is developed. Existing water treatment and storage facilities may currently be inadequate to provide services to the annexed Area. Developers of the annexed Area are required to pay for the cost of improvements related to the extension of and connection with the City lines and systems as well as participate in additional improvements such as storage capacity and distribution as necessary for safe, reliable, and efficient water flows. *A City water meter is located on the site. City water is available upon annexation, the details of which are addressed in the draft Annexation Agreement. The property has water rights associated with it. The property would need to be annexed into the Weber Basin Conservancy District, if not already within it.*

(F) If feasible and practical, water and sewer lines shall be extended to the Area proposed for annexation. Expenses associated with such extension shall be the responsibility of the Applicant(s). The City shall determine timing and capacity of extending water to the proposed annexation area. The Snyderville Basin Water Reclamation District (SBWRD) shall determine timing and capacity of extending sewer service to the proposed annexation area.

Complies. Water is available (see above). Sewer service is available in the area. The owner is working with the SBWRD on a line extension agreement that would be necessary if the MPD is approved. Extension of the sewer and water mains would be the responsibility of the developer of the property.

(G) Before considering requests for annexation the City shall carefully analyze the impacts of annexation of an Area, taking into consideration whether the Area will create negative impacts on the City and considering whether the City can economically provide services to the annexed Area. Community issues such as location and adequacy of schools and community facilities, traffic, fire protection, particularly in Wildfire/Wildland Interface Zones, useable open space and recreation Areas, protection of Sensitive Lands, conservation of natural resources, protection of view corridors, protection and preservation of Historic resources, affordable housing, balance of housing types and ownership, adequate water and sewer capacity to serve the future needs of the proposed annexation Areas shall also be considered.

Complies. These impacts of annexation have been reviewed and analyzed (see Fiscal Analysis). There is a net benefit to the City as a result of this annexation, due to the proposed resort oriented, second home, ski-in/ski-out development, restoration of historic buildings, adaptive re-use with a highly sought after non-profit, employee housing, artist-in- residence program, enhanced ski area base for the residents of both the proposed project and the surrounding neighborhood. Other than water, criminal investigation, planning and building services, no additional city services are required. Internal streets are private. The applicant addressed these areas of impact in a fiscal analysis with a similar conclusion.

(H) Situations may exist where it is in the public interest to preserve certain lands from Development where there exist Geologic Hazards, excessive Slopes, flood plains or where the need for preservation of community open space and/or agricultural lands is consistent with the General Plan. In such circumstances, annexation may occur as a means of retaining those lands in a natural state.

Complies. This is an area of specific concern for this annexation in that several important historic mining structures are located on this site. The Park City public interest is furthered by annexation of this parcel in that these mining structures will be renovated and restored. In addition, development review and code enforcement will be the responsibility of the Park City planning and building departments, subject to the Park City Land Management Code.

(I) The City shall consider annexation of unincorporated Areas of Summit County that are within the annexation expansion Area as defined by Exhibit A.

Complies. This property is within the Park City Annexation Expansion Area, adopted by the City Council in 2003.

(J) In general, the City does not favor annexation of territory, which should be located within another municipality, nor does it favor the annexation of unincorporated territory solely for the purpose of acquiring municipal revenues, or for retarding the capacity of another municipality to annex.

Complies. The area is a logical extension of the Park City limits with existing City development on three sides. The sole purpose of this annexation is not to acquire municipal revenues or to retard the capacity of another municipality to annex this property. Provision of municipal services for this property is more efficiently provided by Park City than by Summit County.

(K) Annexations that expand the resort and/or tourist economy, provide second home or rental residential Properties, preserve environmentally Sensitive Lands, and provide significant public open space and/or community facilities are preferred.

<u>Complies.</u> This annexation is beneficial in that the proposed development is resort oriented, furthers off-season economic development, preserves and protects historic resources and sensitive lands, enhances skiing, provides open space and preserves existing trails. It is logical and reasonable to provide municipal level services to this property and to combine it with surrounding vacant property, under common ownership, as part of a Master Planned Development.

Staff finds that the proposed annexation, as outlined in the draft annexation agreement, complies with the requirements and criteria of the Park City Annexation Policy Plan, as outlined above.

F. Annexation Agreement

The Annexation Policy Plan establishes a requirement for an Annexation Agreement to be approved by the City Council to address standard conditions that must be met prior to completion of the annexation. These conditions are outlined in Section 15-8-5 C. of the Annexation Policy Plan. A written annexation agreement has been drafted (see attached) addressing these conditions. The annexation agreement assigns RDM zoning to the property and sets forth requirements and parameters for the dedication of public trail easements, road design, sewer and water development, and historic preservation and identifies that final action on the MPD, including a density determination, shall occur only after the Planning Commission finds that the MPD is in full compliance with the applicable Land Management Code requirements.

G. Departmental Review

Staff has distributed copies of the plans and plat to various service providers and all affected entities (12 sets distributed) per Section 15-8-5 (A) of the LMC. The proposal was discussed at Staff Review on January 20, March 16, and May 25, 2004. Several meetings between the applicant, staff, and various City Departments have also been held to better understand the issues. As required by the Annexation Policy Plan input regarding this annexation has been received from the Planning Director, City Engineer, Director of Public Works, Fire Marshall, Police Chief, representatives from applicable utility providers, and Park City School District Superintendent.

Recommendation:
Staff recommends the Council hold a public hearing, consider input, and approve the Spiro Tunnel Annexation and Annexation Agreement by Ordinance and amend the official Park City Zoning Map.

Exhibits
Exhibit A – Spiro Tunnel Annexation booklet (plat, plans, fiscal analysis, detailed description of the proposed MPD, water rights, historic preservation information,

employee housing analysis, etc.) (Provided under separate cover at the July 22 meeting).
Exhibit B- Annexation Ordinance and attached Annexation Agreement

Ordinance No.

AN ORDINANCE ANNEXING APPROXIMATELY 12.32 ACRES OF PROPERTY LOCATED ON THREE KINGS DRIVE IN THE SOUTHEAST QUARTER OF SECTION 8, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN, INTO THE CORPORATE LIMITS OF PARK CITY, UTAH AND AMEDNING THE OFFICIAL ZONING MAP OF PARK CITY TO INCLUDE THE ANNEXED AREA.

WHEREAS, on October 29, 2003 Paladin Development Partners, LLC with consent of the property owners, filed an annexation petition, as shown on the attached Annexation Plat, Exhibit A (Property), requesting Park City to annex the Property to the City, zoned as Residential Medium Density (RDM) subject to the Master Planned Development review process as outlined in the Land Management Code;

WHEREAS, the Property is included within the Park City Annexation Expansion Area; and

WHEREAS, the requested zoning (RDM, Residential Development Medium Density) is consistent with the Park City Land Use Plan that identifies this area as medium density residential and resort related development; and

WHEREAS, an application for a Master Planned Development was submitted with the annexation petition, that includes 8.26 acres of adjacent property currently within the Park City incorporated limits; and

WHEREAS, the MPD includes a mixed use development of condominiums, cottage units, resort related support commercial uses, renovation of historic structures, an artist-in-residence studios and office space, employee housing, a ski lift and ski runs and no development is located on sensitive lands, including naturally occurring steep slopes; and

WHEREAS, the Property has access from Three Kings Drive, a public City Street, and no new city streets are required to provide access for said Property; and

WHEREAS, Petitioners propose extraordinary fire prevention measures on site to mitigate the location in a wild land interface area and the length of the private cul-de-sac; and

WHEREAS, there are several Historic Structures located on the Property, as identified by the Alta Survey of October 23, 2003 submitted with the annexation petition, and the applicant has submitted an Historic Building Renovation Plan for said Historic Structures; and

WHEREAS, on March 14, May 12, and June 23 2004 the Planning Commission, after proper notice, conducted public hearings and on June 23, 2004 the

Planning Commission voted to forward a positive recommendation to the City Council; and

WHEREAS, on January 8, 2004, the Park City Council accepted the Spiro Tunnel petition for annexation; and

WHEREAS, the City reviewed the petition against the criteria stated in Sections 10-2-403 (2), (3), and (4) of the Utah Code, annotated 1953 as amended, and finds that the petition complies with all applicable criteria of the Utah Code; and

WHEREAS, on February 9, 2004 the City Recorder certified the annexation petition and delivered notice letters to the "affected entities" required by Utah Code, Section 10-2-405, giving notice that the petition had been certified and the required 30-day protest period had begun; and

WHEREAS, no protests have been filed by any "affected entities" or other jurisdictions; and

WHEREAS, an Annexation Agreement has been negotiated before the City and Petitioner pursuant to the Land Management Code, Section 15-8-5C setting forth further terms and conditions; and

WHEREAS, on July 22 and August 12, 2004, after proper notice, the City Council conducted public hearings and took public testimony on the matter, as required by law; and

WHEREAS, the Property is not included within any other municipal jurisdiction; and

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

SECTION 1. ANNEXATION AGREEMENT. Council hereby authorizes the Mayor to execute the Annexation Agreement in substantially the same form as is attached hereto as Exhibit B.

SECTION 2. ZONING MAP AMENDMENT. The official Zoning Map of Park City, adopted pursuant to Section 15-1-5 of the Park City Land Management Code, is hereby amended to include the Spiro Tunnel Annexation as depicted in Exhibit A.

SECTION 3. ANNEXATION. The Property is hereby annexed to the corporate limits of Park City, Utah according to the annexation and zoning plat executed in substantially the same form as it attached hereto as Exhibit A. The Property so annexed shall enjoy the privileges of Park City as described in the Annexation Agreement attached as Exhibit B and shall be subject to all City levies and assessments as described in the terms of the Annexation Agreement. The Property shall be subject to all City laws, rules and regulations upon the effective date of this Ordinance.

SECTION 4. COMPLIANCE WITH STATE LAW, GENERAL PLAN, AND ANNEXATION POLICY PLAN. This annexation meets the standards for annexation set forth in Title 10, Chapter 2 of the Utah Code, the Park City General Plan, and Land Management Code--Chapter 8: Annexation.

SECTION 5. EFFECTIVE DATE. This Ordinance shall take effect upon recordation of this Ordinance and annexation plat and filing pursuant to the Utah Code Annotated Section 10-2-425.

DATED this 12th day of August 2004.

Modified July 27, 2004
When Recorded, please return to:
PARK CITY MUNICIPAL CORPORATION
City Recorder
Post Office Box 1480
Park City, UT 84060

ANNEXATION AGREEMENT
FOR THE SPIRO TUNNEL PROPERTY

This Annexation Agreement is made by and between Park City Municipal Corporation ("Park City") and Paladin Development Partners, L.L.C., a Utah limited liability company (hereafter collectively referred to as "Petitioner") to set forth the terms and conditions under which Park City will annex land owned by Petitioner into the corporate limits of Park City and extend municipal services to that property. This Agreement is made under authority of Sections10-2-401 et. seq. of the Utah Code, Annotated 1953, as amended, and shall serve as a supplemental annexation policy declaration when executed by all parties. In consideration of Park City's agreement to annex Petitioner's property and in consideration of the mutual promises contained herein, the parties agree that the terms and conditions of annexation shall be as follows:

1. **Property**. The property to be annexed is approximately 12.32 acres in size as depicted on the annexation plat, attached as Exhibit A and as more fully described in the legal description, attached as Exhibit B, and incorporated herein by reference (hereafter referred to as the "Property").

2. **Zoning**. Upon annexation, the Property will be zoned RDM (Residential Development Medium Density) as shown on Exhibit A. The maximum density allowed by Land Management Code zoning for the MPD parcels (comprised of the Property and neighboring parcels as described at Paragraph 3 herein) is between 84 and 132 UE. Final density will be determined by the Planning Commission prior to Final Action on the MPD. Sensitive Area Overlay Zoning (SLO) will not apply to the Property

3. **Master Plan Approval and Project Phasing**. Pursuant to LMC Section 15-8-3 (D), Petitioner on October 29, 2003, submitted an application for a Master Planned Development (MPD) known as the Spiro Tunnel MPD. The proposed Spiro Tunnel MPD consists of the subject Property, an adjacent 5.26 acre RD (Residential Development) zoned parcel, and an adjacent 2.26 acre SF (Single Family) zoned parcel, known as the "Donile parcel." This Agreement does not represent approval or vesting of the proposed Spiro Tunnel MPD or any other development proposals/plans on the Property. Following completion of the annexation process pursuant to Utah Code Annotated Section 10-2-425, as amended, development of the Property shall be governed by the zoning designation provided herein and the Park City Land Management code in effect at the time a complete application is filed with Park City.

4. **Trails**. Petitioner agrees as a condition precedent to final plat approval for the Property to dedicate public non-vehicular trail easements over existing trails or relocated trails approved by Park City Municipal Corporation trail head parking and City Water Department employee's parking as required as part of the MPD review process.

5. **Fire Prevention Measures**. Because of significant wild land interface issues on the Property, the Petitioner agrees to implement a fire protection and emergency access plan, to be submitted prior to issuance of any building permits, and to be reviewed and approved by the Fire Marshall and Chief Building Official for compliance with applicable building and fire codes.

6. **Roads and Road Design**. All streets and roads within the Property shall be designed according to the City's road design standards and shall be private. Maintenance of all roads, parking, sidewalks, and pedestrian circulation shall be by the entity holding fee title to the property, or the Homeowner's Association.

7. **Sanitary Sewer**. Alignment of the sanitary sewer shall be determined as part of the final subdivision plat for the Property. The preferred alignment shall be determined by the City Engineer and the Snyderville Basin Water Reclamation District pursuant to the Park City Municipal Design Standards, Construction Specifications, Standard Drawings (latest edition) and all other requisite City Infrastructure Design Codes, which results in the least visual impact and site disturbance while meeting site design and construction requirements of the Snyderville Basin Water Reclamation District.

8. **Dedication of Water Rights**. Pursuant to the January 23, 1992 agreement between Park City Municipal Corporation and United Park City Mines Company, Petitioner is not required to dedicate water rights to City in support of this annexation petition. However, Petitioner acknowledges that water development fees will be collected by City in the same manner and in the same amount as with other development within municipal boundaries and that impact fees so collected will not be refunded to Petitioner or to individual building permit applicants developing within the proposed annexation area.

9. **Water Development Fees and Other Water System Costs**. Petitioner shall construct and dedicate all necessary water facilities and easements pursuant to the Park City Municipal Design Standards, Construction Specifications, Standard Drawings (latest edition) and all other requisite City Infrastructure Design Codes as determined by the City Engineer and Public Works Director during the final subdivision review process. All such facilities shall be constructed to specifications approved by the City Engineer. Upon completion of such facilities, easements and appurtenances all to the satisfaction of the City Engineer, the Petitioner shall dedicate the easements and water facilities to the City. As each building permit is obtained for each building within the subdivision, the lot owner shall pay the Park City Water Development fees as

provided by the Park City ordinance in effect at the time of application for building permits. The parties agree that no lot owner within the Property shall be entitled to an offset (in whole or in part) of the Park City Water Development Fee as a result of the Petitioner's successful completion of this condition.

In addition, development of the Property shall be designed around any and all existing water lines, fittings, and appurtenances, and around all tunnels and tracks necessary for the ongoing operation of the Spiro Tunnel water works, and any proposed relocations of these improvements are subject to approval by Park City, and any such relocations shall be paid for entirely by the Petitioner, together with standard inspection fees and financial securities. Petitioner shall provide on-site storm runoff detention facilities, or alternatives, as approved by the Park City Engineer pursuant to the Park City Municipal Design Standards, Construction Specifications, Standard Drawings (latest edition) and all other requisite City Infrastructure Design Codes. Timing of such storm run-off improvements shall be determined at the time of final plat approval.

10. **Historic Preservation:** An Historic Building Renovation Plan for Historic Structures on the Property, in conformance with the LMC, Historic District Guidelines, and Secretary of Interior Standards is a condition precedent to the issuance of any full building permit.

11. **Planning Review Fees**. Petitioner is responsible for all planning, building, subdivision and construction inspection fees required by the City at the time of application.

12. **Impact and Building Fees**. Petitioner shall pay all generally-applicable fees, such as development impact, park and recreation land acquisition, building permit, and plan check fees due for construction on the Property at the time of application for building permits.

13. **Acceptance of Public Improvements**. Petitioner shall offer to Park City title to those water facilities, easements and appurtenances, upon Petitioner's fulfillment of all Code requirements and Park City's final approval of the infrastructure construction.

14. **Snow Removal and Storage**. Park City is not obligated to remove snow from private streets within the Property.

15. **Fiscal Impact Analysis.** The fiscal impact analysis prepared by Wikstrom Economic and Planning Consultants, Inc, dated October 2003, and submitted with the Spiro Tunnel Annexation petition, including revenue and cost assumptions related to the annexation and development of this Property, is hereby accepted and approved by the City.

16. **Comprehensive Review and Analysis of Surrounding Property.** The comprehensive land use review and analysis of the surrounding properties, entitled

"Land Development Potential for Properties Adjacent to the Spiro Tunnel Site," dated February 12, 2004, and submitted by Petitioner with the petition for annexation is hereby accepted and approved by the City.

17. **Effective Date.** This Agreement is effective as of the date of the Ordinance authorizing its execution.

18. **Governing Law.** The laws of the State of Utah shall govern this Agreement. Jurisdiction and venue are proper in Summit County.

19. **Real Covenant, Equitable Servitude.** This Agreement constitutes a real covenant and an equitable servitude on the Property. The terms of this Agreement touch and concern and both benefit and burden the Property. The benefits and burdens of this Agreement run with the land, and are intended to bind all successors in interest to any portion of the Property.

20. **Assignment.** This Agreement is also a personal obligation of the Petitioner. Petitioner may assign its obligations under this Agreement, only upon prior written consent of the City, upon demonstration that the City's rights are adequately secured by the assignment. Consent to assignment shall rest in the sole discretion of the City.

21. **Compliance with City Code.** From the time of City Council approval of this agreement, Petitioner and his agents shall comply with all City Codes and Regulations pertaining to the subject Property.

22. **Full Agreement.** This Agreement contains the full and complete agreement of the parties regarding the Annexation and there are no other agreements in regard to the annexation of the Property. Only a written instrument signed by all parties hereto may amend this Agreement.

City Council
Staff Report

Budget, Debt, and Grants

Author: Gary Hill
Subject: AMENDMENT TO RDA MITIGATION AGREEMENT WITH THE PARK CITY SCHOOL DISTIRCT
Date: August 12, 2004
Type of Item: Legislative

Summary Recommendations: In order to extend the Main Street Redevelopment Agency (RDA) project area, Council should convene the Park City RDA and approve a Resolution authorizing the execution of an agreement which amends the mitigation agreement (stipulation) with the Park City School District to extend the term of the sunset date of the RDA to 2021 (15 years)

Description:

Topic:

Extension of the Main Street RDA and amendment of the RDA agreement with the Park City School District

Background:

As a part of this year's budget process, Council adopted a Capital Improvement Plan that included funding for expansion of the Swede Alley Parking Structure, construction of a Town Plaza, and reconstruction of Prospect Avenue. It was determined that the City would need to extend the period of time during which tax increment could be collected from the Main Street RDA project area in order to finance these projects. This extension will require the approval of the other affected taxing entities and will be accomplished through a Taxing Entity Committee (TEC) created by the RDA Board (i.e. City Council) on July 1, 2004. In addition to approval from the TEC, the RDA Board will also need to amend an agreement created in 1983 with the School District.

In March of 1983, the Park City Redevelopment Agency and the Park City School District entered into an out-of-court agreement (Stipulation) concerning the validity and continuation of the Park City RDA. The stipulation set forth the length of time that the Main Street Project Area would operate and capped the amount of increment that could be captured by the Project Area at one million dollars ($1,000,000) annually.

The Stipulation has been amended two times since 1983. In 1986 it was changed to extend the sunset date of the RDA through 2005 and introduced the requirement that the RDA would repay a portion of the School District's property tax levy. This mitigation payment only applies to the District's capital outlay, debt service, and voted leeway levies, which constitutes approximately 60% of the School District's total levy. The City currently provides this mitigation payment to the School District each spring. The 1986 amendment also provided that the RDA shall net at least $700,000 after the mitigation payment, and that the $1 million cap could be increased for that year to do so.

The Stipulation was amended a second time in 1992. This Second Amendment increased the total amount of increment that could be collected by $300,000 to $1.3 million. To mitigate the increased cap, the RDA agreed to make an additional annual payment of $80,000 to the School District.

Because the Second Amendment to the Stipulation includes a 2005 sunset date for the Main Street RDA project area, it will be necessary to amend the agreement a third time to incorporate the new end date.

Analysis:

The Third Amendment to the Stipulation sets the new date for expiration of the Main Street RDA in 2021 (see Section 1 of the attached resolution). This will allow the City to collect tax increment sufficient for construction of the Downtown Enhancement Projects described above.

The proposed amendment also formalizes that the minimum amount the RDA may collect (after the School mitigation payment) is $920,000 (see Section 2 of the attached resolution). As previously mentioned, the 1986 amendment set the figure at $700,000. In 1992, however, it was agreed that the RDA could collect an additional $220,000 each year (after the $80,000 mitigation payment to the School District). The Third Amendment will formalize the RDA's ability to net $920,000 each year.

Staff feels this clarification is important to ensure that the City is able to meet bond payment obligations. If, because of tax rate adjustments, tax collection problems, or valuation changes, the mitigation payment to the School District does not otherwise permit the RDA to net $920,000, the RDA will have the ability to request up to $1,500,000. This change to the Stipulation will also be approved by the other taxing entities through the TEC resolution.

All other sections included in the 3rd Amendment are reiterations of important points made in the original Stipulation or its subsequent amendments and ensure that the remainder of the agreement does not vary from current practice.

The Park City School Board is scheduled to adopt the 3rd Amendment at its next meeting on August 17th.

Department Review:
Budget, Debt, and Grants; City Manager; Legal

Alternatives:

Approve the Request:
Council should convene the Park City Redevelopment Agency and approve a resolution amending the RDA Mitigation Agreement (Stipulation) with the Park City School District to extend the sunset date of the Main Street Project Area and make other technical adjustments.

Deny the Request:
Council could deny the request and allow the Main Street RDA project area to expire in FY 2007. This would require the City to reprioritize the CIP and/or seek alternative funding sources for the City's capital improvements (see Consequences below).

Continue the Item:
Council could continue the item until another date. The next Council meeting is August 26th, which is after the proposed date for a meeting with the TEC. Although not necessary, staff believes it is preferable to have the Stipulation agreement in place before the TEC vote, so this option is not recommended.

Do Nothing:
Council could do nothing. This would have the same impact as denying the request.

Significant Impacts:
An extension of the Main Street RDA project area would have a negligible fiscal impact on the City as no new administrative requirements would be imposed. The amended Stipulation would in fact provide a more firm foundation to the City's use RDA increment as a funding source.

Consequences of not taking the recommended action:
If Council decides not to pursue an amendment to the Stipulation, the City will be unable to extend the RDA. Several of the City's CIP projects would then need to be reprioritized in order to meet available funding. It is likely that without funding from the extended RDA, a few of the projects approved this year would need to be postponed until sufficient funds could be identifies or abandoned altogether.

Recommendation:
Staff recommends that City convene the Park City Redevelopment Agency and approve a resolution amending to the RDA Mitigation Agreement (Stipulation) with the Park City School District to extend the sunset date of the Main Street Project Area to 2021 (15 years) and make other technical adjustments.

This action will ensure that the RDA's agreement with the School District and the resolution to be adopted by the TEC are uniform.

Attachments:
1 – Resolution approving the Third Amendment to the RDA Mitigation Agreement (Stipulation) with the Park City School District

2 – Third Amendment to the RDA Mitigation Agreement

3 – Original Stipulation with 1st and 2nd Amendments

Resolution No.

A RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT WHICH AMENDS THE MITIGATION AGREEMENT (STIPULATION) WITH THE PARK CITY SCHOOL DISTRICT TO EXTEND THE TERM OF THE SUNSET DATE OF THE RDA TO 2021 (15 YEARS) AND MAKE OTHER ADJUSTMENTS

WHEREAS, on March 25, 1983, the School District and the RDA entered into an agreement resolving a dispute between them, in the form of a stipulation entered in the lawsuit entitled The Board of Education of the Park City School District v. The Redevelopment Agency of Park City, et al., in the Third District Court for Summit County, Civil No. 7051 (the "Stipulation", a copy of which is attached as Exhibit "A" hereto); and

WHEREAS, the terms of the Stipulation placed a ceiling on the amount of tax increment funding and the time during which tax increment could be taken by the RDA from the Main Street/Swede Alley Project Area (the "Project Area"); and

WHEREAS, on January 29, 1986, the School District and the RDA entered into an Amendment to the Agreement of March 1983 (the "First Amendment", a copy of which is attached hereto as Exhibit "B") modifying the terms of the Stipulation to (among other things) increase the term for taking tax increment from the Project Area and provide for a mitigation payment to the School District; and

WHEREAS, on July 1, 1992, the School District and the RDA entered into a Second Amendment to the Agreement of March 1983 (the "Second Amendment", a copy of which is attached hereto as Exhibit "C") modifying the terms of the Stipulation and the First Amendment to (among other things) raise the ceiling on the annual tax increment taken by RDA and increase the mitigation payment to the School District; and

WHEREAS, as provided in the Utah Redevelopment Agencies Act (Title 17B, Chapter 4 of the Utah Code), the RDA has called for a Tax Entity Committee (the "Tax Entity Committee") to be formed for the purpose of extending the time for the RDA to collect tax increment from the Project Area and, in contemplation of such extension, the RDA and the School District desire to further amend the agreement of the parties in the Stipulation, as heretofore amended by the First Amendment and Second Amendment, by entering into this Third Amendment.

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

SECTION 1. EXECUTION OF AGREEMENT. The Park City RDA approves and executes the agreement with the Park City School District included with this Resolution as Attachment A

SECTION 2. EFFECTIVE DATE. This Resolution shall take effect upon execution.

PASSED AND ADOPTED the 12^{th} day of August, 2004.

THIRD AMENDMENT TO
AGREEMENT OF MARCH 1983

This Third Amendment to Agreement of March 1983 (the "Third Amendment") is entered into by the BOARD OF EDUCATION OF THE PARK CITY SCHOOL DISTRICT (the "School District") and the REDEVELOPMENT AGENCY OF PARK CITY (the "RDA") this ______ day of ______, 2004.

WHEREAS, on March 25, 1983, the School District and the RDA entered into an agreement resolving a dispute between them, in the form of a stipulation entered in the lawsuit entitled The Board of Education of the Park City School District v. The Redevelopment Agency of Park City, et al., in the Third District Court for Summit County, Civil No. 7051 (the "Stipulation", a copy of which is attached as Exhibit "A" hereto); and

WHEREAS, the terms of the Stipulation placed a ceiling on the amount of tax increment funding and the time during which tax increment could be taken by the RDA from the Main Street/Swede Alley Project Area (the "Project Area"); and

WHEREAS, on January 29, 1986, the School District and the RDA entered into an Amendment to the Agreement of March 1983 (the "First Amendment", a copy of which is attached hereto as Exhibit "B") modifying the terms of the Stipulation to (among other things) increase the term for taking tax increment from the Project Area and provide for a mitigation payment to the School District; and

WHEREAS, on July 1, 1992, the School District and the RDA entered into a Second Amendment to the Agreement of March 1983 (the "Second Amendment", a copy of which is attached hereto as Exhibit "C") modifying the terms of the Stipulation and the First Amendment to (among other things) raise the ceiling on the annual tax increment taken by RDA and increase the mitigation payment to the School District; and

WHEREAS, as provided in the Utah Redevelopment Agencies Act (Title 17B, Chapter 4 of the Utah Code), the RDA has called for a Tax Entity Committee (the "Tax Entity Committee") to be formed for the purpose of extending the time for the RDA to collect tax increment from the Project Area and, in contemplation of such extension, the RDA and the School District desire to further amend the agreement of the parties in the Stipulation, as heretofore amended by the First Amendment and Second Amendment, by entering into this Third Amendment; and

WHEREAS, the terms of this Third Amendment have been approved by the governing bodies of the RDA (on August 12, 2004) and of the School District (on August 17, 2004).

Now therefore, in consideration of the mutual promises made herein and other valuable consideration (the receipt and sufficiency of which is hereby acknowledged), the School District and the RDA hereby agree as follows (terms defined in the foregoing recitals shall have the same meaning when used in the body hereof):

1. The RDA may continue to receive tax increment from the Project Area through and including the tax collections for the year 2021.

2. The annual amount of tax increment taken will not exceed the lesser of (a) $1,500,000 per year, including the mitigation payment to the School District, or (b) such amount as shall be necessary to provide the RDA with tax increment revenues, net of the mitigation payments hereunder, of $920,000 per year. The intent of the parties hereto is that each year the RDA will request from Summit County $1,300,000 of tax increment revenues from the Project Area. If, because of tax rate adjustments, tax collection problems, or valuation changes, the $1,300,000 does not permit the RDA to net $920,000 after the mitigation payment, the RDA may request up to $1,500,000 (or the mitigation payment may be decreased, at the School District's option) to allow the RDA to net $920,000 after payment of the mitigation to the School District.

3. As provided in the Second Amendment and continuing hereunder, each year until the termination of the RDA's receipt of tax increment from the Project Area (final payment expected to be from the 2021 tax year), the RDA will make an annual payment to the School District to mitigate the impact of tax increment financing on the School District's [capital outlay and debt service budget and voted leeway.] The School District and the RDA agree that the RDA has no direct effect on the operating, transportation, tort or other budgets of the School District. The annual mitigation payment is authorized under Section 17B-4-1008 of the Utah Code.

For the first $1 million in tax increment taken by the RDA, the amount of the mitigation payment will be equal to the net tax collection (adjusted for delinquencies and redemptions) that would have been received by the School District based on its [capital outlay and debt service tax rate, and its voted leeway tax rate, had the RDA not taken increment that year. The RDA will make an additional annual mitigation payment to the School District of $80,000 from the additional tax increment above $1,000,000 taken annually by the RDA. The amount of the mitigation payment is estimated to be in the range of $330,000 to $380,000 annually based on current tax rate ceilings.

This obligation to make mitigation payments is contingent upon the RDA receiving tax increment and the RDA legislation remaining substantially as it now exists. If legislation is adopted or judicial decisions made which eliminate the RDA's ability to take tax increment on taxes levied by school districts, or on the minimum school levy (Uniform School Fund), the obligation to make mitigation payments shall terminate when that legislation or judicial decision begins to reduce the RDA's ability to take increment (which may be different from the effective date of the legislation or decision due to bonded debt outstanding). The intention of the School District and the RDA is to mitigate only the [capital and debt service budget and voted leeway] of the School

District, and to allow the RDA to take increment from the transportation, tort and minimum school portions of the budget.

4. The annual increment received each year by the RDA will be allocated first to the repayment of principal and interest on RDA bonds and other obligations as payments become due, then to the funding of any deficiency in bond reserve funds, then to the mitigation payment to the School District, and then to the operating expenses of the RDA, in that order, so that bond holders, if any, are given priority on the available funds in the event of a shortfall.

5. The limitations on increment and the mitigation payments are not to be construed as precluding any future adjustments in the increment taken or the manner of mitigating impacts, including the use of the mitigation payment or additional increment to finance jointly operated community service or recreation facilities if allowed by law.

6. Except as specifically provided in this Third Amendment, the Stipulation, as previously amended by the First Amendment and the Second Amendment, will remain in full force and effect.

7. The tax increment taken by the RDA pursuant to this Third Amendment is intended to be at or below the maximum increment allowed by applicable statute and the resolution adopted or expected to be adopted by the Tax Entity Committee for the RDA. A copy of this Third Amendment and the Resolution of the Tax Entity Committee will be submitted to the County Treasurer and County Auditor, and tax collections will be distributed in accordance with this Third Amendment and such Resolution.

8. This Third Amendment shall take effect immediately upon execution by the parties hereto. This Third Amendment shall not be amended or rescinded, except in writing approved by the governing bodies of the parties hereto.

SECOND AMENDMENT TO
AGREEMENT OF MARCH 1983

This Second Amendment to Agreement of March 1983 (the Second Amendment) is entered into by the PARK CITY SCHOOL DISTRICT (the School District) and the REDEVELOPMENT AGENCY OF PARK CITY (the RDA) this 1st day of July, 1992.

On March 25, 1983, the School District and the RDA entered into an agreement resolving a dispute between them. The agreement took the form of a stipulation entered in the lawsuit entitled The Board of Education of the Park City School District v. The Redevelopment Agency of Park City, et al., in the Third District Court for Summit County, Civil No. 7051 (the Stipulation, a copy of which is attached as Exhibit A hereto). The terms of the Stipulation placed a ceiling on the amount of tax increment funding that could be taken by the RDA from the Main Street/ Swede Alley Project Area, and also placed a term limit on the project.

On January 29, 1986, the parties entered into an Amendment to Agreement of March 1983 (which is herein referred to as the "Amendment") modifying the terms of the Stipulation, and the Amendment was included as part of an additional Stipulation and Order which was signed by the parties and approved by the court on July 19, 1988 (the Stipulation and Order with the Amendment attached thereto is Exhibit "B" hereto). The primary purpose of the Amendment was to increase the term of the Main Street/ Swede Alley redevelopment project area to and including property tax collections for the year 2005. The School District and the RDA now desire to further amend the Stipulation as amended by the Amendment.

In consideration of the mutual promises made herein and other valuable consideration, the parties now further amend the Stipulation and the Amendment as follows:

1. The ceiling on the amount of annual tax increment taken by the RDA is raised from $1 million per year to $1.3 million per year, which amount includes the mitigation payment to the School District.

2. The amount of the mitigation payment called for in the Stipulation and Amendment will be calculated on the same basis as called for in the Stipulation and Amendment as to the first $1 million in tax increment taken by the RDA. The RDA will make an additional annual mitigation payment to the School District of $80,000 from the additional $300,000 taken annually by the RDA. The total annual mitigation payment by the RDA to the School District, therefore, will be increased by $80,000 above the mitigation paid under the current formula.

3. The additional tax increment taken by the RDA will be expended for public improvements including streets, utility mains and services, storm drainage, parkways, and similar improvements in the RDA district area.

4. Except as specifically provided in this Second Amendment, the Stipulation, as previously amended by the Amendment, will remain in full force and effect.

5. This amendment will take effect for the property tax collections for the 1992 tax year, payable in November of 1992.

6. The tax increment taken by the RDA pursuant to this Second Amendment is below the maximum increment allowed by applicable statute. A copy of this Second Amendment will be submitted to the County Treasurer and County Auditor, and tax collections will be distributed in accordance with this agreement.

Dated this 1st day of July, 1992.

PARK CITY SUMMIT COUNTY UTAH
CORPORATE
Seal
MARCH 1,
1884

REDEVELOPMENT AGENCY OF PARK CITY

BRADLEY A. OLCH, CHAIRMAN

ATTEST:

ANITA L. SHELDON, SECRETARY

BOARD OF EDUCATION OF THE PARK CITY SCHOOL DISTRICT

BY:

ATTEST:

Business Administrator

EXHIBIT A TO SECOND AMENDMENT
TO AGREEMENT

THOMAS E. CLYDE
City Attorney
PARK CITY MUNICIPAL CORPORATION
P. O. Box 1480
Park City, Utah 84060
Phone: (801) 649-9321

IN THE THIRD JUDICIAL DISTRICT COURT OF SUMMIT COUNTY
STATE OF UTAH

THE BOARD OF EDUCATION OF PARK CITY SCHOOL DISTRICT, Plaintiff, vs. THE REDEVELOPMENT AGENCY OF PARK CITY, and PARK CITY, a Municipality of the State of Utah Defendants.	STIPULATION Civil No. 7051

The parties to this action by and through their attorneys of record hereby stipulate to the following:

1. The Park City Redevelopment Agency is a validly formed and existing redevelopment agency under the provisions of the Utah Code Annotated, Section 11-19-1 et seq., known as the Neighborhood Development Act. The Agency was formed effective April 20, 1977; any defects which may exist in the formation process of either the Agency or the Main Street/Swede Alley project area are of a technical nature and are barred by the statute of limitations.

2. The project area of the Park City Redevelopment Agency, as it has been amended from time to time, is a validly constituted project area within the definitions of the Act. The project area boundaries as of the 1982

amendments to the project area are shown on the attached map, which is incorporated into this Stipulation.

3. The Redevelopment Agency of Park City is entitled to receive tax increment distributions as provided in the Act. Increment is available from all property within the project area based on the increase in assessed valuation from the base year of 1978.

4. The Agency agrees to voluntarily limit its outstanding obligations, and therefore, the increment which can be captured each year under the Act, to one million dollars ($1,000,000) each year beginning with the tax collections for the calendar year 1983 (which will be disbursed by the County Treasurer in December of 1983, or January of 1984). Beginning with tax payments for 1983 property taxes, and continuing for a period of six (6) tax collection years, through and including taxes collected for calendar year 1988 (which may not be disbursed by the County until early in 1989), the maximum increment captured will be one million dollars ($1,000,000) for each year.

5. At the conclusion of the payment of 1988 property taxes, the Agency agrees that it will capture no more increment with respect to the existing Main Street/Swede Alley project area, which includes Deer Valley. Nothing in this agreement shall be construed as limiting the ability of the Agency to form one additional project area within Park City under the procedures then in effect set forth in the Act, or from capturing increment with respect to any

subsequently formed project area, provided that the statutory procedures for establishing a new project area are followed. Only one additional project area, not exceeding 100 acres of contiguous, privately owned, locally assessed property may be formed by the Agency while increment is being captured with respect to the present project area, but no increment shall be captured from the new project area while increment is being captured from the Main Street/Swede Alley project area. No ceiling is imposed on the increment captured with respect to any future project areas after the collection of property taxes for 1988 and the School Board is not precluded from challenging the formation of any new project areas and the compliance with the substantive and procedural requirements of the Act.

6. In the event of legislative changes to the Act, or judicial decisions construing the Act, which have the effect of removing all or a portion of the property tax levies of the School Board from the available increment, so that the total available increment will not yield one million dollars ($1,000,000) to the Park City Redevelopment Agency, the 1988 date will be extended as necessary. The extension of the date shall be such that the lesser available increment can be captured over a longer period of time, so that the total of six million dollars ($6,000,000) together with a factor for additional interest can be captured with respect to the present Main Street/Swede Alley project area after the payment and collection of the 1982 property tax collections.

The interest factor shall allow the capture of additional increment in an amount equal to the difference between the one million dollar ($1,000,000) ceiling and the lesser available increment, multiplied by 12% per annum over the extended time period, or at the actual rate of interest being paid, if different. The Agency fully intends to complete the present project within the six year period, and this additional increment to cover an extension if time shall be used only when necessary in the event of legislative or judicial actions affecting the availability of increment as now defined in the Act.

7. By written agreement, the Agency and the School Board may agree to use the additional available increment for the purposes of jointly operating or constructing facilities for general public uses as permitted in the Act. In the event that such an agreement is entered into, the obligation of the Agency under that agreement shall be construed and structured as additional debt of the Agency, and additional increment, over and above the agreed ceiling of one million dollars ($1,000,000), may be captured for that agreed purpose. No such agreement shall result in the total annual increment captured by the Agency exceeding the sum of one and one half million dollars ($1,500,000) annually in order to prevent such an agreement from creating a hardship for other taxing entities, particularly the Park City Fire Protection District, which has a mill levy ceiling

of four (4) mills, and cannot raise its levy to compensate for the additional increment captured.

8. The unused portion of the available increment will be left in the general collection process and distributed by the County to the various taxing entities in accordance with the provisions of the Act and the other statutes affecting the collection and disbursement of property tax collections.

10. At the time this Stipulation is entered the 1983 General Session of the Utah Legislature has adopted amendments to the Act which have not yet been signed by the Governor and are not yet effective. These amendments may have the effect of limiting available increment to less than the one million dollar ceiling, and are within the provisions of this agreement that create an extension of time, if in fact the increment is reduced below the ceiling. By entering into this stipulation, the Park City School Board is not in any way, waving the application of the newly adopted legislation, assuming it becomes law, to the operation of the Park City Redevelopment Agency, its Main Street/Swede Alley project area, or any subsequently formed project areas.

11. All other claims raised by the pleadings now on file in this matter should be dismissed with prejudice, with each party to bear its own costs and fees.

DATED this 25th day of March, 1983.

PARK CITY REDEVELOPMENT AGENCY

By: John C. Green, Jr., Chairman

Attest:

Thomas E. Clyde
Deputy Secretary

PARK CITY MUNICIPAL CORPORATION

By: John C. Green, Jr., Mayor

Attest:

~~Janet M. Scott~~
~~Deputy~~ City Recorder

BOARD OF EDUCATION OF PARK CITY
SCHOOL DISTRICT

By: Gary Avise, President

Attest:

Approved and submitted by Counsel:

Thomas E. Clyde
Attorney for Defendants

Dan S. Bushnell
Attorney for Plaintiff

This above Stipulation was reviewed by the Court and the terms thereof are approved by the Court in the form and substance as being in the public interest as a resolution of this dispute between public entities.

APPROVED this 28 day of March, 1983.

J. Dennis Frederick
District Judge

THOMAS E. CLYDE
City Attorney
PARK CITY MUNICIPAL CORPORATION
P. O. Box 1480
Park City, Utah 84060
Phone: (801) 649-9321

IN THE THIRD JUDICIAL DISTRICT COURT OF SUMMIT COUNTY
STATE OF UTAH

THE BOARD OF EDUCATION OF PARK CITY SCHOOL DISTRICT, Plaintiff, vs. THE REDEVELOPMENT AGENCY OF PARK CITY, and PARK CITY, a Municipality of the State of Utah Defendants.	FINDINGS AND ORDER Civil No. 7051

Being fully apprised of the matter at hand by virtue of the pleadings now on file and the previous arguments before the Court, and on the basis of the Stipulation of the Parties, which has been approved by the Court, the Court now makes the following findings:

1. The Park City Redevelopment Agency was formed and established by an ordinance of the City Council, adopted April 20, 1977 and recorded October 17, 1978 in the records of the Summit County City Recorder. Any defects whch might exist in the formation and organization of the Agency and adoption of the project area are of a technical nature only, and are barred by the statute of limitations. The Agency is valid as now constituted, established April 20, 1977, with 1978 at its base year for assessed valuations.

2. The Agency is entitled to receive tax increment from the assessed valuation of the property within the project area based on the assessed valuation for tax year 1978 in accordance with the provisions of the Act.

3. The parties have voluntarily compromised their differences in other regards, as set forth in the Stipulation and all other claims raised should be dismissed with prejudice.

WHEREFORE, based upon the foregoing Findings and the Stipulation of the Parties, the Court orders:

1. This action should be and is hereby dismissed in its entirety, with prejudice on all counts, causes of action, and claims that were raised herein or which could have been raised herein by the parties.

2. Each party is to bear its own costs and fees.

BY THE COURT, this 28 day of March, 1983.

J. Dennis Frederick
District Judge

Approved as to form and content:

Dan Bushnell

Thomas E. Clyde

L. R. Gardiner, Jr. (A-1148)
CHAPMAN AND CUTLER
Attorneys for Plaintiff
50 South Main Street
Eighth Floor
Salt Lake City, Utah 84144
Telephone: (801) 533-0066

IN THE THIRD JUDICIAL DISTRICT COURT OF SUMMIT COUNTY

STATE OF UTAH

THE BOARD OF EDUCATION OF PARK CITY SCHOOL DISTRICT, Plaintiff, -v- THE REDEVELOPMENT AGENCY OF PARK CITY and PARK CITY, a Municipality of the State of Utah, Defendants.	STIPULATION and ORDER Civil No. 7051

STIPULATION

The undersigned, being duly authorized as counsel for the respective parties to this case, hereby enter their appearance in this case, and the parties, through their respective counsel, stipulate that the parties entered into a written stipulation dated March 25, 1983, which is on file in this case and which was approved by the Court on March 28, 1983, but the order of the Court on that stipulation did not specifically provide for dismissal or conclusion of the case; and due to various circumstances, the parties have provided for amendment of said stipulation and hereby stipulate that the stipulation dated March 25, 1983, is amended as provided in the written instrument executed by the parties and entitled "Amendment to Agreement of March 1983," a copy of which is attached hereto and made a part of this Stipulation, and that the following order may be entered by the Court to conclude this case.

DATED July 19, 1988.

CHAPMAN AND CUTLER

By /S/ L.R. GARDINER, JR.
L. R. Gardiner, Jr.

Attorneys for Plaintiff

CRAIG G. SMITH

/S/ CRAIG G. SMITH
Craig G. Smith

Attorney for Defendants

ORDER

Upon the foregoing Stipulation and good cause appearing,

IT IS HEREBY ORDERED that the items set forth in the stipulation dated March 25, 1983, as modified by the above Stipulation which incorporates the written "Amendment to Agreement of March 1983" (a copy of which is attached hereto and made a part hereof), are hereby adopted as the Order and Judgment of this Court, and all other claims raised by the pleadings in this case are dismissed with prejudice, each party to bear its own costs.

DATED: July 19, 1988.

BY THE COURT:

/S/ Michael R. Murphy
Michael R. Murphy
District Judge

AMENDMENT TO AGREEMENT

OF MARCH 1983

In March of 1983, the PARK CITY SCHOOL DISTRICT (School Board), and the REDEVELOPMENT AGENCY OF PARK CITY, (RDA) reached an agreement concerning the validity and continuation of the Redevelopment Agency. The parties have operated under that agreement since that time, but now desire to make certain changes in the terms of this agreement. The March 1983 Agreement took the form of a Stipulation entered in a lawsuit entitled The Board of Education of the Park City School District v The Redevelopment Agency of Park City, and Park City, Third District Court for Summit County, Civil Number 7051. The terms of that Agreement placed a ceiling on the tax increment which could be taken on an annual basis for the Main Street/Swede Alley project area and also put a time limit on the taking of increment for that project area. The 1983 Agreement was predicated in part on the assumption by RDA that a number of property transactions then under negotiation would be brought to a close within the summer of 1983 at prices reflective of the 1983 market. Since that time, the general market conditions have deteriorated and the transactions contemplated in 1983 have either been deferred or have failed to close. The School District recognizes that the long term benefits of a successful RDA project are substantial for the School District as well as other taxing entities within Summit County, and desires to facilitate the success of that project while at the same time mitigating the short term adverse effects the project area has on the School Board. The parties have agreed to amend the 1983 Agreement as follows:

1. The School Board and RDA agree that RDA may continue to take increment on the Main Street/Swede Alley project area through and including the tax collections for the year 2005 subject to the other limitations contained in this Agreement.

2. The annual amount of tax increment taken will not exceed a total of One Million ($1,000,000) Dollars per year including the mitigation payment to the School District, so long as the net increment received by RDA is not less than $700,000 per year. If, because of mill levy adjustments, tax collection problems, or valuation changes, the $1 million ceiling does not permit RDA to net $700,000 after the mitigation payment, the ceiling will be increased (or the mitigation payment decreased, at the School Board's option) to allow RDA to net $700,000 after payment of the mitigation to the School Board. The One Million is the minimum increment, even if that nets Redevelopment Agency more than $700,000.

3. Beginning with the tax collections for 1989, and continuing thereafter until the termination of the project area in 2005, the RDA will make an annual payment to the School District to mitigate the impact of tax increment financing on the School District's capital outlay and debt budget and voted leeway. The parties agree that the RDA has no direct effect on the operating, transportation, tort or other budgets of the School District. The annual mitigation payment as authorized under Section 11-19-33 of the Utah Code.

The amount of the mitigation payment will be equal to the net tax collection (adjusted for delinquencies and redemptions) that would have been received by the School District based on its capital outlay and debt mill levy, and its voted leeway mill levy, had the RDA not taken increment that year. The amount of the mitigation payment is estimated to be in the range of $250,000 to $300,000 annually based on current mill levy ceilings.

This obligation to make mitigation payments is contingent upon the RDA receiving tax increment and the RDA legislation remaining substantially as it now exists. If legislation is adopted or judicial decisions made which eliminate the RDA's ability to take tax increment on school funds, or on the minimum school levy (Uniform School Fund), the obligation to make mitigation payments would terminate when that legislation or judicial decision begins to reduce Redevelopment Agency's ability to take increment (which may be different from the effective date of the legislation or decision due to bonded debt outstanding). The intention of the parties is to mitigate only the capital and debt budget and voted leeway of the School District, and to allow the RDA to take increment from the transportation, tort, and minimum school portions of the budget.

4. The annual increment received eadh year by the RDA will be allocated first to the repayment of principal and interest on RDA bonds as payments become due, then to the funding of or any deficiency in bond reserve funds, then to the mitigation payment to the School District, and then to the operating expenses of the RDA, in that order, so that bond holders, if any, are given priority on the available funds in the event of a shortfall.

5. The limitations on increment and the mitigation payments are not to be construed as precluding any future adjustments in the increment taken or the manner of mitigating impacts, including the use of the mitigation payment or additional increment to finance jointly operated community service or recreation facilities if allowed by law.

6. Except as specifically amended by this Agreement, the terms of the March 25, 1983 Stipulation will remain in full force and effect.

Dated this 29th day of January, 1986.

REDEVELOPMENT AGENCY OF PARK CITY

By Hal W. Taylor
Hal W. Taylor
Chairman

Attest:

Thomas E. Clyde
Deputy Secretary

BOARD OF EDUCATION OF THE
PARK CITY SCHOOL DISTRICT

By Ralph Hale
Ralph Hale, President

Attest:

Bill Sampson
Bill Sampson
Business Administrator

STATE OF UTAH)
) ss.
COUNTY OF SUMMIT)

On the 29 day of January, 1986, personally appeared before me, Hal W. Taylor, and Thomas E. Clyde, who being duly sworn did say, each for themselves, that he the said Hal W. Taylor is the Chairman, and he, the said Thomas E. Clyde is the Deputy Secretary of Park City Redevelopment Agency, and that the within and foregoing instrument was signed in behalf of said corporation by authority of a resolution of its Agency and they duly acknowledged to me that said corporation executed the same and that the seal affixed is the seal of said corporation.

Sandra C. King
Notary Public

Residing at: Park City
My commission expires: 1-23-88

STATE OF UTAH)
) ss.
COUNTY OF SUMMIT)

On the 24th day of January, 1986, personally appeared before me Ralph Hale, and Bill Sampson, who being duly sworn did say each for themselves, that he the said Ralph Hale is the President, and he the said Bill Sampson is the Business Administrator of the Board of Education of the Park City School District, and that the within and foregoing instrument was signed in behalf of said corporation by authority of a resolution of its Board of Directors and he duly acknowledged to me that said corporation executed the same and that the seal affixed is the seal of said corporation.

Robyn Davis
Notary Public

Residing at: Park City, Utah
My commission expires: March 13, 1988

COPY

AMENDMENT TO AGREEMENT

OF MARCH 1983

In March of 1983, the PARK CITY SCHOOL DISTRICT (School Board), and the REDEVELOPMENT AGENCY OF PARK CITY, (RDA) reached an agreement concerning the validity and continuation of the Redevelopment Agency. The parties have operated under that agreement since that time, but now desire to make certain changes in the terms of this agreement. The March 1983 Agreement took the form of a Stipulation entered in a lawsuit entitled The Board of Education of the Park City School District v The Redevelopment Agency of Park City, and Park City, Third District Court for Summit County, Civil Number 7051. The terms of that Agreement placed a ceiling on the tax increment which could be taken on an annual basis for the Main Street/Swede Alley project area and also put a time limit on the taking of increment for that project area. The 1983 Agreement was predicated in part on the assumption by RDA that a number of property transactions then under negotiation would be brought to a close within the summer of 1983 at prices reflective of the 1983 market. Since that time, the general market conditions have deteriorated and the transactions contemplated in 1983 have either been deferred or have failed to close. The School District recognizes that the long term benefits of a successful RDA project are substantial for the School District as well as other taxing entities within Summit County, and desires to facilitate the success of that project while at the same time mitigating the short term adverse effects the project area has on the School Board. The parties have agreed to amend the 1983 Agreement as follows:

1. The School Board and RDA agree that RDA may continue to take increment on the Main Street/Swede Alley project area through and including the tax collections for the year 2005 subject to the other limitations contained in this Agreement.

2. The annual amount of tax increment taken will not exceed a total of One Million ($1,000,000) Dollars per year including the mitigation payment to the School District, so long as the net increment received by RDA is not less than $700,000 per year. If, because of mill levy adjustments, tax collection problems, or valuation changes, the $1 million ceiling does not permit RDA to net $700,000 after the mitigation payment, the ceiling will be increased (or the mitigation payment decreased, at the School Board's option) to allow RDA to net $700,000 after payment of the mitigation to the School Board. The One Million is the minimum increment, even if that nets Redevelopment Agency more than $700,000.

3. Beginning with the tax collections for 1989, and continuing thereafter until the termination of the project area in 2005, the RDA will make an annual payment to the School District to mitigate the impact of tax increment financing on the School District's capital outlay and debt budget and voted leeway. The parties agree that the RDA has no direct effect on the operating, transportation, tort or other budgets of the School District. The annual mitigation payment as authorized under Section 11-19-33 of the Utah Code.

The amount of the mitigation payment will be equal to the net tax collection (adjusted for delinquencies and redemptions) that would have been received by the School District based on its capital outlay and debt mill levy, and its voted leeway mill levy, had the RDA not taken increment that year. The amount of the mitigation payment is estimated to be in the range of $250,000 to $300,000 annually based on current mill levy ceilings.

This obligation to make mitigation payments is contingent upon the RDA receiving tax increment and the RDA legislation remaining substantially as it now exists. If legislation is adopted or judicial decisions made which eliminate the RDA's ability to take tax increment on school funds, or on the minimum school levy (Uniform School Fund), the obligation to make mitigation payments would terminate when that legislation or judicial decision begins to reduce Redevelopment Agency's ability to take increment (which may be different from the effective date of the legislation or decision due to bonded debt outstanding). The intention of the parties is to mitigate only the capital and debt budget and voted leeway of the School District, and to allow the RDA to take increment from the transportation, tort, and minimum school portions of the budget.

4. The annual increment received eadh year by the RDA will be allocated first to the repayment of principal and interest on RDA bonds as payments become due, then to the funding of or any deficiency in bond reserve funds, then to the mitigation payment to the School District, and then to the operating expenses of the RDA, in that order, so that bond holders, if any, are given priority on the available funds in the event of a shortfall.

5. The limitations on increment and the mitigation payments are not to be construed as precluding any future adjustments in the increment taken or the manner of mitigating impacts, including the use of the mitigation payment or additional increment to finance jointly operated community service or recreation facilities if allowed by law.

6. Except as specifically amended by this Agreement, the terms of the March 25, 1983 Stipulation will remain in full force and effect.

Dated this 26th day of January, 1986.

REDEVELOPMENT AGENCY OF PARK CITY

By Hal W. Taylor

Hal W. Taylor
Chairman

Attest:

Thomas E. Clyde
Deputy Secretary

BOARD OF EDUCATION OF THE
PARK CITY SCHOOL DISTRICT

By Ralph Hale

Ralph Hale, President

Attest:

Bill Sampson

Bill Sampson
Business Administrator

STATE OF UTAH)
) ss.
COUNTY OF SUMMIT)

On the 29 day of January, 1986, personally appeared before me, Hal W. Taylor, and Thomas E. Clyde, who being duly sworn did say, each for themselves, that he the said Hal W. Taylor is the Chairman, and he, the said Thomas E. Clyde is the Deputy Secretary of Park City Redevelopment Agency, and that the within and foregoing instrument was signed in behalf of said corporation by authority of a resolution of its Agency and they duly acknowledged to me that said corporation executed the same and that the seal affixed is the seal of said corporation.

Sandra C. King
Notary Public

Residing at: Park City
My commission expires: 1-23-88

STATE OF UTAH)
) ss.
COUNTY OF SUMMIT)

On the 24th day of January, 1986, personally appeared before me Ralph Hale, and Bill Sampson, who being duly sworn did say each for themselves, that he the said Ralph Hale is the President, and he the said Bill Sampson is the Business Administrator of the Board of Education of the Park City School District, and that the within and foregoing instrument was signed in behalf of said corporation by authority of a resolution of its Board of Directors and he duly acknowledged to me that said corporation executed the same and that the seal affixed is the seal of said corporation.

Robyn Davis
Notary Public

Residing at: Park City, Utah
My commission expires: March 13, 1988