PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
JULY 14, 2011

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will hold its regularly scheduled meeting at the Marsac Municipal Building 445 Marsac Avenue, Park City, Utah for the purposes and at the times as described below on Thursday, July 14, 2011.

Closed Session
4:00 p.m. Property and litigation

Work Session
5:15 p.m. Council questions/comments
5:25 p.m. Traffic and Transportation Master Plan
5:50 p.m. Break

Regular Meeting
6:00 p.m.
I ROLL CALL

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

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

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

Consideration of authorization to the City Manager to execute an Agreement with Questar Gas to extend the main gas pipeline to the water treatment plant site in the amount of $113,846, in a form approved by the City Attorney

V RESIGNATIONS AND APPOINTMENTS

Consideration of the appointment of Melissa Soltesz and Linda McCausland to the Public Art Advisory Board for terms expiring June 30, 2013

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

Consideration of an appeal of the City Manager's decision on the application of Title 4, Licensing, of the Municipal Code, more specifically convention business license fees – appellants - Heidi Hughes and Mike Sweeney

VII ADDITIONAL DISCUSSION – AGENDA ITEMS

VIII ADJOURNMENT

A majority of members may meet socially after the meeting. If so, the location will be announced by the Mayor. City business will not be conducted. Pursuant to the Americans with

Disabilities Act, individuals needing special accommodations during the meeting should notify the City Recorder at 435-615-5007 at least 24 hours prior to the meeting. Wireless internet service available in the Marsac Building on Wednesdays and Thursdays – 4 p.m. to 9 p.m.

Posted: 06/11/11
See: www.parkcity.org

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

July 2011

21	Monthly financial update
	Fire District update
	Fuel contract – BA
	Resolution establishing the Historic Preservation Board's annual Preservation Award Program
	1159 Empire Avenue condo conversion - KC
	929 Park Avenue plat amendment - KW
	North Silver Lake Appeal
26`	*Treasure Hill Open House*
28	**No meeting**

August 2011

4	**Tom gone**
	Tibetan monks
	Footprint and plats – work – FA
	General Plan update
	Police Complaint Board interviews
	MFL – Main Street Harley Davidson Event
	Petition to vacate and convey City right-of-way – McHenry - Bill Tew
11	Second quarter goal update
	Special event overhaul (40 min) - TY
18	**No meeting**
25	PRI / Kimball Junction conservation easement
	Short range transit plan - work
	Ordinance amending LMC – HPB - administrative reconstruction process – KS

September 2011

1	Short range transit plan adoption
8	**No meeting** (Summer Tour 9/7 – 9/11)
15	
22	
29	

Pending Items:
U S Postal Service gang boxes in Old Town
Bonanza Tunnel ribbon-cutting
Inter-local agreement with Summit County for police database integration

City Council Staff Report

Subject:	**DRAFT Traffic and Transportation Master Plan Discussion**
Author:	**Matthew Cassel, P.E., City Engineer**
Department:	**Engineering**
Date:	**July 14, 2011**
Type of Item:	**Informational/Work Session**

Summary Recommendations:
This report is informational. The study consultants have completed the DRAFT traffic and transportation master plan and staff would like to review and discuss elements of the plan and the upcoming schedule with City Council.

Topic/Description:
A street master plan was prepared for Park City by Wayne Van Wagoner and Associates in 1984. This master plan was in essence a street inventory that included roadway design standards and provided a street capital improvement plan. Since that time, the Old Town Infrastructure Study (OTIS) was completed in 2002 and numerous small localized traffic studies have been performed over the years in highly congested areas of concern. As traffic congestion increases, Park City recognized the need to develop a comprehensive master plan for the City's transportation system. It is anticipated that this tool will be useful for the City to understand and resolve current and anticipated future traffic and transportation issues. This master plan completes the transportation section of the General Plan currently being updated by our Planning Department. InterPlan Company was the consultant who helped staff and the City to develop the Traffic and Transportation Master Plan.

A technical steering committee has been formed to guide the development of the Traffic and Transportation Master Plan. Committee members are as follows:

Matt Cassel	Engineering
Kent Cashel	Transportation
Thomas Eddington	Planning
Roger Evans	Building
Jonathan Weidenhamer	Sustainability
Heinrich Deiters	Sustainability
Sayre Brennan	Engineering
Brooks Robinson	Transportation
Sayre Brennan	Transportation

The following are the elements provided as part of the master plan:

- Transportation goals were developed and included in the DRAFT plan and will be cross referenced in the General Plan being developed by the

Planning Department.

- Existing street and pathway inventory in a paper map and as GIS layers and include the street classifications. Street cross section standards are provided as part of the DRAFT master plan. As each road in Park City is classified (local, collector, etc.), a typical cross section has been developed. These cross sections were developed based on the existing Right-of-Way width and include the paved roads width, curb and gutter and possibly sidewalk, bike lanes and parking,
- A travel demand model that is capable of estimating travel on roads, transit and walk/bike modes in Park City. This model can be used to forecast future traffic, transit use and walk/bike uses based on a range of land use scenarios. The model is also capable of predicting traffic changes based on land use changes,
- A VISSIM model has also been developed. This model is capable of taking the information from the travel demand model and creating a visual simulation model to show the performance of our streets, transit and walk/bike networks,
- A scenario development and alternative analysis was conducted and submitted as part of the DRAFT master plan, and
- Capital facilities plan development and recommendations on the next steps. The DRAFT master plan report includes a section on recommended short term capital improvements and a planning level cost for the possible long term capital projects (next recommended steps).

Analysis

The three main elements of the master plan have been included in this report. These elements include:

1. Transportation goals,
2. Road cross sections, and
3. Presentation of the transportation model.

DRAFT Transportation Goals

Defining the overall goals and objectives for transportation for Park City provides guidance to the work done during the planning process and a consistent way to evaluate various alternatives. Much work was done by city staff, the Stakeholder Committee, and the public in drafting, refining, and finalizing transportation goals for the Park City Traffic and Transportation Master Plan.

- ✓ GOAL 1: Park City will have a multimodal transportation system with complete streets and balanced availability of pedestrian, bicycle, transit and auto travel.
- ✓ GOAL 2: Park City's residents, workers, visitors and guests will have access to convenient transit for circulation throughout the City.
- ✓ GOAL 3: Park City's residents, workers, day visitors and overnight guests will have efficient, direct and convenient regional transit connections from and to

area resorts, Salt Lake and Utah Counties, and other communities of the Wasatch Back.
- ✓ GOAL 4: Park City will have a complete and well-connected network of trails, bicycle lanes and sidewalks that supports safe, convenient and pleasant walking and bicycling to accommodate the needs of residents, visitors, and guests for short trips within the City and surrounding neighborhoods.
- ✓ GOAL 5: Mobility and accessibility in Park City will be as good or better than today while achieving a net reduction in the amount that each person drives a car.
- ✓ GOAL 6: Park City's street network will be well maintained, with streets that are not significantly wider than today and without a significant increase in lane mileage.
- ✓ GOAL 7: Park City's transportation system will contribute positively to public health and quality of life by achieving a high level of travel safety and by creating an environment that supports active living.
- ✓ GOAL 8: Park City's transportation system will contribute positively to improved environmental, social and economic sustainability of the community.
- ✓ GOAL 9: Park City's transportation system will support development of clustered and diverse land use centers by providing convenient multimodal access to each center concurrent with its development.
- ✓ GOAL 10: Park City will use system management and demand management techniques to minimize the financial burden and environmental impact of local transportation facilities.

In the attached exhibits is a list of performance measures to monitor our progress and help staff to determine if progress is being made on each goal.

DRAFT Road Cross Sections

The DRAFT road cross sections show all possible elements staff would want included if sufficient right-of-way width was available. The guiding principal followed is based on the complete street philosophy which considers all modes of uses when streets are being designed or re-constructed.

The road cross sections are attached in the appendix and include a DRAFT detailed section for:

- ✓ Old Town Local Street,
- ✓ Non-Old Town Local Street**,**
- ✓ Minor Residential Collector Street,
- ✓ Major Residential Collector Street,
- ✓ Commercial Collector Street,
- ✓ Non-UDOT Arterial, and
- ✓ UDOT Arterial

The guidelines used by City staff in developing the proposed cross sections included

1. Providing shared uses at the local street level,
2. Start the physical separation of uses at higher speeds when reaction time decreases and speed of uses are not consistent,
3. Meet national fire code requirements, and
4. Create prioritized flexible space for each road section that can be used to adjust the road section width when existing right-of-way is limited.

Model Discussion
As part of this master plan, a travel demand and traffic simulation model was developed for the Park City area in order to assess existing and future travel demand within the study area.

The purpose of the model is to offer a tool to city staff and to use this tool both during the plan development and after the plan is completed in order to anticipate transportation problems and issues. While not a perfect tool, the model can help Park City officials anticipate the future and prepare for possible unintended consequences of various actions.

The development process for the travel demand model is provided in the appendix. InterPlan will demonstrate the model and show City Council its potentials during this work session meeting.

Schedule
The remaining schedule for the adoption of the DRAFT Traffic and Transportation Master Plan is as follows:

- Planning Commission Work Session – Elements of the DRAFT plan were presented to Planning Commission on June 8,
- City Council Work Sessions – It is anticipated to require two more City Council work sessions after this meeting to review the DRAFT plan. These meetings are anticipated to take two to three chapters of the master plan and review them with City Council. It is anticipated that the first work session will be August 11 and the next work session will be August 25
- City Council Adoption – It is anticipated to require up to two City Council meetings to conduct public hearings and to formally adopt the final master plan. It is anticipated that these meetings will occur on September 1 and September 14.

Department Review:
This report has been reviewed by Planning, Public Works, Sustainability and Legal. All comments have been integrated into this report.

Significant Impacts:
Once adopted, elements of the Master Plan will require staff time for periodic monitoring of goals and there are proposed short term construction projects. These impacts will be

further discussed with City Council over the next two meetings as part of the individual chapter discussions.

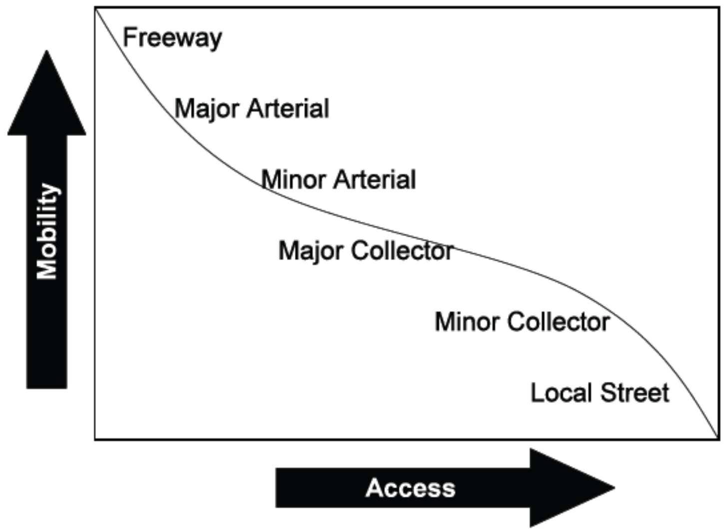
Recommendation:
This report is informational. The study consultants have completed the DRAFT traffic and transportation master plan and staff would like to review and discuss elements of the plan and the upcoming schedule with City Council.

Exhibits – Transportation Goals
Road Cross Sections
Model Development

Functional Classification

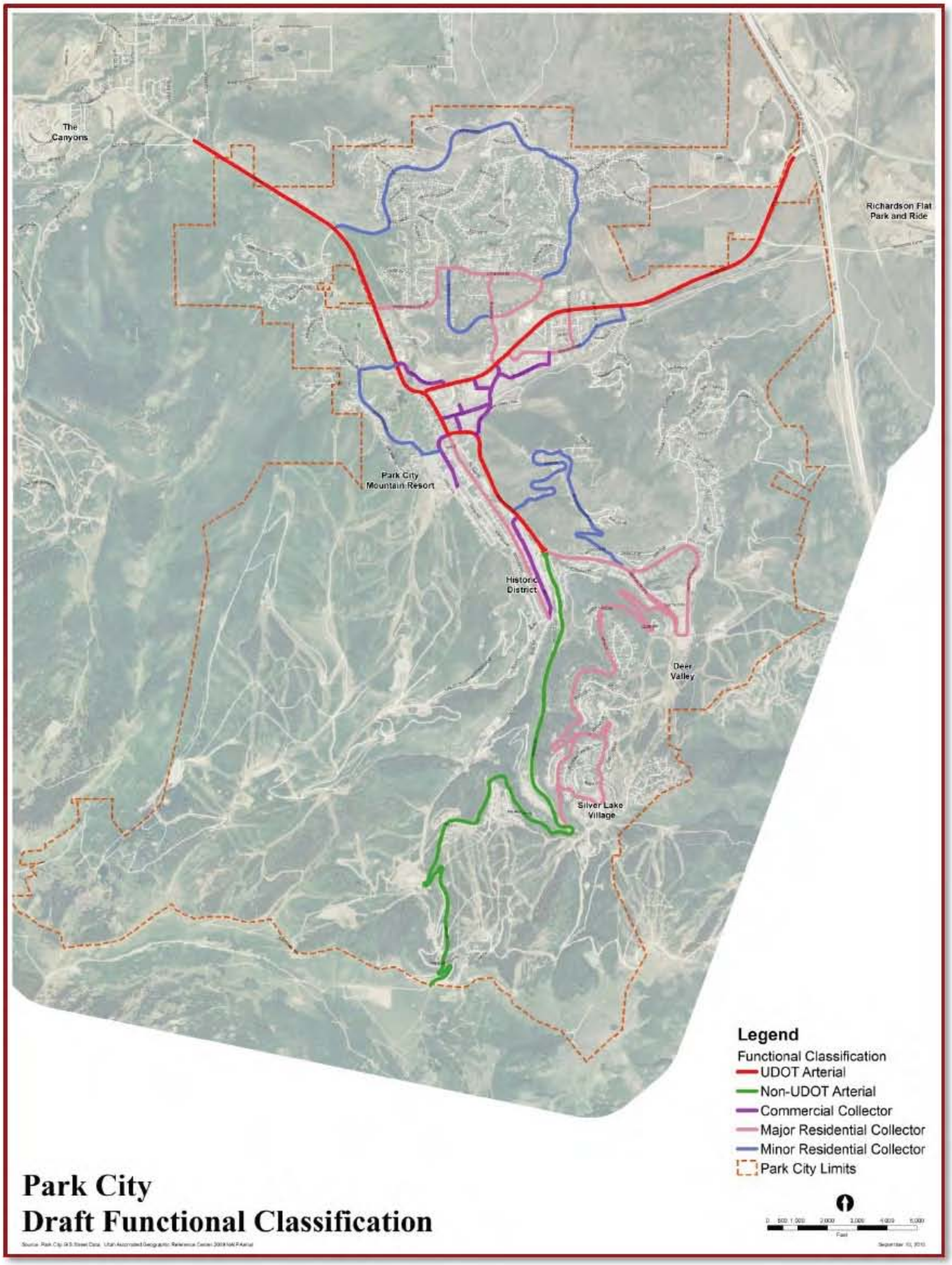
The functional classification of roads is a way to categorize different streets based on their primary function. Generally, a road's functional classification is determined by whether its purpose is to provide access or mobility. Those roads at the smaller end of the functional class system move traffic more slowly but provide greater access, such as to local roads or to residential or small commercial properties. On the other end of the scale, expressways provide greater mobility as they move more traffic at greater speeds, but with more limited accesses such as driveways and intersections. This concept is illustrated in Figure 4-2.

Figure 4-2: Access and Mobility by Functional Classification



In many areas, those streets serving higher mobility and those streets serving a variety of user modes (bicycles, pedestrians, transit, etc.) are seen as mutually exclusive. Park City embraces a "complete streets" system where every functional classification must serve all user modes. As mobility increases, various safety elements become increasingly important and must be offered in an aesthetically attractive way. Street cross-sections also offer a priority of users that may be evaluated in the event that localized problems are raised for any user group. Figure 4-3 shows the functional classification of Park City streets.

Figure 4-3: Park City Functional Classification



Standard Street Cross-Sections

This section describes the standard cross-sections for each of the functional classifications previously displayed. These standards will apply primarily to new roads, but should also be used to evaluate the elements of the roadway that are of most importance during major reconstruction, widenings, etc. For each cross-section, an order of priority is shown for elements outside of the travel lanes. This priority will be important in cases where the full right-of-way (ROW) width is not available to accommodate all of the cross-section elements.

Local Road – non-Old Town

Daily Traffic Volumes: <2,000

Threshold: 2,500 daily traffic

Description: Primarily designed to provide access to houses. Usually provide access (driveways) over speed.

When the full ROW width is not available, the order of priority on flex space will be:

- Parking
- Sidewalks

Local Road – Old Town

Daily Traffic Volumes: <2,000

Description: Primarily designed to provide access to houses. Usually provide access (driveways) over speed.

Threshold: 2,500 daily traffic

When the full ROW width is not available, the order of priority on flex space will be:

Parking
Sidewalks

Minor Residential Collector

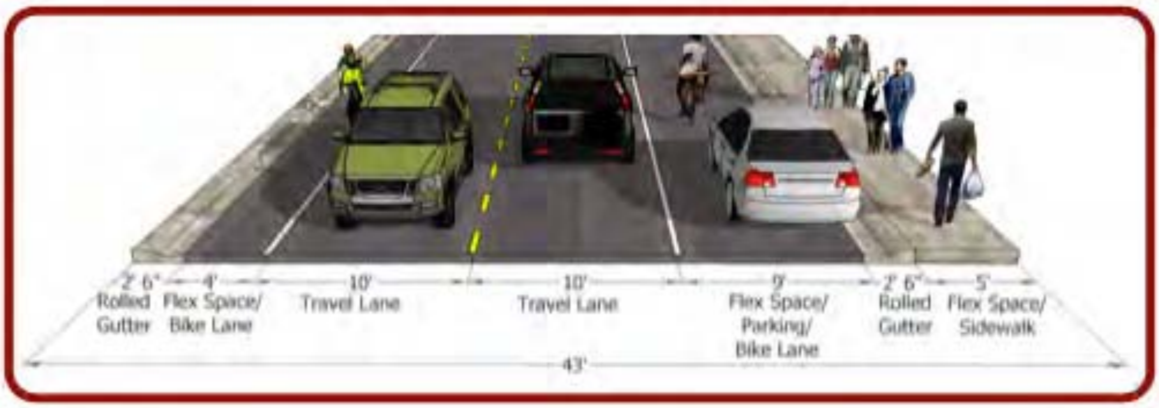
Daily Traffic Volumes: 2,000 - 5,000

Description: Typically connect local roads to higher functioning roads. Access is still a priority but road design begins to accommodate somewhat higher traffic volumes.

Threshold: 8,000 daily traffic

When the full ROW width is not available, the order of priority on flex space will be:

Sidewalks
Parking
Bike lanes



Major Residential Collector

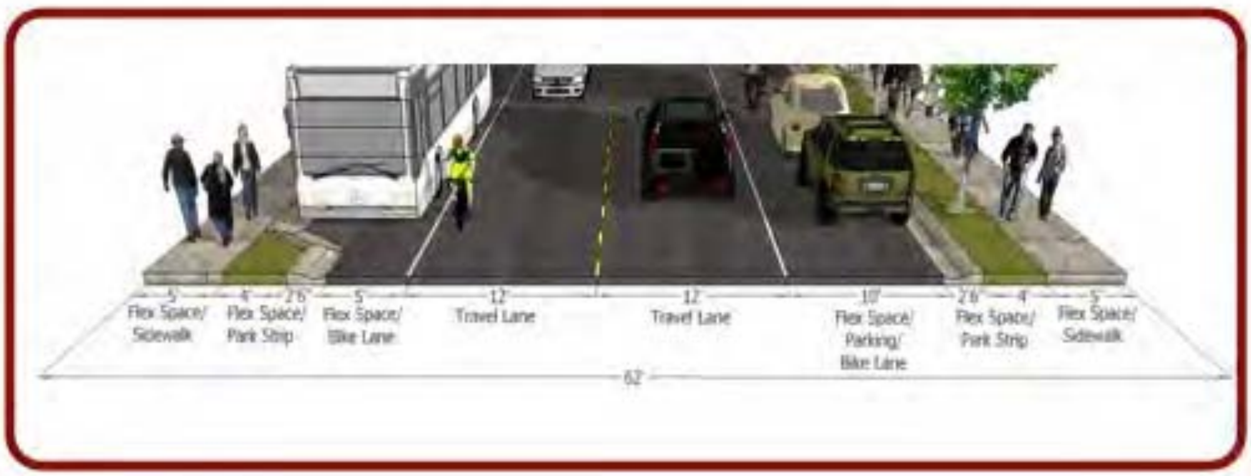
Daily Traffic Volumes: 3,000-8,000

Description: Provide access to some residential land uses but tend to serve higher traffic volumes and more direct access to arterial facilities.

Threshold: 10,000 daily traffic

When the full ROW width is not available, the order of priority will be:

Bus pull-outs
Parking
Sidewalks
Bike lanes
Park strips



Commercial Collector

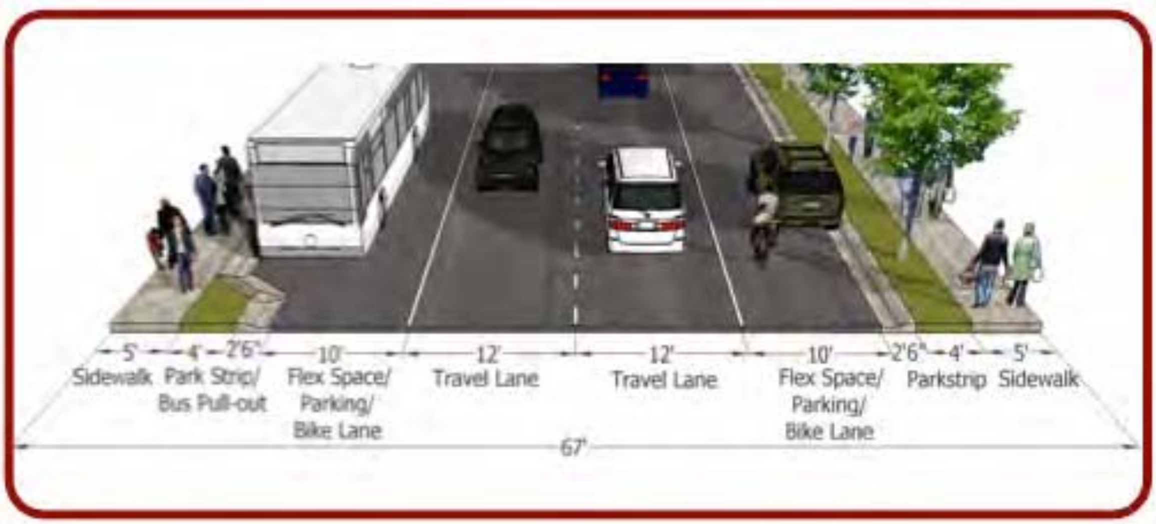
Daily Traffic Volumes: 7,000 - 15,000

Description: Provide access to local and smaller scale businesses. They serve higher volumes than residential collectors and often provide direct connections to arterial streets.

Threshold: 15,000 daily traffic

When the full ROW width is not available, the order of priority on flex space will be:

Parking
Sidewalks
Bike lanes
Park strips



Non-UDOT Arterial

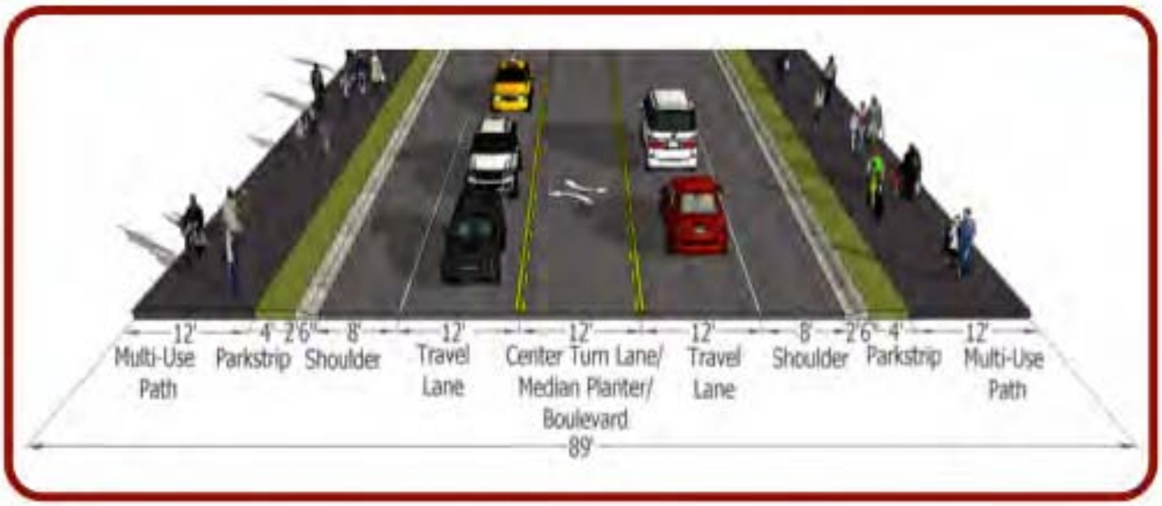
Daily Traffic Volumes: 5,000 - 15,000

Description: Provide access to Park City from areas outside the city. Although Marsac is currently State Route 224, it does not function like a standard state route which typically provides high-volume and high-speed connections across regions.

Threshold: 19,000 daily traffic

When the full ROW width is not available, the order of priority on flex space will be:

Shoulders
Sidewalks/multi-use paths
Center turn lanes/medians



UDOT Arterial

Daily Traffic Volumes: 15,000+

Description: Provide main access to Park City from other areas. They also serve large-scale land uses such as the schools on Kearns Blvd. and major commercial areas on Park Avenue.

Threshold: 38,000 daily traffic

When the full ROW width is not available, the order of priority will be:

Shoulders
Multi-use paths (can be narrower)
Travel lanes (can be narrower in slower speed sections)
Park strips

Chapter 4: Transportation Plan

This chapter summarizes the basic elements of Park City's Traffic and Transportation Master Plan. The themes identified at the outset of this plan do not lend themselves to a traditional transportation plan based on a map of planned road improvements. Instead, this chapter provides the foundation from which future transportation decisions can be made, along with detailed information on various concepts provided in Chapter 6.

Goals and Objectives

Defining the overall goals and objectives for transportation for Park City provides guidance to the work done during the planning process and a consistent way to evaluate various alternatives. Much work was done by city staff, the Stakeholder Committee, and the public in drafting, refining, and finalizing transportation goals for the Park City Traffic and Transportation Master Plan.

GOAL 1: Park City will have a multimodal transportation system with complete streets and balanced availability of pedestrian, bicycle, transit and auto travel.

GOAL 2: Park City's residents, workers, visitors and guests will have access to convenient transit for circulation throughout the City.

GOAL 3: Park City's residents, workers, day visitors and overnight guests will have efficient, direct and convenient regional transit connections from and to area resorts, Salt Lake and Utah Counties, and other communities of the Wasatch Back.

GOAL 4: Park City will have a complete and well-connected network of trails, bicycle lanes and sidewalks that supports safe, convenient and pleasant walking and bicycling to accommodate the needs of residents, visitors, and guests for short trips within the City and surrounding neighborhoods.

GOAL 5: Mobility and accessibility in Park City will be as good or better than today while achieving a net reduction in the amount that each person drives a car.

GOAL 6: Park City's street network will be well maintained, with streets that are not significantly wider than today and without a significant increase in lane mileage.

GOAL 7: Park City's transportation system will contribute positively to public health and quality of life by achieving a high level of travel safety and by creating an environment that supports active living.

GOAL 8: Park City's transportation system will contribute positively to improved environmental, social and economic sustainability of the community.

GOAL 9: Park City's transportation system will support development of clustered and diverse land use centers by providing convenient multimodal access to each center concurrent with its development.

GOAL 10: Park City will use system management and demand management techniques to minimize the financial burden and environmental impact of local transportation facilities.

Performance Measures

Identifying performance measures that correlate with each of the defined goals offers Park City the ability to measure and track performance on a number of variables and how well the City is doing in achieving their goals. Specific details on how to measure each of these variables, sources of data, and existing conditions are available in the "Report Card" section of Chapter 5.

GOAL 1. Park City will have a multimodal transportation system with complete streets and balanced availability of pedestrian, bicycle, transit and auto travel.
Strategic Objectives by 2040:

a. Drive-alone mode share for trips on gateway corridors into Park City jobs will decrease to 50 percent (from over 70 percent today).
b. The percentage of housing units within ¼ mile from transit routes (while maintaining transit service standard of minimum four units/acre) and paved multi-use trails will increase to 100 percent (from approximately 80 percent and 60 percent, respectively, today).
c. Changes to individual street cross sections will be addressed on a case by case basis but will put city-wide emphasis on providing "complete street" infrastructure that supports walking, biking, transit, and carpools over single occupant vehicles.

GOAL 2. Park City's residents, workers, visitors and guests will have access to convenient transit for circulation throughout the City.
Strategic Objectives by 2040:

a. Daily bus hours of local transit service in Park City will increase to 450 hours (from approximately 200 hours today).
b. Peak hour frequency on Park City's spine transit network will reach 10 minutes and support timed transfers to regional transit service.
c. Transit travel times will remain within 10 minutes of drive times on major origin-destination pairs within Park City.

GOAL 3. Park City's residents, workers, day visitors and overnight guests will have efficient, direct and convenient regional transit connections from and to area resorts, Salt Lake and Utah Counties, and other communities of the Wasatch Back.
Strategic Objectives by 2040:

a. Average daily bus hours of regional transit service connecting Park City to points within Salt Lake, Utah, Wasatch Counties, and other parts of Summit County will reach 350 hours (from approximately 85 hours today).
b. Weekday commuter transit service will efficiently connect Park City with at least five other cities/communities in the Wasatch Front and Back as demand dictates.
c. Annual ridership to will grow to exceed 5 million passengers (from under 2 million today).
d. Park City will build and/or support, through transit service and rideshare programs, continued expansion of intercept park-and-ride facilities at all gateway corridors.

GOAL 4. Park City will have a complete and well-connected network of trails, bicycle lanes and sidewalks that supports safe, convenient and pleasant walking and bicycling to accommodate the needs of residents, visitors, and guests for short trips within the City and surrounding neighborhoods.
Strategic Objectives by 2040:

a. All of the primary bicycle corridors identified in the Park City Transportation Master Plan will be completed and open to use and redundant systems for multiple users will be planned and initiated.
b. At least 75 percent of the linear mileage of secondary bicycle corridors identified in the Park City Transportation Master Plan will be completed and open to use.
c. Park City will establish roadway automobile capacity trigger points on major roadways (commercial collectors and arterials) that will require a proactive review of the roadway cross section with emphasis on providing "complete streets" which improve serving balanced modes of users either directly on the corridor or on parallel corridors.

GOAL 5. Mobility and accessibility in Park City will be as good or better than today while achieving a net reduction in the amount that each person drives a car.

Strategic Objectives by 2040:

a. Park City VMT will be tracked based on automobile counts at the major gateway corridors and will not increase faster than Park City housing or job growth.
b. Park City will track the automobile drive time between three major internal origin-destination pairs on an annual basis and will mitigate traffic congestion when travel times increase above 10 percent on any given year.
c. Park City will track the ratio of drive time to bicycle travel time and transit travel time between three major internal origin destination pairs and will take proactive steps to maintain increasing ratios.

GOAL 6. Park City's street network will be well-maintained, with streets that are not significantly wider than today and without a significant increase in lane mileage.

Strategic Objectives by 2040:

a. Lane miles of Park City streets will not exceed 250 (from 200 today).
b. Park City will track pavement condition on a continuous basis using a Remaining Service Life (RSL) scale with 20 years being the best possible condition. Park City collector and higher functioning streets will have an RSL of no less than 8.0.
c. All elements of the transportation system including street furniture, transit equipment, signs, striping, etc. will be kept in good condition.

GOAL 7. Park City's transportation system will contribute positively to public health and quality of life by achieving a high level of travel safety and by creating an environment that supports active living.

Strategic Objectives by 2040:

a. The crash rate for reported traffic crashes within Park City will be no more than 3.5 crashes per million vehicle miles.
b. Park City will take positive steps to react to all fatalities resulting from traffic crashes with a goal of achieving zero fatalities within Park City.
c. Park City will establish a bicycle and pedestrian count program on at least five major trail corridors on the primary network and will achieve incremental increases of over 25 percent with the completion of major corridors and steady increases of over 10 percent per year.
d. Park City Engineering will coordinate with police and public safety services to provide annual crash statistics on the street system.

GOAL 8. Park City's transportation system will contribute positively to improved environmental, social and economic sustainability of the community.

Strategic Objectives by 2040:

a. Annual petroleum consumption by surface transportation within Park City will be no more than 470,000,000 kBTU equivalent (from approximately 570,000,000 kBTU equivalent today).
b. Annual greenhouse gas emissions from surface transportation with Park City will be no more than 50,000 short tons (approximately equal to today).
c. Parking pricing, transit fares, and other cost incentives will be used to minimize or decrease the growth in overall vehicle miles traveled (VMT) while supporting a strong and growing Park City visitor base while.

GOAL 9. Park City's transportation system will support development of clustered and diverse land use centers by providing convenient multimodal access to each center concurrent with its development.

Strategic Objectives by 2040:

a. Major new land developments (of greater than 200 additional Equivalent Residential Units) will be required to provide clustered and diverse land uses in order to minimize their impact on transportation infrastructure.
b. Major new land developments (of greater than 200 additional Equivalent Residential Units) will not be approved unless or until concurrent transportation facilities, services, and infrastructure can be in place to offer balanced modal use (transit, trails, high occupant vehicles).

GOAL 10. Park City will use system management and demand management techniques to minimize the financial burden and environmental impact of local transportation facilities.

Strategic Objectives by 2040:

a. Traffic flows on Park City roads and streets (including state highways) will be managed for efficient multimodal operations through comprehensive signal synchronization and use of intelligent transportation systems (ITS) technologies such as variable and demand-based pricing, real time parking and transit information, etc.
b. Park City's festivals and special events will feature coordinated transportation strategies that minimize impacts of vehicular traffic while fostering growth in economic benefits.
c. Park City will be viewed as an innovator in offering effective travel demand management incentives through both public and private programs.

Transportation Plan Summary

Figure 4-1 offers a summary of the capital projects and plans that are important in this multi-modal strategy. They include projects and plans from entities outside of Park City such as Summit County and the Utah Department of Transportation. As discussed earlier, this plan is based on a foundation of optimizing multi-modal strategies on the gateway corridors and robust transit and high-occupancy vehicles lanes serving these corridors. These strategies will mitigate the impacts of increasing numbers of visitors to the city by minimizing the growth in vehicles coming to the city.

Travel Model Development and Application

As part of this plan development process, a travel demand and traffic simulation model was developed for the Park City area in order to assess existing and future travel demand within the study area.

The purpose of the model is to offer a tool to city staff and to use this tool both during the plan development and after the plan is completed in order to anticipate transportation problems and issues. While not a perfect tool, the model can help Park City officials anticipate the future and prepare for possible unintended consequences of various actions.

The travel demand model follows the basic "four step process" originally developed in the 1950s to help urban areas estimate travel demand while building the interstate system. This process is an econometric method of estimating individual choice decisions such that the aggregate estimate is reasonably accurate even if the individual estimates do not represent actual travel demand choices of individuals. The four steps of the travel demand model are:

- Trip generation
- Trip distribution
- Mode choice
- Trip assignment

The Park City travel demand model is a two-part model. The first part inputs growth assumptions in spreadsheet form that calculates trip generation, distribution and mode choice. The second part of the model is a Vissim multi-modal traffic simulation that uses dynamic assignment to route vehicles on the model roadway network. In the future, after completion of this transportation plan process, each part of the model can be used to fine tune local area growth options and to visually evaluate and display traffic problems and solutions and to help determine the impacts of parking infrastructure and transit assumptions.

The travel demand model component borrows person trip generation rates from other areas. A modal split uses a simplified logit model to estimate transit, drive alone, carpool, and walk/bike modal options. Trip distribution is simplified with fixed origin-destination pairs which were estimated. Trips by mode and by origin-destination pair are fed into the traffic simulation model. The traffic simulation is only run for the afternoon peak hour and uses a "dynamic assignment" process of allowing all trip pairs to establish the least delay route for all users of the network. Because of this dynamic assignment process, actual traffic counts are not hard-coded into the model but are the result of an iterative least delay estimate.

Model Calibration

The model was calibrated to the year 2009 and compared to Park City and UDOT pm peak hour traffic count data from that year. Traffic counts used for calibration came from Park City and UDOT's automatic traffic recorders on S.R. 224 and S.R. 248. After running the base year travel model, results were compared to the counts data to determine the accuracy of the model. The models were calibrated for two distinct periods in Park City, Christmas week when traffic volume is typically highest, and the shoulder season when there are generally lower traffic volumes. All calibration data is in Appendix A.

Analysis Years

In addition to the 2009 model, three future land use scenarios were evaluated for the years 2020 and 2040. The base scenarios assumed land use and population as discussed above. However, an additional scenario was also evaluated that assumed no new growth within Park City but regional growth to 2020. This model alternative was used to assess the impact of Park City growth policies on the transportation system.

Baseline Model Results

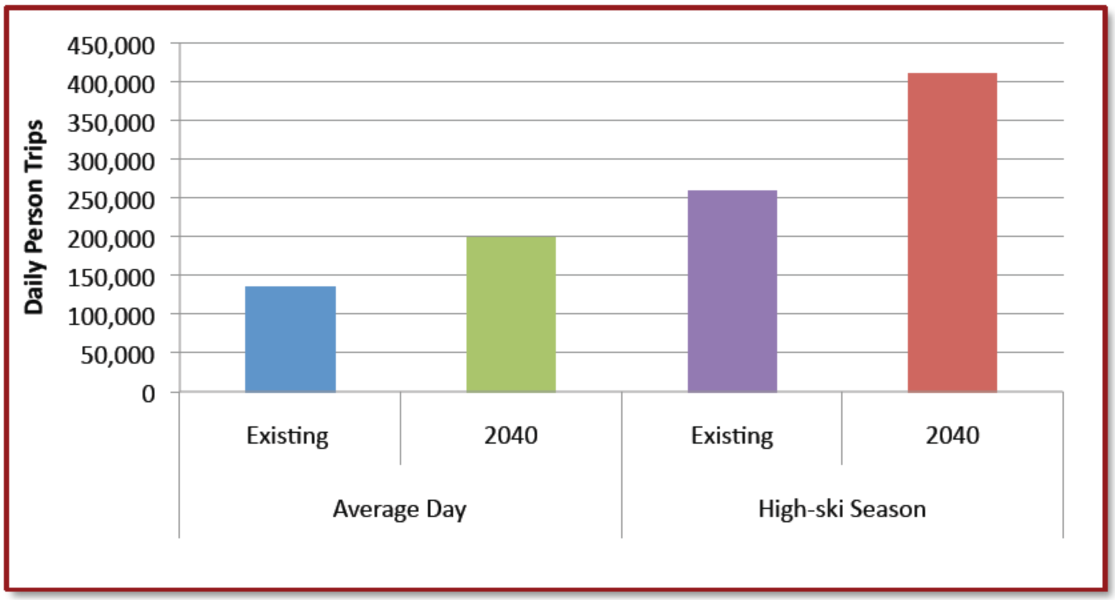
The baseline model results were generated to understand the scope of future transportation issues and the need for transportation policies or projects to address existing and future transportation concerns. These baseline models assumed the future development discussed previously along with the committed transportation projects within Park City and planned projects outside of the city boundary.

Based upon the baseline modeling:

- Park City will remain a major destination with the number of daily person trips increasing during both the shoulder and high-ski seasons.
- As a result, vehicle miles of travel (VMT) and delay will increase in the future.
- However, even with the expected growth in VMT and delay, the average day in 2040 will not approach the congestion levels that occur on high-ski days and during events.
- Congestion will continue to be an issue during the ski outload and large events.

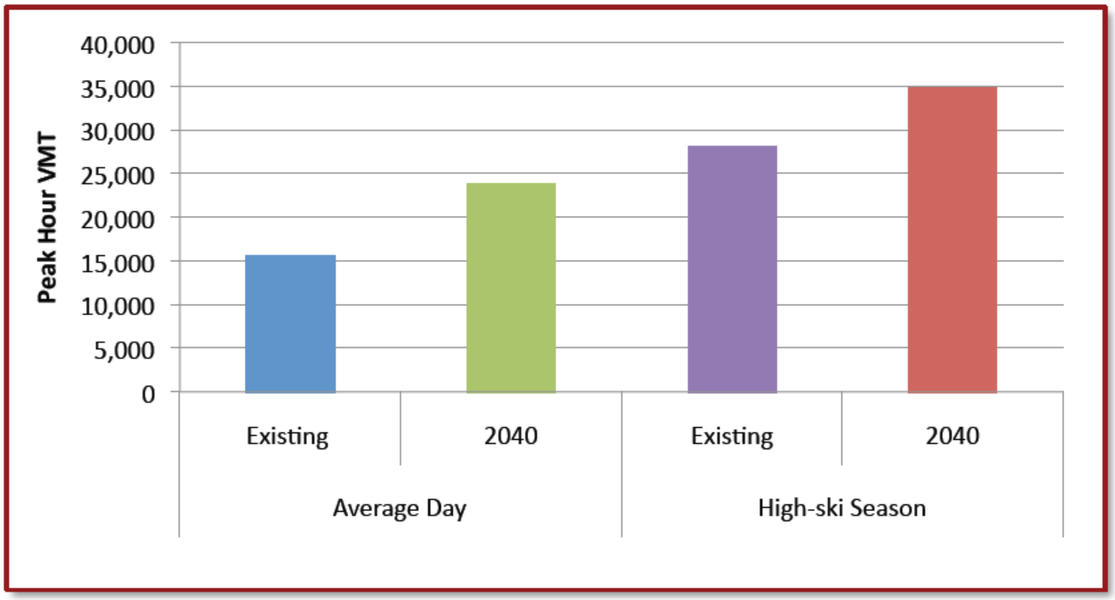
Figure 3-2 shows the daily number of person trips within Park City for the average day and during the high-ski season such as Christmas week. Daily *person* trips are expected to increase by 47 percent on an average day and by over 200 percent during the high-ski season.

Figure 3-2: Daily Person Trips, Existing and 2040



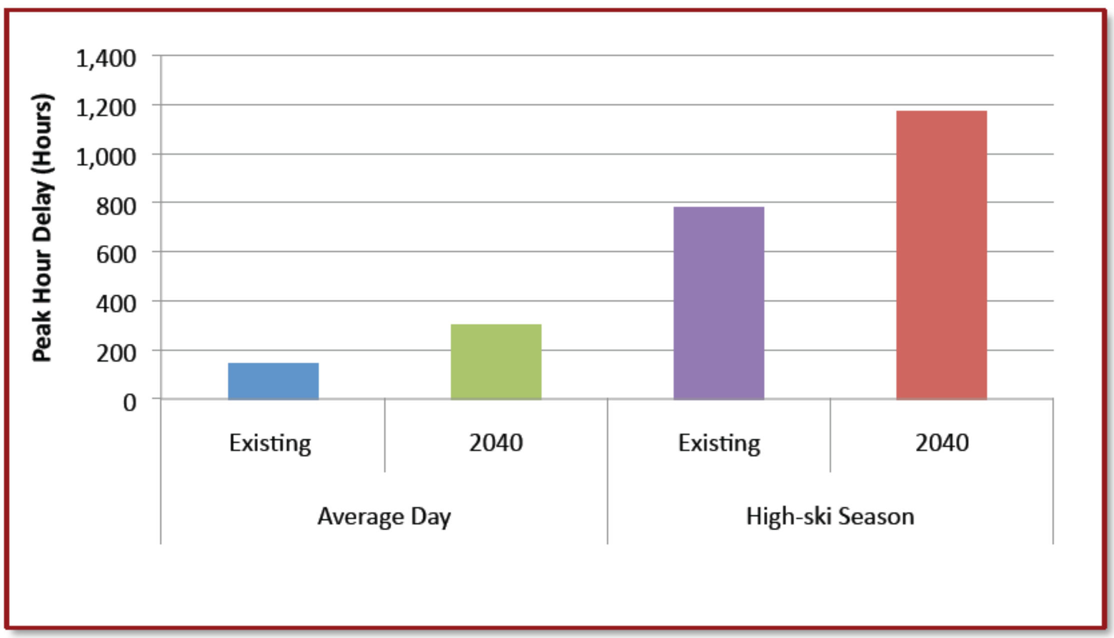
While person trips indicate how many people are traveling to/from Park City, vehicle miles traveled (VMT) is a measure of how much travel occurs in vehicles. Figure 3-3 shows the peak-hour model VMT for Park City. On an average day, the VMT increase is similar to the increase in person trips at 53 percent. However, during the high-ski season, peak-hour VMT is expected to increase by 118 percent as opposed to a 200+ percent increase in person trips.

Figure 3-3: Vehicle Miles Traveled, Existing and 2040



Vehicle hours of delay is a common measure of congestion since during congested conditions vehicle speeds are reduced and drive times increase. As illustrated in Figure 3-4, delay increases more than person trips and VMT. Peak hour vehicle delay on an average day is forecast to increase by 106 percent and on high-ski days by almost 693 percent.

Figure 3-4: Vehicle Hours of Delay, Existing and 2040



City Council
Staff Report

Author:	**Clint McAffee**
Subject:	**QUINN'S WATER TREATMENT PLANT NATURAL GAS MAIN EXTENSION AGREEMENT**
Department:	**Public Works**
Date:	**July 14, 2011**
Type of Item:	**Administrative**

Summary Recommendations:
Staff recommends Council authorize the City Manager to execute an Agreement, in a form approved by the City Attorney, with Questar Gas, to extend the natural gas main pipeline to the Quinn's Water Treatment Plant site in the amount of $113,846.25.

Description:
The Water Strategic Plan (attached) outlines objectives and associated strategies/policies in areas of water rights, leases, agreements, source, financial stability, water quality, infrastructure, water conservation and customer service/outreach. This project is consistent with the Park City Water Strategic Plan under the following topics: Infrastructure, Strategy/Policy, and Sources. It allows the City to maximize the availability of Park City's water from the Rockport Importation project

Topic:
This contract with Questar Gas will extend the gas service main to the Quinn's Water Treatment Plant site.

Background:
In the spring of 2010, City Council authorized the City Manager to execute a Construction Agreement with Alder Construction for the construction of the Quinn's Water Treatment Plant. Construction has begun and is expected to be complete by early 2012.

The Quinn's Junction Water Treatment Plant (Plant) is a critical component to the future of the City's water supply and distribution system. The Plant will allow the City to effectively utilize available raw water sources.

The purpose of this Staff Report is to recommend that the City enter into an agreement with a Questar Gas for the extension of the natural gas main to the water treatment plant. Natural gas is required at the site for heating purposes.

Analysis:
The main gas line will need to be extended 3,700 linear feet to the Plant site. The cost for Questar Gas to complete the work is $113,846.25. The cost per foot of construction is less than $31.00, which is a very reasonable unit price.

Questar Gas is the sole natural gas provider in this area and the costs are regulated by the Public Service Commission of Utah.

Department Review:

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

Alternatives:

A. Approve the Request:

Staff recommends Council authorize the City Manager to execute an Agreement, in a form approved by the City Attorney, with Questar Gas, to extend the natural gas main pipeline to the Quinn's Water Treatment Plant site in the amount of $113,846.25.

B. Deny the Request:

Council could deny Staff's request. The water treatment plant is currently under construction and denying the request would postpone the projected start-up date of early 2012 for the Plant.

C. Continue the Item:

Council could continue the request. Continuing the request would also delay the start-up and beneficial use of the water treatment plant.

D. Do Nothing:

Staff does not recommend this alternative. Doing nothing would also delay the start-up and beneficial use of the water treatment plant.

Significant Impacts:

The fees associated with this Agreement are included in the Plant project in the approved FY2011 CIP budget.

If Council does not authorize the execution of this Agreement with Questar Gas, the start-up and beneficial use of the water treatment plant would be delayed.

Recommendation:

Staff recommends Council authorize the City Manager to execute an Agreement, in a form approved by the City Attorney, with Questar Gas, to extend the natural gas main pipeline to the Quinn's Water Treatment Plant site in the amount of $113,846.25.

Exhibits:

Exhibit A – Questar Main Extension Agreement
Exhibit B – Park City Municipal Corporation Water Strategic Plan

Exhibit A
Questar Main Extension Agreement

QUESTAR Gas

Today is June 28, 2011, 10:48 am

MAIN EXTENSION AGREEMENT	CENTER CD	JOB ID	MAIN EXTENSION ID	CONTRACT ID
	HEB	MJ0002000702	ML0001022684	ME0001034882

CUSTOMER PARK CITY MUNICIPAL CORP		
APPROXIMATE MAIN LOCATION HWY 248 RICHARDSON FLAT RD		
SUBDIVISION NA	LOT RANGE 1	
CITY OR COUNTY PARK CITY	STATE UT	ZIP CODE 84060
MAILING ADDRESS 445 MARSAC AVE , PARK CITY UT 84060		
OWNER:		

NATURAL GAS APPLIANCES TO BE CONNECTED

TYPE	QUANTITY

JOB TYPE
NEW MAIN INSTALL

SPECIAL CONDITIONS

MAIN EXTENSION COSTS

Contracted length of main	3700
Installation charges	$113,846.25
Allowance	$0.00
Default amount	$0.00
Federal tax	$0.00
TOTAL CUSTOMER COST NOW DUE	**$113,846.25**

Please submit payment to Questar Gas, ATTN Remittance DNR 107, PO Box 45360, Salt Lake City, Utah 84145-9925

TERMS AND CONDITIONS

1. DEFINITIONS. Construction Costs: cost related to the installation of the main extension Including but not limited to costs for obtaining rights-of-way and permits, difficult or weather related construction donditions, Customer-specific requests, or Customer-caused delays.
2.COST OF MAIN EXTENSION. Questar Gas Company (Company) agrees to extend its natural gas main system to provide service to the above location. In consideration of the main extension, Customer agrees to pay, prior to installation, the above Construction Costs. Customer also agrees to pay any additional Construction Costs that may arise during installation. Company shall notify Customer of additional Construciton Costs before they are incurred.
3. DEFAULT AMOUNT.> Within two years following the completion of the main extension, Customer agrees to earn the Allowance by using natural gas appliances, as set forth in the applicable tariff. If Customer does not earn the full Allowance, Customer agrees to pay the non-refundable default amount of $0.00 plus interest, less any partial Allowance earned.
4.INTEREST. Interest accrues at 13.26% per annum on any amount due from the date of completion of the main extension until the amount due is paid in full. Customer will pay all costs and attorney fees incurred in the collection of any amount.
5.RIGHT-OF-WAY.Customer grants to Company, its agents and employees, the right to enter Customer's propery, at all reasonable times and in event of any emergency, for all purposes related to the construction of the main extension, service lines and natural gas service. Cutomer shall provide Company with any rights-of-way required to construct the main extension. Company shall not be obligated to perform unless rights-of-way have been obtained.
6. REFUNDS. Amounts contributed by Customer may be partially refunded if new gas service, not including temporary gas service, is connected to the main extension within five years after completion. New service from other main extensions that are connected to, joined with or extended from this main extension do not qualify for a refund. refunds shall not be paid until Customer has fully performed all obligations under this Agreement. If more than one customer contracts with Company and contributes toward the cost of this main extension, refunds shall be divided pro rata in proportion to the amount paid by each customer. Refunds shall not bear interest nor exceed refundable amounts paid by Customer. Refunds shall be calculated in accordance with appicable tariff and Company polices based on the type of gas-burning appliances installed. Customer may not assign or transfer its right to refunds without prior written approval from Company. Company shall have the right to offset any refunds against any sums due Company from Customer. Customer understands that Company's refund policy is governed by the applicable tariff and is subject to change at any time without notice.
7. CONTAMINATION. if Company encouters any contamintated soil or groundwater during the installation of the main extension that requires remediation or disposal, or poses a hazard, Company may suspend the installation until the contamination is remediated at Customer's sole cost, and to Company's satisfaction. If Company elects to remediate the contamination, Customer shall pay all remediation costs as Construction Costs.
8. CANCELLATION. If installation of the main extension does not begin within six monts of the date of this Agreement, Company may, at its option, cancel this Agreement and charge Customer for the engineering and Construciton Costs incurred to the date of cancellation.
9. FORCE MAJEURE. Except for payment of amounts due, neither party shall be liable for any failure to perform, when the failure is due to any cause not reasonalby within the control of the affected party.
10. COMPANY'S FACILITIES. The main estension and all other facilities constructed to render gas service to Customer shall be the sole property of Company. Company may utilize its facilities to render service to other customer as it sees fit without liability to Customer.
11. FROST: At the time of installation, if frost is present in the gound six inces or deeper, Customer will be contacted regarding excess construction costs. These excess costs are limited to the footage affected by the frost.
12. INDEMNIFICATION. Customer will indemnify, hold harmless, and defend Company from all claims, for damages to property or injury to persons, directly or indirectly connected with the acts or omissions of Customer.
13. GRADE AND CURBING. Customer will ensure that the grade is within six inches of finished grade, and no parallel utilities will be within three feet of this main extension. After installation, the trench will be backfilled up to the existing grade. Customer agrees to pay any costs incurred to repair, replace, raise, lower, or relocate the main extension because of grade changes subseqent to installation. At its sole descretion, Company may install the main extension based on curb-line stakes provided by the Customer.
14. SEVERABILITY. The provisions of this Agreement are severable. if any provision is deemed void or unenforceable, such provision shall not affect the remainder of the Agreement.
15. APPLICABLE LAW. This Agreement is goverened by the law of the state where the work is performed, and all tariffs, rules and regulations on file with the applicable Public Service Commision, as may be amended from time to time. In the event of any conflict between the terms of the Agreement and the applicable tariffs, rules, and regulations, the terms of the applicable tariff, rules, and regulations will control.
16. AUTHORIZATION. If Customer is a corporation, partnership, limited liability company or other entity, the signing of this Agreemntent certifies the signer's authority to bind the named entity.

I acknowledge that I have read entire agreement and agree to the terms and conditions. CUSTOMER: PARK CITY MUNICIPAL CORP BY:________ TITLE DATE	Questar Gas Company BY:________ TITLE DATE Prepared By: Sargent,Craig

Exhibit B
Park City Municipal Corporation Water Strategic Plan

Resolution No. 05-06

**RESOLUTION ADOPTING A WATER STRATEGIC PLAN
FOR PARK CITY, UTAH**

WHEREAS, The Park City Water's Service District mission is to provide service in a cost effective and environmentally sensitive manner to our community that promotes a reasonable cost for safe, clean, healthy, fresh water for culinary needs, 24 hours a day, Today and Tomorrow;

WHEREAS, the City Council has determined that it is in the public's best interest to have a strategic plan to communicate the Objectives, Strategies, and Policies the for Park City Water Service District will Water to follow to meet the mission; and

WHEREAS, the City Council has determined it is in the public's best interest to have a strategic plan to guide decision making regarding Objectives, Strategies, and Policies the for Park City Water Service District willto follow to meet the mission.

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

SECTION 1. STRATEGIC PLAN. Park City adopts the "PARK CITY MUNICIPAL CORPORATION WATER STRATEGIC PLAN" as attached hereto as Exhibit A.

This Resolution hereby constitutes public notice that the Objectives, Strategies and Policies listed herein are intended to guide decision making for water action plans, and the City Council may meet in closed session as allowed by state law to discuss the best possible terms of potential property purchases or leases or pending or imminent litigation related to certain objectives.

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

PASSED AND ADOPTED this second day of March, 2006.

PARK CITY MUNICIPAL CORPORATION

Dana Williams

Mayor Dana Williams

Attest:

Janet M. Scott

Janet M. Scott, City Recorder

Approved as to form:

Mark D. Harrington, City Attorney

PARK CITY SUMMIT COUNTY UTAH
CORPORATE
Seal
MARCH 1,
1884

PARK CITY MUNICIPAL CORPORATION WATER STRATEGIC PLAN
January 2006 (Final Draft)

***Mission Statement:** The Park City Water Service District mission is to provide service in a cost effective and environmentally sensitive manner to our community that promotes a reasonable cost for safe, clean, healthy, fresh water for culinary needs, 24 hours a day, Today and Tomorrow.*

Topic: **Water Rights, Leases & Agreements**	
Objectives: • Maximize existing water rights & leases • Minimize legal exposure to priority downstream water right holders • Minimize the impact and influence caused by early priority water rights in East Canyon and Silver Creek Drainages • Mitigate or eliminate obligations from pre-2004 water agreements • Develop long-term wet water supplies for tunnel source redundancy.	**Strategies/Policies:** • Actively develop action items to mitigate obligations through cooperative efforts or up to and including condemnation • Practice reasonably frequent communications with State Engineer • Lease excess water to other Basin Water Suppliers when necessary • Secure at least 2700 g.p.m. capacity and the associated volume to deliver additional water

***Mission Statement:* The Park City Water Service District mission is to provide service in a cost effective and environmentally sensitive manner to our community that promotes a reasonable cost for safe, clean, healthy, fresh water for culinary needs, 24 hours a day, Today and Tomorrow.**

Topic: Source	
Objectives: • Support cooperation of regional strategy for providing water to Park City and the Snyderville Basin. • Ensure adequate water supply for projected Park City build-out. • Support development of Integrated Management of City and Basin Resources • Maximize efficient use of existing City sources	**Strategies/Policies:** • Maximize the availability of Park City's water from the Rockport Importation project • Provide and maximize source redundancy • Keep the Water System Master Plan current. • Maintain tunnel sources to enable maximum source delivery. • Support the long term viability of East Canyon Creek and Silver Creek • Protect identified source protection zones per the Source Protection Plan • Balance off peak source flows with peak demands. • Develop wet water in excess of projected build out to ensure tunnel source redundancy

PARK CITY MUNICIPAL CORPORATION WATER STRATEGIC PLAN
January 2006 (Final Draft)

Mission Statement:* *The Park City Water Service District mission is to provide service in a cost effective and environmentally sensitive manner to our community that promotes a reasonable cost for safe, clean, healthy, fresh water for culinary needs, 24 hours a day, Today and Tomorrow.

<table>
<tr><td colspan="2">Topic: Financial Stability</td></tr>
<tr>
<td>Objectives:
• Ensure Water fund has sufficient financial resources to cover cost of ongoing operations and maintenance, required improvements, capital renewal programs and economic contingencies.
• Maintain A+ or above bond rating.
• Ensure growth impacts are financed through impact fees.</td>
<td>Strategies/Policies:
• Update user fees and impact fees annually to meet bond coverage, operational, and capital requirements.
• Minimize the use of water impact fee waivers.
• Bill all metered water use
• Effective operations and capital cost management
• Aggressive pursuit of Federal and State financial assistance
• Maintain minimum of 1.2 times annual operating budget in fund reserve.
• Financially contain all operating and capital plans before implementation.
• Allocate impact fees by service areas.
• Lease excess water</td>
</tr>
</table>

Mission Statement:* *The Park City Water Service District mission is to provide service in a cost effective and environmentally sensitive manner to our community that promotes a reasonable cost for safe, clean, healthy, fresh water for culinary needs, 24 hours a day, Today and Tomorrow.

Topic: **Water Quality**	
Objectives: • Improve resident knowledge in Park City's water quality • Ensure public health and safety is protected through quality water. • Continue to improve East Canyon and Silver Creek Watershed • Protect existing water sources	**Strategies/Policies:** • Meet or exceed all federal and state drinking water requirements. • Develop and implement public communication/PR plan for water quality issues. • Compliance with source protection plan. • Incorporate watershed protection in project planning, where applicable

Mission Statement:* *The Park City Water Service District mission is to provide service in a cost effective and environmentally sensitive manner to our community that promotes a reasonable cost for safe, clean, healthy, fresh water for culinary needs, 24 hours a day, Today and Tomorrow.

Topic: Infrastructure	
Objectives: • Maximize useful life of all water infrastructure • Follow Master Plan in constructing identified improvements • Support water conservation • Protect Water Infrastructure through appropriate security measures • Maximize operational efficiency	**Strategies/Policies:** • Implement Capital Facilities Plan. • Account for all water use • Minimize loss of service due to extended power outage • Compliance with Homeland Security Act • Develop and Implement Infrastructure Replacement & Renewal Plan • Make operational efficiency a goal in new infrastructure design and existing operational practices.

Mission Statement:* *The Park City Water Service District mission is to provide service in a cost effective and environmentally sensitive manner to our community that promotes a reasonable cost for safe, clean, healthy, fresh water for culinary needs, 24 hours a day, Today and Tomorrow.

Topic: Water Conservation	
Objectives: • Promote the conservation of Park City's water resources • Mitigate summer and winter peak day water use	**Strategies/Policies:** • Maintain an active water conservation program with emphasis on communications, user rates to encourage conservation and impact fee reductions for drip irrigation. • Provide education and outreach to members of the public on water conservation issues • Partner with Community groups on Water Conservation issues. • Monitor consumption.

PARK CITY MUNICIPAL CORPORATION WATER STRATEGIC PLAN
January 2006 (Final Draft)

***Mission Statement:* The Park City Water Service District mission is to provide service in a cost effective and environmentally sensitive manner to our community that promotes a reasonable cost for safe, clean, healthy, fresh water for culinary needs, 24 hours a day, Today and Tomorrow.**

Topic: Customer Service/Outreach	
Objectives: • Provide a consistent, high level, professional and courteous service to our customers. • Provide outreach and leadership on water quality related issues • Use new technologies that seek to promote: ○ Improved services to customers. ○ More timely data collection. ○ More efficient manpower utilization.	**Strategies/Policies:** • Respond in a timely manner related to inquiries or expressions of concerns to water quality matters • Stay current on new technology to improve level of customer service

City Council
Staff Report

Subject:	**Business License Appeal**
Author:	**Shelley Hatch Analyst II**
Department:	**Finance Department**
Date:	**July 14, 2011**
Type of Item:	**Appeal of Business License Fees**

Summary Recommendations:
Staff requests that City Council review the appeal of the Business License Fees and consider upholding the Finance Department and City Manager Tom Bakaly decision to deny a refund for additional fees paid on Business Licenses and Convention Sale Licenses during the Sundance Events 2011 pursuant to the attached findings of fact, conclusions of law and order.

Topic/Description:

Appellant:	Michael E. Sweeney representing the Town Lift Plaza and Heidi Hughes representing the Summit Events DMC.
Locations:	136 Heber Ave,(Jean Louie Restaurant), 408 Main Street (Robert Kelly Gallery), 825 Main Street (Town Lift)
Reason for Review:	Appeals of Finance Department are reviewed by City Council.

Standard of Review and Burden of Proof
Municipal Code 4-3-17 is the controlling statute for this appeal as the convention sale license requirements are located in Chapter 3. Because it is not specified in the Code, the standard of review is *de novo* or anew. This appeal should be reviewed without any deference to the underlying decisions by staff and should instead be reviewed “anew.” The Appellant has the burden of proving that staff’s decision was in error.

Background:
On December 15, 2010, Staff met with Michael Sweeney and Heidi Hughes to discuss what events they were bringing to Sundance. At that time staff advised them to apply for the license in a timely matter and that each event would need a business license or a convention sales license.

On January 10, 2011, Heidi Hughes submitted an application for 136 Heber Ave to Kurt Simister, in the Building Department. At that time Kurt advised Heidi that she needed to apply for multiple Convention Sales Licenses for the location, one for each vendor booth. During an inspection for the Sundance events Kurt, building inspector noticed multiple businesses at the three locations indicated above. At each of these locations there was only one license applied for to cover all of the activity within the location. At time of inspection Kurt Simister saw multiple vendor booths inside each location each one for a unique vendor.

On January 18, 2011, Appellants submitted a letter to Michael Kovacs, Assistant City Manager asking he review the Staff decision to require each of multiple businesses to apply for a Convention Sales License or a Business License as opposed to just having one license to cover all of the vendors for the one street location. (Exhibit A)

On January 21, 2011, Michael Kovacs replied stating that the City's interpretation is that a vendor located within an existing business that is staffed in a distinct area to conduct business with their own tax ID separate from the overall host business or promoter, must have its own convention sales license or business license distinct from the promoter's license. (Exhibit B)

On January 24, 2011, appellants paid under protest for the additional multiple licenses required for 136 Heber Ave, 408 Main Street, and 825 Main Street totaling $9,187. Of the $9187.00 of the fees paid, $972.00 was collected by the City but given to the Historic Main Street Business Improvement District. The Historic Main Street Business Improvement District was created August 30, 2007, as a business tax levied by ordinance upon businesses within the Main Street district. The funds received from this tax will be set aside for business promotion activities aimed at benefiting the Historic Main Street area and businesses within the BID

The breakdown of the license fees charged are:
825 Main Street (Town Lift Plaza) - appellant Mike Sweeney paid in protest $3,445 for 13 convention sales licenses ($265 per convention sales license). There were 13 gifting booths located in the Plaza.
136 Heber Avenue (Jean Louie Restaurant) - appellant Heidi Hughes paid in protest $3,975 for 15 Convention Sales Licenses ($265 per convention sales license). There were 14 gifting booths located at the restaurant.
408 Main Street (Gallery) - appellant Heidi Hughes paid for a business license for the square footage of the location. Appellant Heidi Hughes paid in protest $972 for HPCA fees ($243 per Main Street Business) collected by the City for the 4 gifting booths.

After Appellants received the letter from Michael Kovacs they requested a hearing with Tom Bakaly. (Exhibit C)

On April 20, 2011, City Staff, Tom Bakaly and Appellants met and an appeal hearing was held on Appellants' appeal of the $9,187 that was paid by the Appellants under protest.

On May 4, 2011 Tom Bakaly sent a letter to Appellants denying their appeal with findings (Exhibit D).

On May 6, 2011, Appellants appealed his decision to City Council (Exhibit E)

On July 11, 2011 Appellants submitted a packet for council's review, but there was not enough time to respond to all issues in the staff report. Staff will address outstanding questions for members at the July 14, 2011 Council meeting. (Exhibit F)

Analysis:
This main issue on appeal is whether staff's determination was correct that each individual gifting booth requires a convention sale license rather than one license for each overall location.

In 2011, during Sundance, as was the case in Appellants' locations, gifting booths involved booths with representatives for each company to represent their product with the purpose of giving the product to people who will give the product the right exposure. The gifting booths were stand alone structures or areas which were devoted to a particular brand of merchandise
.

Under 4-2-1 of the Park City Municipal Code, "it shall be unlawful for any person to engage in business within Park City, whether on a temporary or permanent basis, without first procuring the license required by this Chapter." Furthermore, Section 4-1-1.18 of the Municipal Code defines "Engaging in Business" to include all activities engaged in within the corporate limits of Park City carried on for the purpose of gain or economic profit, except that the acts of employees rendering service to employers shall not be included in the term business unless otherwise specifically prescribed. "Engaging in Business" includes but is not limited to, the sale or rental of tangible personal or real property at retail or wholesale, the manufacturing of goods or property and the rendering of personal services for others for a consideration by persons engaged in any profession, trade, craft, business, occupation, or other calling, except the rendering of personal services by an employee to his employer under any contract of personal employment." Staff' has determined that gifting is engaging in business because gifting is the rendering of personal services for others for a consideration by persons engaged in any profession.

Municipal Code Section 4-3-9 states, "CONVENTION SALES AND OLYMPIC COMMERCIAL HOSPITALITY**.** The Finance Department may issue licenses for a period not to exceed two (2) weeks for temporary use of convention and meeting rooms within any licensed convention or meeting facility for the purpose of temporary retail sales of goods or services, whether in conjunction with a convention or not. Solicitation of orders for future sales or deliveries of goods or services is permissible without licensure"

Convention Sales Licenses are required for temporary "A" assembly use, such as restaurants or other assembly use during Sundance and are charged a flat fee for each separate entity engaging in business as required in Municipal Code 4-3-9. Business Licenses are required for "B" assembly use, such as retail space (as was the case with the Gallery). Those fees are calculated based on square footage as listed in the Business License Fee Schedule in Municipal Code 4-2-17.

Furthermore under that convention sales license section (D), it states, it is the "Responsibility of Host Business to ensure licensing and compliance with the uniform Building and Fire Codes. Business which make all of or a portion or portions of their licensed business locations available to other persons for the purpose of **engaging in business** shall be responsible to ensure that such persons obtain business licenses and possess Utah State Sales Tax numbers listed in Park City. In the event a licensed hotel, motel inn or bed-breakfast business fails to require such a showing, that business shall be liable for payment of all license fees and penalties payable by the person engaging in business at their licensed location, If such business is not currently licensed for assembly use, the business shall obtain the necessary inspection and permit from the Building Department. Nothing herein shall relieve the sub-letting/guest business from their individual responsibility to obtain the necessary licenses." Since gifting is engaging in business, under section D, it is the responsibility of the host business or designee to acquire the license.

Therefore, based upon the above code definitions of engaging in business, the City required a separate license for each gifting booth, and it was the responsibility of the host business to acquire the license. Having a promoter organize the gifting booths did not relieve the need for each separate entity having a gifting booth to have a license. Although, it is true that in the past the City had not enforced requiring each separate gifting booth to have a separate license, in 2011 for every location having gifting suites which Business Licensing was aware of, the City required separate convention sales license for each gifting booth as well as a license for the promoter who organized the gifting booths. In 2011, of the 14 convention sales license locations during Sundance 2011, 8 of them received licenses for more than one business at their location. If City Council chooses to grant the appeal and refund the extra fees to Appellants, Staff feels that in all fairness, other businesses during Sundance who were also required to have multiple licenses should also receive refunds. The total fees that would be refunded would be approximately $13,500.00. This amount includes the refund to the appellants.

Specifically for the location of 825 Main Street (Town Lift Plaza), appellant Mike Sweeney paid (in protest) $3,445.00 for 13 convention sales licenses ($265.00 per convention sales license) for the 13 gifting booths located in the Plaza. Additionally, at that same location, Mr. Sweeney paid without protest 5 other Convention Sales License for the promoter Best Events. Those 5 other licenses were for tent on deck, garage, House of Swag, Carrera and Stella Café. Furthermore, Mr. Sweeney also received a special event license for 825 Main Street. Municipal Code 4-8-7 states, “Temporary concessions on public or private property may be approved in conjunction with a Master Festival or Special Event in the sole discretion of the City. Unless otherwise approved by the City Council, all concessions require a regular business license.

At 136 Heber Ave (Jean Louie Restaurant), Appellant Heidi Hughes paid in protest $3,975.00 for 15 Convention Sales Licenses ($265 per convention Sales License) for the 14 gifting booths located at the restaurant.

The issue at appeal for 408 Main Street (Robert Kelly Gallery) is under a different theory than the other locations. At 408 Main Street, Appellant paid for a business license for the square footage of the location and there is no contention about those fees. However, Appellant Heidi Hughes paid in protest $972.00 in Historic Main Street Park City Association (HPCA) fees ($243.00 per Main Street Business) which were collected by the City for 4 gifting booths. The City collects fees as a courtesy to the HPCA. The City does not retain those fees and therefore Staff believes that if Ms. Hughes wishes to contest payment of the HPCA fees, she will need to go directly to the HPCA to request a refund. The City does not have jurisdiction or the ability to make a determination for those fees which were collected as a courtesy to the HPCA.

Appellants argue that in the past, specifically between 2002 and 2010, Appellants hosted various hospitality, gifting and filming suites during Sundance and were only required to have one convention sales license for each location. Although it is true that in years past, the City only collected business license fees for one business for each location even if there were several gifting booths at the location, in 2011 the City uniformly required a license for each gifting booth when the City was aware that several gifting booths were in a location.

Furthermore, Appellants argue that Section 4-2-21(D) of the Municipal Code “Exceptions to Business Revenue License Fee” should apply which states “No business license fee shall be imposed under this chapter upon the following persons or businesses: (D) Any person, firm, or corporation exhibiting goods for sale concurrent with and as an adjunct to a group display, meeting or convention duly authorized to be held; provided that the convention is duly licensed under other applicable ordinances” However, gifting does not qualify for this exception because there is more than just display or exhibiting of goods. The consideration for the “gift” is celebrity association and media exposure for the product. This results in rendering personal services.

Appellants have also argued that gifting should be exempt under Municipal Code Section 4-3-9 because “Solicitation of orders for future sales or deliveries of goods or services” are exempt. However, because there are no orders being made and merchants are hoping to place their product where it will get media exposure, Staff does not feel this exemption applies.

Therefore, because gifting is “engaging in business” as defined by the Park City Municipal Code and because Section 4-3-9(D) of the Code places the responsibility of the host business (the promoter) to ensure licensing of other persons (i.e. gifting booths) engaging in business in the host business’s location or portion of their location, each gifting booth should be required to have a convention sales license. .

<u>Proposed Findings of Fact, Conclusions of Law and Order:</u>

Findings of Fact:

1. Between 2002 and 2010, Appellants received business licenses for various hospitality, gifting and filming suites during Sundance under one convention sales license for each location.
2. Gifting is a marketing tool in which goods are given to desirable people with the hopes that their picture or their image will appear in publications and give the product exposure and buzz.
3. Gifting is not just the display of goods with the hope of future orders. It involves actually giving product away. The “consideration” for the “gift” is the exposure of the product.
4. The nature of “gifting” has changed considerably from 2002 to 2011. In 2011, gifting involves booths with representative for each company to represent their product and give it to people who will give the product the right exposure. Generally, the product is not given to the general public.
5. Gifting booths are usually stand alone structures or areas which are devoted to a brand of merchandise which are then given to celebrities.
6. Pursuant to 4-2-1 of the Park City Municipal Code, “it shall be unlawful for any person to engage in business within Park City, whether on a temporary or permanent basis, without first procuring the license required by this Chapter.”
7. Section 4-1-1.18 of the Municipal Code defines “Engaging in Business” as “Includes all activities engaged in within the corporate limits of Park City carried on for the purpose of gain or economic profit, except that the acts of employees rendering service to employers shall not be included in the term business unless otherwise specifically prescribed. "Engaging in business" includes but is not limited to, the sale or rental of tangible personal or real property at retail or wholesale, the manufacturing of goods or property and the rendering of personal services for others for a consideration by persons engaged in any profession, trade, craft, business, occupation, or other calling, except the rendering of personal services by an employee to his employer under any contract of personal employment.”
8. Municipal Code Section 4-3-9 states, “CONVENTION SALES AND OLYMPIC COMMERCIAL HOSPITALITY**.** The Finance Department may issue licenses for a period not to exceed two (2) weeks for temporary use of convention and meeting rooms within any licensed convention or meeting facility for the purpose of temporary retail sales of goods or services, whether in conjunction with a convention or not. Solicitation of orders for future sales or deliveries of goods or services is permissible without licensure”
9. Municipal Code Section 4-3-9(D), states, “<u>RESPONSIBILITY OF HOST BUSINESS TO ENSURE LICENSING AND COMPLIANCE WITH THE UNIFORM BUILDING AND FIRE</u>

CODES. Businesses which make all of or a portion or portions of their licensed business locations available to other persons for the purpose of engaging in business shall be responsible to ensure that such persons obtain business licenses and possess Utah state sales tax numbers listed in Park City. In the event a licensed hotel, motel, inn or bed-and-breakfast business fails to require such a showing, that business shall be liable for payment of all license fees and penalties payable by the person engaging in business at their licensed location. If such business is not currently licensed for assembly use, the business shall obtain the necessary inspection and permit from the Building Department. Nothing herein shall relieve the sub-letting/guest business from their individual responsibility to obtain the necessary licenses."

10. Business Licenses are required for "B" assembly use, such as retail space. Those fees are calculated based on square footage as listed in the Business License Fee Schedule in Municipal Code 4-2-17. Convention Sales Licenses are required for temporary "A" assembly use, such as restaurants or other assembly use and during Sundance are charged a flat fee for each separate entity engaging in business as required in Municipal Code 4-3-9.
11. In 2011, pursuant to the Municipal Code, the City required a separate license for each gifting booth. Having a promoter organize the gifting booths does not relieve the need for each separate entity having a gifting booth to have a license.
12. For every location having gifting suites which Business Licensing was aware of, the City required separate convention sales licenses for each gifting booth as well as a license for the promoter who organized the gifting booths.
13. Of the 14 convention sales license locations during Sundance 2011, 8 of them received licenses for more than one business at their location.
14. The City collects Historic Park City Association (HPCA) fees as a courtesy to the HPCA. The City does not retain those fees.
15. For the location, 825 Main Street (Town Lift Plaza), appellant Mike Sweeney paid in protest $3,445 for 13 convention sales licenses on January 24, 2011, ($265 per convention sales license). There were 13 gifting booths located in the Plaza.
16. At the location 825 Main Street, Appellant Mike Sweeney paid without protest 5 other Convention Sales Licenses for the promoter Best Events. Those 5 other licenses were for tent on deck, garage, House of Swagg, Carrera and Stella Café.
17. For the location, 136 Heber Avenue (Jean Louie Restaurant), appellant Heidi Hughes paid in protest $3,975 for 15 Convention Sales Licenses, on January, 24, 2011,($265 per convention sales license). There were 14 gifting booths located at the restaurant.
18. For the location 408 Main Street (Robert Kelly Gallery), appellant paid for a business license for the square footage of the location on January, 24 2011. Appellant Heidi Hughes paid in protest $972 in HPCA fees ($243 per Main Street Business) collected by the City for 4 gifting booths.
19. On April 20, 2011, City Staff, Tom Bakaly and Appellants met and an appeal hearing was held on Appellants' appeal of the $9,187 that was paid by the Appellants under protest.
20. On May 4, 2011 Tom Bakaly sent a letter to Appellants denying their appeal with findings.
21. On May 6, 2011, Appellants appealed his decision to City Council.

Conclusions of Law

1. Gifting does not qualify for the exception outlined in Section 4-2-21 of the Municipal Code because there is more than just display or exhibiting of goods. The consideration for the “gift” is the possibility of getting media exposure for the product.
2. Gifting does not meet the definition of, “Solicitation of orders for future sales or deliveries of goods or services” as stated in Municipal Code Section 4-3-9 because there are no orders being made. Instead, the merchant is hoping of placing his product where it will get media exposure.
3. Gifting is “engaging in business” as defined by the Park City Municipal Code.
4. Pursuant to Section 4-3-9(D), it is the responsibility of the host business (the promoter) to ensure licensing of other persons (i.e. gifting booths) engaging in business in the host business’s location or portion of their location.
5. Although in years past, the City only collected business license fees for one business for each location even if there were several gifting booths at the location, in 2011 the City uniformly required a license for each gifting booth when the City was aware that several gifting booths were in a location.
6. Because the City only collects HPCA fees as a courtesy to the HPCA, any dispute over HPCA fees collected must be addressed directly with the HPCA.

Decision

1. Appeal denied. Pursuant to Municipal Code 4-3-9 and the definition of Engaging in Business, Convention Sales License fees are appropriately collected for each gifting booth. The City cannot refund HPCA fees.

Process:
The City Council action on this matter shall constitute final action. Any further appeals would be to the District Court.

Department Review:
The City Manager, Legal Department, Building Department, and Finance Department reviewed this report

Exhibit A: Appellants submitted an appeal letter to Michael Kovacs.
Exhibit B: Michael Kovacs replied to Appellants
Exhibit C: Appellants requested a hearing with Tom Bakaly
Exhibit D: Toms determination of the business license appeal
Exhibit E: Appellants appeal of City Manager decision to council for hearing.
Exhibit F: Appellants transmittal letter submitted on July 11, 2011
Position Statement for Mr. Bakaly
Exhibits A - F can be found on-line in separate supplemental packet

January 18, 2011

Mike Kovacs
Assistant City Manager
Park City Municipal Corp.
Park City, UT 84060

Dear Mr. Kovacs,

Jonathan Weidenhamer had asked me and Mike Sweeney to list the brands/sponsors going into the 136 Heber Ave. Jean Louis Restaurant and Town Lift Plaza spaces.

Brands/sponsors going into Jean Louis with Peak 5:

- Talent Resources
- Overstock
- Yasmin & Jazmin
- Keratin/901
- Media Muscle
- Gypsy05
- Gilt City
- Stoli

Based on my five plus years of assisting Sundance clients with permitting, I was giving Peak 5 the most current and definitive advice that it needed, ONE Convention Sales License, to operate in compliance with Park City's regulations within the Jean Louis restaurant space during Sundance '11.

Indeed, this year's "Sundance Rules of the Road", page 4, states that "A Convention Sales License [one is implied] is used for a hotel or restaurant location." It does not state that each participant or brand/sponsor of the Convention, in the Convention Space, must pull a separate Convention Sales License. There is no precedent that a single entity (participant or brand/sponsor) must pull a separate Convention Sales License in order to participate in the Convention in a single space that is being licensed to host the Convention. This defeats the purpose of the Convention and Sales License, which is putting a Convention under a single legal entity (person) who has the responsibility to manage the Convention, i.e., to whom the City looks to provide the City (one contact) to deal with the necessary required City insurance, rules, regulations etc. and work with the Building Department to follow the building code requirements to occupy the space. Furthermore, other than the Finance department announcing verbally that a Convention and Sales License must be obtained by each participant or brand/sponsor to do business in a single space, this interpretation has not been noticed to the public in writing or brought before the City Council. The first I heard of this interpretation of regulating the Convention Sales License was last Friday, January 14, 2011, which Mike Sweeney and I brought to your attention. Not once in all the pre-meetings the staff ask us to attend did the staff let us know that a Convention Sales License was required for each participant or brand/sponsor to be part of the Convention.

Summing this situation up: as we have discussed, I was shocked to learn last week that the City's intent in this regulation is that every brand/sponsor that Peak 5 has in the space is required to get its own Convention Sales License, and that it would be enforced as such this year.

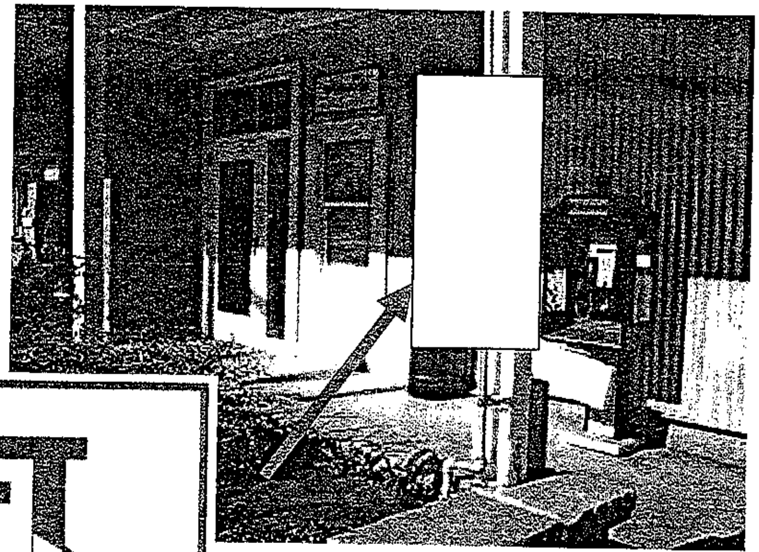
The deals have already been made, and it would be very bad for my business and reflect badly on the City for me to go back to Peak 5 at this point and ask for $265 from each brand/sponsor (person). If the City does choose to enforce the one Convention Sales License per brand/sponsor this year, I ask that the City invoices me $265 x 8 brand/sponsors = $2,120 and considers all in compliance. Then I will appeal this decision through the appropriate appeals process.

Also, per the City Council's direction, you are to help us get through this situation, until this matter can be reviewed and be brought back to City Council due to the fact this will have a major impact on how the City licenses businesses in Park City that goes way beyond Sundance Film Festival. I don't dispute the City's need and right to charge and collect appropriate fees from businesses. My record shows that I have been very respectful and consistent in my efforts to represent the City's interests with all my clients, and made sure that not only they got all the permits they needed, but stayed in compliance with them throughout their activations. After Sundance '11, I would like to volunteer to help the City review its business license procedures for Sundance '12, Rules of the Road, etc. so that the City's policies and regulations are communicated effectively and consistently to everyone who wants to do business during the Sundance Film Festival and other master festival licenses (MFLs) events held in Park City.

Sincerely,

Heidi Hughes

Heidi Hughes, CMP
Summit Events DMC



Lift Sponsor Sign- Upper Deck

**24'x48'

Special event permit = all X Sweeney sites w. convention/sales sites

Heidi - 6 venues

Convention & Sales License - umbrella

$40-50K per place - rent

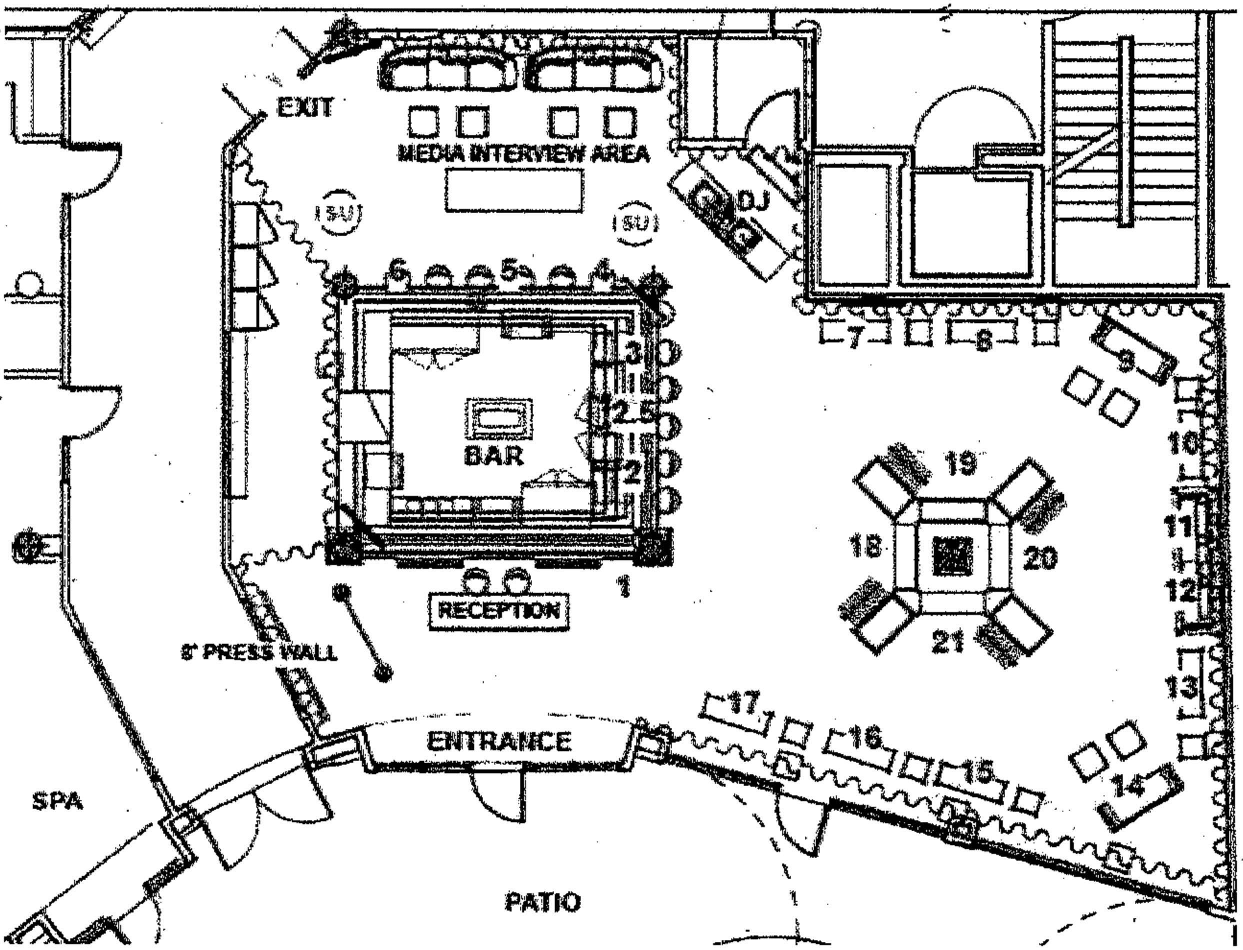
Administering licenses

- Asserts Δ in interpretation
- multi Licenses don't make sense
- 3-5 mo.s worth of rent. wlds/mats
- Implies 1 License other MFL or Bus. License.

Clear, consistent,

Shelley to
Δs to Interpretations?

Request same as last year & system redo



1. Reception
2. Patron
2.5 Stella
3. Hint
4. Popchips
5. OPEN
6. Harry & David
7. Sweet Breath
8. Crocs
9. got2b
10. Soltice
11. Cavi
12. OPEN
13. Enjoy Lighting
14. Sorel
15. I-Renew
16. Contraband
17. Lia Sophia
18. Under Amor
19. American Apparel
20. Wellensteyn
21. thule

Under 200'

Town Lift
Current as of 1/13/11

PARK CITY
1884

Office of City Manager

January 21, 2010

Heidi Hughes
Summit Events DMC

Mike Sweeney
Town Lift Plaza

Re: Convention & Sales Licenses

Thank you for your letter of January 18th and meeting to discuss your objection to our staff's interpretation of the need for multiple convention sales licenses. Since our meeting, I have had the opportunity to conduct fact finding actions related to our historical interpretation of these particular licenses and review the code with the involved City staff members and with the assistance of our legal counsel.

The two sections of the code that pertain to you are:

4-1-1.8 **BUSINESS.** A distinct and separate person or entity engaging in business, as those terms are defined herein. A business is distinguished from another business by separate state sales tax numbers or separate ownership.

4- 3- 9. CONVENTION SALES AND OLYMPIC COMMERCIAL HOSPITALITY. The Finance Department may issue licenses for a period not to exceed two (2) weeks for temporary use of convention and meeting rooms within any licensed convention or meeting facility for the purpose of temporary retail sales of goods or services, whether in conjunction with a convention or not. Solicitation of orders for future sales or deliveries of goods or services is permissible without licensure. Olympics: The Finance Department may issue licenses for a period not to exceed five (5) weeks for temporary use of convention, meeting, restaurant and retail rooms within any licensed business for the purpose of temporary commercial hospitality events. The licenses may be issued on the following terms:

Park City Municipal Corporation • 445 Marsac Avenue • P.O. Box 1480 • Park City, UT 84060-1480
Phone (435) 615-5180 • FAX (435) 615-4901

(A) **LICENSE FEE.** The license fee shall be as set forth in the Park City License Fee Schedule. An additional administrative fee as set forth in the Park City License Fee Schedule is hereby authorized for all such temporary licenses effective during any portion of the Sundance Film Festival or the 2002 Winter Olympics.
(B) **STATE TAX NUMBER.** The applicant must provide his sales tax identification number as a part of the license application to assist in verifying the collection and reporting of sales tax.
(C) **APPLICATIONS.** Applications must be filed at least ten (10) days prior to the proposed date of commencement of business to permit adequate time for the Police Department review and investigation. The police may request reasonable evidence of title to goods proposed to be offered for sale as a part of the review.

Our interpretation has been that a vendor located within an existing business that is staffed in a distinct area to conduct business with their own tax ID separate from the overall host business or promoter, must also have a convention sales license.

Fees must be paid, under protest if desired, in order to request an appeal to the City Manager. The next appeal from the City Manager is to the City Council (see Park City code 4-3-17).

Sincerely,

Michael Kovacs
Assistant City Manager

Emailed and Hand Delivered
Mr. Tom Bakaly
City Manager
Park City Municipal Corp.
445 Marsac Avenue
PO Box 1480
Park City, UT 84060

Re: Appeal of City Staff Decision Presented in Mr. Michael Kovacs January 21, 2011 Letter (attached)

Dear Tom,

We stand by our position in the January 18th letter sent by Heidi Hughes (attached) the Staff Position as presented in Mr. Kovacs letter January 21, 2011 does not fit the situation and is not supported by Park City Municipal Code Title 4 – Licensing, nor does the Park City Website "Sundance Rules of the Road" support this interpretation: from Mr. Kovacs January 21, 2011 letter: "Our interpretation has been that a vendor located within an existing business that is staffed in a distinct area to conduct business with their own tax ID separate from the overall host business or promoter, must also have a convention sales license."

We respectfully request a hearing at your earliest convenience, pursuant to the Park City Municipal Code Title 4, after we receive the results of the attached GRAMA Request (copy of request provided), where we will provide the evidence to support our position in the hearing. We respectfully request that Park City Municipal refund us the additional monies paid in protest with respect to this issue.

Sincerely,

Heidi Hughes Michael E Sweeney

Heidi Hughes and Michael E. Sweeney

PARK CITY
1884

May 4, 2011

Office of City Manager

Michael E Sweeney
Brothers III LLC
PO Box 2429
Park City UT 84060

Michael E. Sweeney – Town Lift Plaza –E-mail: mesgold@yahoo.com
Heidi Hughes – Summit Events DMC – c/o Michael Sweeney and E-mail: heidi@summiteventsdmc.com

Dear Mike and Heidi,

Thank you for taking the time to meet, provide the materials and make your presentation. I appreciate the thoroughness and consideration you put into your materials and presentation. You appealed staff's determination that each individual gifting booth requires a convention sale license or a business license. I have made the follow determination regarding your appeal pursuant to Municipal Code 4-3-17:

Findings of Fact:

1. Between 2002 and 2010, Appellants hosted various hospitality, gifting and filming suites during Sundance under one convention sales license for each location.
2. Gifting is a marketing tool in which goods are given to desirable people so that the product will be associated with those people and appear in publications or the internet and give the product exposure and buzz.
3. Gifting is not just the display of goods with the hope of future orders. It involves actually giving product away. The "consideration" for the "gift" is the exposure of the product.
4. The nature of "gifting" has changed considerably from 2002 to 2011. In 2011, gifting involves booths with representative for each company to represent their product and give it to people who will give the product the right exposure. Generally, the product is not given to the general public.
5. Gifting booths are usually stand alone structures or areas which are devoted to a brand of merchandise which are then given to celebrities.
6. Pursuant to 4-2-1 of the Park City Municipal Code, "It shall be unlawful for any person to engage in business within Park City, whether on a temporary or permanent basis, without first procuring the license required by this Chapter."
7. Section 4-1-1.20 of the Municipal Code defines "Engaging in Business" as "Includes all activities engaged in within the corporate limits of Park City carried on for the purpose of gain or economic profit, except that the acts of employees rendering service to employers shall not be included in the term business unless otherwise specifically prescribed. "Engaging in business" includes but is not limited to, the sale or rental of tangible personal or real property at retail or wholesale, the manufacturing of goods or property and the rendering of personal services for others for a consideration by persons engaged in any profession, trade, craft, business, occupation, or other calling, except the rendering of personal services by an employee to his employer under any contract of personal employment."

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8. Municipal Code Section 4-3-9(D), states, "RESPONSIBILITY OF HOST BUSINESS TO ENSURE LICENSING AND COMPLIANCE WITH THE UNIFORM BUILDING AND FIRE CODES. Businesses which make all of or a portion or portions of their licensed business locations available to other persons for the purpose of engaging in business shall be responsible to ensure that such persons obtain business licenses and possess Utah state sales tax numbers listed in Park City. In the event a licensed hotel, motel, inn or bed-and-breakfast business fails to require such a showing, that business shall be liable for payment of all license fees and penalties payable by the person engaging in business at their licensed location. If such business is not currently licensed for assembly use, the business shall obtain the necessary inspection and permit from the Building Department. Nothing herein shall relieve the sub-letting/guest business from their individual responsibility to obtain the necessary licenses."
9. Convention Sales Licenses are required for temporary "A" assembly use, such as restaurants or other assembly use and during Sundance are charged a flat fee for each separate entity engaging in business as required in Municipal Code 4-3-9. Business Licenses are required for "B" assembly use, such as retail space. Those fees are calculated based on square footage as listed in the Business License Fee Schedule in Municipal Code 4-2-17.
10. In 2011, pursuant to the Municipal Code, the City required a separate license for each gifting booth. Having a promoter organize the gifting booths does not relieve the need for each separate entity having a gifting booth to have a license.
11. For every location having gifting suites which Business Licensing was aware of, the City required separate convention sales licenses for each gifting booth as well as a license for the promoter who organized the gifting booths.
12. Of the 14 convention sales license locations during Sundance 2011, 8 of them received licenses for more than one business at their location.
13. The City collects Historic Park City Association (HPCA) fees as a courtesy to the HPCA. The City does not retain those fees.
14. For the location, 825 Main Street (Town Lift Plaza), appellant Mike Sweeney paid in protest $3,445 for 13 convention sales licenses ($265 per convention sales license). There were 13 gifting booths located in the Plaza.
15. At the location 825 Main Street, Appellant Mike Sweeney paid without protest 5 other Convention Sales Licenses for the promoter Best Events. Those 5 other licenses were for tent on deck, garage, house of swagg, Carrera and stella café.
16. Appellant Mike Sweeney also received a special event license for 825 Main Street. Municipal Code 4-8-7 states, "Temporary concessions on public or private property may be approved in conjunction with a Master Festival or Special Event in the sole discretion of the City. . . . Unless otherwise approved by City Council, all concessions require a regular business license "
17. For the location, 136 Heber Avenue (Jean Louie Restaurant), appellant Heidi Hughes paid in protest $3,975 for 15 Convention Sales Licenses ($265 per convention sales license). There were 14 gifting booths located at the restaurant.
18. For the location 408 Main Street (Gallery), appellant paid for a business license for the square footage of the location. Appellant Heidi Hughes paid in protest $972 in HPCA fees ($243 per Main Street Business) collected by the City for 4 gifting booths.

Conclusions of Law

1. Gifting does not qualify for the exception outlined in Section 4-2-21 of the Municipal Code because there is more than just display or exhibiting of goods. The consideration for the "gift" is celebrity association and media exposure for the product.

2. Gifting does not meet the definition of, "Solicitation of orders for future sales or deliveries of goods or services" as stated in Municipal Code Section 4-3-9 because there are no orders being made. Instead, the merchant is hoping of placing his product where it will get media exposure.
3. Gifting is "engaging in business" as defined by the Park City Municipal Code.
4. Pursuant to Section 4-3-9(D), it is the responsibility of the host business (the promoter) to ensure licensing of other persons (i.e. gifting booths) engaging in business in the host business's location or portion of their location.
5. Although in years past, the City only collected business license fees for one business for each location even if there were several gifting booths at the location, in 2011 the City uniformly required a license for each gifting booth when the City was aware that several gifting booths were in a location.
6. For the location 408 Main Street (Gallery), appellant Heidi Hughes paid in protest $972 in HPCA fees ($243 per Main Street Business) collected by the City for 4 gifting booths. Because the City only collects HPCA fees as a courtesy to the HPCA, any dispute over HPCA fees collected must be addressed directly with the HPCA.

Decision

Appeal denied. Pursuant to Municipal Code 4-3-9 and the definition of Engaging in Business, Convention Sales License fees are appropriately collected for each gifting booth. The City cannot refund HPCA fees.

An appeal of my decision to City Council must be submitted to the City Recorder within 10 days of the date of this letter.

Sincerely,

Tom Bakaly, City Manager
Park City Municipal Corporation

Emailed and Hand Delivered
Attention: Jan Scott, City Recorder

Mayor Dana Williams and City Council
Park City Municipal Corporation
445 Marsac Avenue
PO Box 1480
Park City, UT 84060

Re: Appeal of City Manager Decision Presented in Mr. Tom Bakaly May 4, 2011 Letter (attached)

Dear Mayor Williams and City Council Members,

We stand by our position in an appeal presented to Mr. Tom Bakaly at the April 20, 2011 appeal hearing. On May 4, 2011 we received Mr. Bakaly's decision to deny that appeal. We respectfully, disagree with some of his Findings of Fact and Conclusions of Law and we feel he neglected to address some of the fundamental points of our appeal. Therefore, we respectfully request a hearing at your earliest convenience after May 23, 2011.

Sincerely,

Heidi Hughes Michael E. Sweeney

Heidi Hughes and Michael E. Sweeney

May 4, 2011

Office of City Manager

Michael E Sweeney
Brothers III LLC
PO Box 2429
Park City UT 84060

Michael E. Sweeney – Town Lift Plaza – E-mail: mesgold@yahoo.com
Heidi Hughes – Summit Events DMC – c/o Michael Sweeney and E-mail: heidi@summiteventsdmc.com

Dear Mike and Heidi,

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Phone (435) 615-5180 • FAX (435) 615-4901

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Decision

Appeal denied. Pursuant to Municipal Code 4-3-9 and the definition of Engaging in Business, Convention Sales License fees are appropriately collected for each gifting booth. The City cannot refund HPCA fees.

An appeal of my decision to City Council must be submitted to the City Recorder within 10 days of the date of this letter.

Sincerely,

Tom Bakaly, City Manager
Park City Municipal Corporation

July 11, 2011

Emailed and Hand Delivered
Attention: Jan Scott, City Recorder

Mayor Dana Williams and City Council
Park City Municipal Corporation
445 Marsac Avenue
PO Box 1480
Park City, UT 84060

Re: Appeal of City Manager Decision Presented in Mr. Tom Bakaly May 4, 2011 Letter (attached)

Dear Mayor Williams and City Council Members,

On May 6, 2011 we sent you our notice of Appeal of City Manager Decision Presented in Mr. Tom Bakaly's May 4, 2011 Letter which was attached. The following is a summary of our position, response to Mr. Bakaly's May 4, 2011 Letter and supporting material for our position which is contained in the accompanying DVD. We will be presenting this material at the July 14, 2011 hearing. We are hopeful you can download the DVD to save paper.

Summary

The current section of the Municipal Code 4.3.9. Convention Sales and Olympic Commercial Hospitality was written to specifically set forth how the City conducts business during the 2002 Olympics and during Sundance Film Festivals. [A copy is provided in the support material.] This section of the Code has not changed since approved by the City Council and the interpretation and implementation of this Section of the Code by the Staff was consistent 2002 through 2010. Simply put, the Business Codes have not changed since implemented in 2002 to present. Sundance Film Festival business has not changed 2002 to present. Park City's "Sundance Rules of the Road" as stated on the City's website and printed and distributed to the public to understand how to conduct business during Sundance Film Festivals have not changed at least since 2008. Yet even so, Park City Municipal Corporation Staff changed the interpretation and enforcement of the Codes, without notice to the public, and without explaining the new interpretation and enforcement policies to Heidi and Mike until six days prior to the start of the 2011 Sundance Film Festival. Furthermore, the new enforcement policies were then not consistently applied. Heidi and Mike assisted their clients in obtaining the licenses and permits necessary to operate in compliance with Park City Codes and Regulations. Those licenses and permits were in place at the time the dispute arose and Heidi and Mike were required to pay (on behalf of their clients) under protest for additional licenses. As such, those fees paid under protest should be refunded immediately.

We stand by our position in an appeal presented to Mr. Tom Bakaly at the April 20, 2011 appeal hearing. On May 4, 2011 we received Mr. Bakaly's decision to deny that appeal. We respectfully disagree with some of his Findings of Fact and Conclusions of Law and we feel he neglected to address some of the fundamental points of our appeal. We have included a copy of his letter and interlineated our comments and provided additional support material in the accompanying DVD. We respectfully look forward to the July 14, 2011 hearing.

Sincerely,

Heidi Hughes Michael E. Sweeney

Heidi Hughes and Michael E. Sweeney

PARK CITY 1884
May 4,2011
Office of City Manage
Michael E Sweeney Brothers III LLC PO Box 2429 Park City UT 84060
Michael E. Sweeney -Town Lift Plaza -E·mail: mesgold@yahoo.com Heidi Hughes -Summit Events DMC -c/o Michael Sweeney and E·mail: heidi@summiteventsdmc.com

Dear Mike and Heidi,

Thank you for taking the time to meet, provide
the materials and make your presentation. I appreciate the thoroughness and consideration you put into your materials and presentation. You appealed staff's determination that each individual gifting booth requires a convention sale license or a business license. I have made the follow determination regarding your appeal pursuant to Municipal Code 4-3-17:

Findings of Fact:

1.
Between 2002 and 2010, Appellants hosted various hospitality, gifting and filming suites during Sundance under one convention sales license for each location.

We are not "hosts" of any hospitality, gifting or filming or suites of any kind. For the last seven years, we have assisted retail and restaurant businesses that want to rent out their respective business space during the Sundance Film Festival. We find clients to rent their spaces, and likewise we help those clients trying to find spaces. We assist with negotiations between the parties and also help with production resources. In addition, we work with the clients, the venues and the City, County and State as necessary to make certain that the clients and the venues are operating in compliance with the local codes, rules and laws. We have a good reputation in the industry, on the street and with the City. The City has referred clients to us, to help these clients engage in business during the Sundance Film Festival in compliance with all of the rules and regulations of Park City, Summit County and the state of Utah.

We have engaged in this activity consistently throughout the past seven years. During which time, the City's Business Codes pertaining to necessary licenses and fees and ways of conducting business during Sundance have not changed. We act on behalf of our clients to ensure they are in compliance with the City rules and regulations and promote Park City as friendly place to conduct business.

2.
Gifting is a marketing tool in which goods are given to desirable people so that the product will be associated with those people and appear in publications or the internet and give the product exposure and buzz.

3.
Gifting is not just the display of goods with the hope of future orders. It involves actually giving product away. The "consideration" for the "gift" is the exposure of the product.

4.
The nature of "gifting" has changed considerably from 2002 to 2011. In 2011, gifting involves booths with representative for each company to represent their product and give it to people who will give the product the right exposure. Generally, the product is not given to the general public.

We respectively disagree with the preceding; neither the code nor the nature of “gifting” has changed from 2002 to 2011, i.e. the nature of “gifting” has NOT changed since the Code’s inception.

5.
Gifting booths are usually stand alone structures or areas which are devoted to a brand of merchandise which are then given to celebrities.

Please note gifting is not just the act of giving to celebrities, it also includes the public and depends on the targeted audience.

6.
Pursuant to 4·2-1 of the Park City Municipal Code, "it shall be unlawful for any person to engage in business within Park City, whether on a temporary or permanent basis, without first procuring the license required by this Chapter."

7.
Section 4-1-1.20 of the Municipal Code defines "Engaging in Business" as "Includes all activities engaged in within the corporate limits of Park City carried on for the purpose of gain or economic profit, except that the acts of employees rendering service to employers shall not be included in the term business unless otherwise specifically prescribed. "Engaging in business" includes but is not limited to, the sale or rental of tangible personal or real property at retail or wholesale, the manufacturing of goods or property and the rendering of personal services for others for a consideration by persons engaged in any profession, trade, craft, business, occupation, or other calling, except the rendering of personal services by an employee to his employer under any contract of personal employment."

Please note, nowhere in the Municipal Code does it specifically address the act of Gifting. As far as the Municipal Code is concerned “gifting” is not considered an act of Business and is not regulated. Businesses are allowed to give away free samples of merchandise, goods and services, except alcohol, which is governed by Utah State’s Department of Alcoholic Beverage Control.

Determination of Business License Appeal-May 4, 2011 -Page 1 Park City Municipal Corporation' 445 Marsac Avenue' P.O. Box 1480' Park City. UT 84060· 1480 Phone (435) 615·5 180 · FAX (435) 615-4901

8.
Municipal Code Section 4-3-9(D), states, "RESPONSIBILITY OF HOST BUSINESS TO ENSURE LICENSING AND COMPLIANCE WITH THE UNIFORM BUILDING AND FIRE CODES. Businesses which make all of or a portion or portions of their licensed business locations available to other persons for the purpose of engaging in business shall be responsible to ensure that such persons obtain business licenses and possess Utah state sales tax numbers listed in Park City. In the event a licensed hotel, motel, inn or bed-and-breakfast business fails to require such a showing, that business shall be liable for payment of all license fees and penalties payable by the person engaging in business at their licensed location. If such business is not currently licensed for assembly use, the business shall obtain the necessary inspection and permit from the Building Department. Nothing herein shall relieve the sub-letting/guest business from their individual responsibility to obtain the necessary licenses."

9.
Convention Sales Licenses are required for temporary "A" assembly use, such as restaurants or other assembly use and during Sundance are charged a flat fee for each separate entity engaging in business as required in

Municipal Code 4-3-9. Business Licenses are required for "B" assembly use, such as retail space. Those fees are calculated based on square footage as listed in the Business License Fee Schedule in Municipal Code 4-2-17.

The City also collects the fees for HPCA in association with Business Licenses for “B” assembly use.

10.
In 2011, pursuant to the Municipal Code, the City required a separate license for each gifting booth. Having a promoter organize the gifting booths does not relieve the need for each separate entity having a gifting booth to have a license.

It is not pursuant to the Municipal Code, as this is not how the Code was interpreted and enforced in past years, as evidenced by the GRAMA reports in the information packages we presented. In 2011, the Code was interpreted and enforced differently, without public notice or approval by the City Council. Furthermore, the language in the “Sundance Rules of the Road” published by the City has not changed for at least three years. And, City staff did not inform us personally, even though they met with us several times prior to the date of Sundance 2011 to discuss permitting requirements for Sundance 2011.

11.
For every location having gifting suites which Business Licensing was aware of, the City required separate convention sales licenses for each gifting booth as well as a license for the promoter who organized the gifting booths.

This is not the case, and not what the data shows, and not what actually happened. We had several other locations in 2011, i.e. 738 Main, 580 Main, 364 Main, 608 Main, all of which were engaging in business exactly the same way as at 408 Main. Those venues were inspected and permitted consistent with years past – the City was aware. More importantly, the Park City Municipal Code Title 4 – Licensing Analysis has not changed since the 2002 Winter Olympics nor the enforcement of said Code until the 2011 Sundance Film Festival and furthermore the City Council has not amended Title 4 post the 2002 Winter Olympics.

12.
Of the 14 convention sales license locations during Sundance 2011, 8 of them received licenses for more than one business at their location.

That is different from years past, as evidenced in the GRAMA reports provided in the information package.

13.
The City collects Historic Park City Association (HPCA) fees as a courtesy to the HPCA. The City does not retain those fees.

Please see our response to Findings of Fact point #18.

14.
For the location, 825 Main Street (Town Lift Plaza), appellant Mike Sweeney paid in protest $3,445 for 13 convention sales licenses ($265 per convention sales license). There were 13 gifting booths located in the Plaza.

15.

At the location 825 Main Street, Appellant Mike Sweeney paid without protest 5 other Convention Sales Licenses for the promoter Best Events. Those 5 other licenses were for tent on deck, garage, house of swagg, Carrera and stella cafe.

Please note these are the same Convention Sales Licenses that were required and paid for during past Sundance Film Festivals time periods that satisfied Park City Municipal Corporation requirements to be complaint with PCMC licensing requirements during said Sundance Film Festival time periods regardless of how many different brands where located at the Town Lift Plaza and within each individual business space. Therefore, except for 2011 (note PCMC Code Title 4 has not changed during this time period), the same acquired Convention Sales Licenses and Business Licenses satisfied the City licensing requirements for the Town Lift Plaza since 2004 Sundance Film Festival.

16.
Appellant Mike Sweeney also received a special event license for 825 Main Street. Municipal Code 4-8-7 states, "Temporary concessions on public or private property may be approved in conjunction with a Master Festival or Special Event in the sole discretion of the City .... Unless otherwise approved by City Council, all concessions require a regular business license."

How is this relevant? There where no "Temporary concessions" and furthermore, all required Business License, including Convention Sales Licenses, where obtained. The City has since the 2002 Winter Olympics required Brothers III, LLC to get a Special Event License for the Town Lift Plaza to act as an umbrella license for the whole Town Lift Plaza in addition to the separate Convention Sales Licenses and Business Licenses to regulate the Town Lift Plaza under one master license.

17.
For the location, 136 Heber Avenue (Jean Louie Restaurant), appellant Heidi Hughes paid in protest $3,975 for 15 Convention Sales Licenses ($265 per convention sales license). There were 14 gifting booths located at the restaurant.

18.
For the location 408 Main Street (Gallery), appellant paid for a business license for the square footage of the location. Appellant Heidi Hughes paid in protest $972 in HPCA fees ($243 per Main Street Business) collected by the City for 4 gifting booths.

As our client Variety magazine had already paid for one Business License and one HPCA fee, and Michael Kovacs had determined and ordered that additional licenses must be obtained and paid for, there was a discussion with City Staff about what fees were owed. City Staff decided on the spot that in order to be in compliance, they would not calculate each of the four gifting booths' square feet, refund Variety for the fees and then charge us for each of the booths. Instead, they charged the HPCA fee for each of the four booths.

Conclusions of Law

1. Gifting does not qualify for the exception outlined in Section 4-2 -21 of the Municipal Code because there is more than just display or exhibiting of goods. The consideration for the "gift" is celebrity association and media exposure for the product.

We respectfully disagree – Gifting is an Exception to Business Revenue License Fee. Gifting is not defined in the Code, and has not been interpreted and enforced as an act of business prior to 2011.

Did each one of the Wine vendors, with a booth, participating in the 2011 Park City Food & Wine Classic pull a Business License? They did not. There was no Convention & Sales License; there was no Business License. These vendors paid a fee to be part of the Classic, and then "Gifted" samples of wine, food and other beverages to attendees. This activity is not fundamentally different from the Hospitality Suites during Sundance Film Festival where gifting took place.

2.
Gifting does not meet the definition of, "Solicitation of orders for future sales or deliveries of goods or services" as stated in Municipal Code Section 4-3-9 because there are no orders being made. Instead, the merchant is hoping of placing his product where it will get media exposure.

Gifting is not defined in the Code, and has not been interpreted and enforced as an act of business prior to 2011 because it is not an act of business. Getting media exposure is not business in Park City.

3.
Gifting is "engaging in business" as defined by the Park City Municipal Code.

Gifting is not defined in the Code, and has not been interpreted and enforced as an act of business prior to 2011 because it is not an act of business.

4.
Pursuant to Section 4-3-9(D), it is the responsibility of the host business (the promoter) to ensure licensing of other persons (i.e. gifting booths) engaging in business in the host business's location or portion of their location.

5.
Although in years past, the City only collected business license fees for one business for each location even if there were several gifting booths at the location, in 2011 the City uniformly required a license for each gifting booth when the City was aware that several gifting booths were in a location.

This is not the case, and not what the data shows, and not what actually happened. We had several locations, i.e. 738 Main, 580 Main, 364 Main, 608 Main, all of which were engaging in business exactly the same way as at 408 Main. Those venues were inspected and permitted consistent with years past – the City was aware.

6.
For the location 408 Main Street (Gallery), appellant Heidi Hughes paid in protest $972 in HPCA fees ($243 per Main Street Business) collected by the City for 4 gifting booths. Because the City only collects HPCA fees as a courtesy to the HPCA, any dispute over HPCA fees collected must be addressed directly with the HPCA.

We respectfully disagree. As our client Variety magazine had already paid for one Business License and one HPCA fee, and Michael Kovacs had determined and ordered that additional licenses must be obtained and paid for, there was a discussion with City Staff about what fees were owed. City Staff decided on the spot that in order to be in compliance, they would not calculate each of the four gifting booths' square feet, refund Variety for the fees and then charge us for each of the booths. Instead, they charged the HPCA fee for each of the four booths. City Staff did not have the authority to arbitrarily determine that the HPCA fee was the correct amount to be charged. We dispute that the fee was the correct amount, that an additional fee needed to be paid in the first place, and since the fee was collected by the City, the City is responsible for refunding the amount.

Decision
Appeal denied. Pursuant to Municipal Code 4-3-9 and the definition of Engaging in Business, Convention Sales License fees are appropriately collected for each gifting booth. The City cannot refund HPCA fee s.
An appeal of my decision to City Council must be submitted to the City Recorder within 10 days of the date of this letter.

Sincerely,
Tom Bakaly, City Manager Park City Municipal Corporation
Determination of Business License Appeal

-May 4,2011-Page 3

PARK CITY 1884

May 4, 2011

Office of City Manager

Michael E Sweeney
Brothers III LLC
PO Box 2429
Park City UT 84060

Michael E. Sweeney – Town Lift Plaza –E-mail: mesgold@yahoo.com
Heidi Hughes – Summit Events DMC – c/o Michael Sweeney and E-mail: heidi@summiteventsdmc.com

Dear Mike and Heidi,

Thank you for taking the time to meet, provide the materials and make your presentation. I appreciate the thoroughness and consideration you put into your materials and presentation. You appealed staff's determination that each individual gifting booth requires a convention sale license or a business license. I have made the follow determination regarding your appeal pursuant to Municipal Code 4-3-17:

Findings of Fact:

1. Between 2002 and 2010, Appellants hosted various hospitality, gifting and filming suites during Sundance under one convention sales license for each location.
2. Gifting is a marketing tool in which goods are given to desirable people so that the product will be associated with those people and appear in publications or the internet and give the product exposure and buzz.
3. Gifting is not just the display of goods with the hope of future orders. It involves actually giving product away. The "consideration" for the "gift" is the exposure of the product.
4. The nature of "gifting" has changed considerably from 2002 to 2011. In 2011, gifting involves booths with representative for each company to represent their product and give it to people who will give the product the right exposure. Generally, the product is not given to the general public.
5. Gifting booths are usually stand alone structures or areas which are devoted to a brand of merchandise which are then given to celebrities.
6. Pursuant to 4-2-1 of the Park City Municipal Code, "it shall be unlawful for any person to engage in business within Park City, whether on a temporary or permanent basis, without first procuring the license required by this Chapter."
7. Section 4-1-1.20 of the Municipal Code defines "Engaging in Business" as "Includes all activities engaged in within the corporate limits of Park City carried on for the purpose of gain or economic profit, except that the acts of employees rendering service to employers shall not be included in the term business unless otherwise specifically prescribed. "Engaging in business" includes but is not limited to, the sale or rental of tangible personal or real property at retail or wholesale, the manufacturing of goods or property and the rendering of personal services for others for a consideration by persons engaged in any profession, trade, craft, business, occupation, or other calling, except the rendering of personal services by an employee to his employer under any contract of personal employment."

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Phone (435) 615-5180 • FAX (435) 615-4901

8. Municipal Code Section 4-3-9(D), states, "RESPONSIBILITY OF HOST BUSINESS TO ENSURE LICENSING AND COMPLIANCE WITH THE UNIFORM BUILDING AND FIRE CODES. Businesses which make all of or a portion or portions of their licensed business locations available to other persons for the purpose of engaging in business shall be responsible to ensure that such persons obtain business licenses and possess Utah state sales tax numbers listed in Park City. In the event a licensed hotel, motel, inn or bed-and-breakfast business fails to require such a showing, that business shall be liable for payment of all license fees and penalties payable by the person engaging in business at their licensed location. If such business is not currently licensed for assembly use, the business shall obtain the necessary inspection and permit from the Building Department. Nothing herein shall relieve the sub-letting/guest business from their individual responsibility to obtain the necessary licenses."
9. Convention Sales Licenses are required for temporary "A" assembly use, such as restaurants or other assembly use and during Sundance are charged a flat fee for each separate entity engaging in business as required in Municipal Code 4-3-9. Business Licenses are required for "B" assembly use, such as retail space. Those fees are calculated based on square footage as listed in the Business License Fee Schedule in Municipal Code 4-2-17.
10. In 2011, pursuant to the Municipal Code, the City required a separate license for each gifting booth. Having a promoter organize the gifting booths does not relieve the need for each separate entity having a gifting booth to have a license.
11. For every location having gifting suites which Business Licensing was aware of, the City required separate convention sales licenses for each gifting booth as well as a license for the promoter who organized the gifting booths.
12. Of the 14 convention sales license locations during Sundance 2011, 8 of them received licenses for more than one business at their location.
13. The City collects Historic Park City Association (HPCA) fees as a courtesy to the HPCA. The City does not retain those fees.
14. For the location, 825 Main Street (Town Lift Plaza), appellant Mike Sweeney paid in protest $3,445 for 13 convention sales licenses ($265 per convention sales license). There were 13 gifting booths located in the Plaza.
15. At the location 825 Main Street, Appellant Mike Sweeney paid without protest 5 other Convention Sales Licenses for the promoter Best Events. Those 5 other licenses were for tent on deck, garage, house of swagg, Carrera and stella café.
16. Appellant Mike Sweeney also received a special event license for 825 Main Street. Municipal Code 4-8-7 states, "Temporary concessions on public or private property may be approved in conjunction with a Master Festival or Special Event in the sole discretion of the City. . . . Unless otherwise approved by City Council, all concessions require a regular business license."
17. For the location, 136 Heber Avenue (Jean Louie Restaurant), appellant Heidi Hughes paid in protest $3,975 for 15 Convention Sales Licenses ($265 per convention sales license). There were 14 gifting booths located at the restaurant.
18. For the location 408 Main Street (Gallery), appellant paid for a business license for the square footage of the location. Appellant Heidi Hughes paid in protest $972 in HPCA fees ($243 per Main Street Business) collected by the City for 4 gifting booths.

Conclusions of Law

1. Gifting does not qualify for the exception outlined in Section 4-2-21 of the Municipal Code because there is more than just display or exhibiting of goods. The consideration for the "gift" is celebrity association and media exposure for the product.

2. Gifting does not meet the definition of, "Solicitation of orders for future sales or deliveries of goods or services" as stated in Municipal Code Section 4-3-9 because there are no orders being made. Instead, the merchant is hoping of placing his product where it will get media exposure.
3. Gifting is "engaging in business" as defined by the Park City Municipal Code.
4. Pursuant to Section 4-3-9(D), it is the responsibility of the host business (the promoter) to ensure licensing of other persons (i.e. gifting booths) engaging in business in the host business's location or portion of their location.
5. Although in years past, the City only collected business license fees for one business for each location even if there were several gifting booths at the location, in 2011 the City uniformly required a license for each gifting booth when the City was aware that several gifting booths were in a location.
6. For the location 408 Main Street (Gallery), appellant Heidi Hughes paid in protest $972 in HPCA fees ($243 per Main Street Business) collected by the City for 4 gifting booths. Because the City only collects HPCA fees as a courtesy to the HPCA, any dispute over HPCA fees collected must be addressed directly with the HPCA.

Decision

Appeal denied. Pursuant to Municipal Code 4-3-9 and the definition of Engaging in Business, Convention Sales License fees are appropriately collected for each gifting booth. The City cannot refund HPCA fees.

An appeal of my decision to City Council must be submitted to the City Recorder within 10 days of the date of this letter.

Sincerely,

Tom Bakaly, City Manager
Park City Municipal Corporation

Appellants (Heidi Hughes and Mike Sweeney) position is that:

1) The Park City Municipal Code was changed in 2002 to recognize how business was to be conducted in the Olympics and Sundance specifically to accommodate single venues with multiple users under one business umbrella;

    Sundance business has not changed in nature since 2002: A single entity, alternatively called a *host*, *promoter*, *producer*, *sponsor*, will negotiate and contract with a venue (space), such as a gallery, retail business, restaurant or bar, to create a *hospitality suite or lounge*. Within the space, during the Festival, there are usually a number of activities, such as *gifting (giving celebrities gifts of merchandise or services, i.e., no sales); photo, video interview studio (to take photos and video of celebrities); receptions, meals, parties;* or a combination of all of the activities described, depending on the day and time. This single entity will almost universally have a number of additional entities alternatively called *brands*, *sponsors*, *partners*, who will pay to be present within the *suite or lounge*. The *host*, *promoter*, *producer*, *sponsor* takes responsibility for obtaining all the permits and licenses necessary to operate in compliance with codes and regulations, and also takes responsibility for the space, i.e., manages the keys and opening and closing of the space, interfacing with the City, etc. The *suite or lounge* operates under the concept of one venue, one business and one license per Park City Municipal Code Title 4 – Licensing.

2) The code was enforced properly since its inception in 2002 through 2010;
3) The code was enforced differently for Sundance 2011 — City staff did not follow the Park City Municipal Code Title 4 – Licensing to accommodate single venues with multiple users under one business umbrella;
4) Heidi and Mike had obtained the necessary licenses and permits for the venues in contention – 825 Main Street, 136 Heber Avenue, 408 Main Street - prior to the time that additional fees were imposed (January 21, 2011). These additional fees, that were paid under protest on January 21, 2011, should be refunded. Please see attached Exhibit F.
    a. 825 Main Street:
        i. Special Event Permit;
        ii. Sign Permit;
        iii. Convention Sales License & Tent Permit for Plaza;
        iv. Convention Sales License for Swag Lounge (Lindsay O'Michaels);
        v. Convention Sales License for Stella Artois Café (Bridge Café);
        vi. Convention Sales License for Tao Lounge (Parking Garage);
        vii. $3,445 additional fee paid under protest for 13 additional Convention Sales Licenses.
    b. 136 Heber Avenue;
        i. Convention Sales License;
        ii. Conditional Use Overcrowding Permit;
        iii. Sign Permit;
        iv. $3,975 additional fee paid under protest for 15 additional Convention Sales Licenses.

c. 408 Main:

   i. Business License;
   ii. Conditional Use Overcrowding Permit;
   iii. Sign Permit;
   iv. $972 additional fee paid under protest for 4 additional Main Street special fees.

To support our position we have copied below the letter from Michael Kovacs dated January 21, 2011, stating City's position (Original attached as Exhibit A). We have highlighted in yellow our points of contention in Mr. Kovacs letter, and highlighted in green our comments and supporting evidence in attached Exhibits.

Sincerely,

Heidi Hughes Heidi Hughes

Mike Sweeney Michael E. Sweeney

Enclosures:

Exhibit A — Mr. Kovacs January 21, 2011 Letter
Exhibit B — GRAMA Report Data
Exhibit C — Sundance Rules of the Road 2011 & 2008
Exhibit D — Park City Municipal Code Title 4 – Licensing Analysis
Exhibit E — Sample Business Licenses, Convention Sales Licenses and Special Events Licenses
Exhibit F — Copies of Applications and Receipts for 825 Main Street, 136 Heber Avenue, 408 Main Street.

January 21, 2010

Heidi Hughes
Summit Events DMC

Mike Sweeney
Town Lift Plaza

Re: Convention & Sales Licenses

Thank you for your letter of January 18th and meeting to discuss your objection to our staff's interpretation of the need for multiple convention sales licenses. Since our meeting, I have had the opportunity to conduct fact finding actions related to our historical interpretation of these particular licenses and review the code with the involved City staff members and with the assistance of our legal counsel.

The two sections of the code that pertain to you are:

4-1-1.8 **BUSINESS.** A distinct and separate person or entity engaging in business, as those terms are defined herein. A business is distinguished from another business by separate state sales tax numbers or separate ownership.

4· 3· 9. CONVENTION SALES AND OLYMPIC COMMERCIAL HOSPITALITY.
The Finance Department may issue licenses for a period not to exceed two (2) weeks for temporary use of convention and meeting rooms within any licensed convention or meeting facility for the purpose of temporary retail sales of goods or services, whether in conjunction with a convention or not. Solicitation of orders for future sales or deliveries of goods or services is permissible without licensure. [Definition of Licensure: the granting or regulation of licenses, as for professionals. The preceding sentence means solicitation of orders for sales of goods or services does not require a business or convention sales license. Furthermore, there are no solicitations in Gifting suites, in other words, the code states gifting is not business.] Olympics: The Finance Department may issue licenses for a period not to exceed five (5) weeks for temporary use of convention, meeting, restaurant and retail rooms within any licensed business for the purpose of temporary commercial hospitality events. The licenses may be issued on the following terms:

(A) **LICENSE FEE.** The license fee shall be as set forth in the Park City License Fee Schedule. An additional administrative fee as set forth in the Park City License Fee Schedule is hereby authorized for all such temporary licenses effective during any portion of the Sundance Film Festival or the 2002 Winter Olympics.

(B) **STATE TAX NUMBER.** The applicant must provide his sales tax identification number as a part of the license application to assist in verifying the collection and reporting of sales tax.
(C) **APPLICATIONS.** Applications must be filed at least ten (10) days prior to the proposed date of commencement of business to permit adequate time for the Police Department review and investigation. The police may request reasonable evidence of

title to goods proposed to be offered for sale as a part of the review.

Our interpretation has been that a vendor located within an existing business that is staffed in a distinct area to conduct business with their own tax 10 separate from the overall host business or promoter, must also have a convention sales license. [We respectfully disagree with the preceding because: (1) prior to 2011 shown with the GRAMA Report Data - see attached Exhibit B - this was not how the code was enforced; (2) the way the code was enforced from 2002 to 2010 was correct i.e., the applicant "host, promoter, producer, sponsor" for the respective venues were required to obtain one business license or one convention sales license. As is stated the code above 4-3-9 (A) and in the Sundance Rules of the Road for 2011 & 2008 – see attached Exhibit C. We believe that additional sections of Title 4 Codes, especially **4- 2-21. EXCEPTIONS TO BUSINESS REVENUE LICENSE FEE,** are relevant and supportive of our position and we have outlined those sections in the attached Exhibit D. Also attached is Exhibit E, which contains a sample Business Licenses, Convention Sales Licenses and Special Events Licenses Heidi Hughes and Mike Sweeney obtained on behalf of the clients and respective venues.]

Fees must be paid, under protest if desired, in order to request an appeal to the City Manager. The next appeal from the City Manager is to the City Council (see Park City code 4-3-17).

Sincerely,

~

Michael Kovacs
Assistant City Manager

Park City Municipal Corporation· 445 Marsac Avenue • PO. Box 1480 • Park City, UT 84060-1480 Phone (435) 615-5180· FAX (435) 615-4901