CITY COUNCIL WORK SESSION NOTES
SUMMIT COUNTY, UTAH
JUNE 19, 2003

Present: **Mayor Dana Williams; Council members Peg Bodell, Kay Calvert; Candace Erickson; Fred Jones, and Jim Hier**

Tom Bakaly, City Manager; Mark Harrington, City Attorney; Patrick Putt, Planning and Zoning Administrator; Alison Butz, Special Events and Facilities Manager

Mike Sweeney, outdoor music applicant; Blair Feulner, Director of KPCW

1. **Council questions and comments.** Jim Hier suggested that rather than individual meetings with the consultants for the Quinns Junction study that they meet with a group of Council members. Patrick Putt explained the purpose and process for the confidential interviews of stakeholders as well as the public workshop scheduled next Thursday. It was decided that Council members would break into two groups and the consultant would contact Peg Bodell by phone who will be out of town. The charette is planned the last week in July. Council member Hier asked that the goals for the Junction, prepared earlier by the Community Development Department, be distributed to Council members. Peg Bodell stated that she and Liza Simpson distributed fliers to the City Park neighborhood informing them of an open house to be held at Miners Hospital on Monday at 6 p.m. to solicit input on park issues, the hosting program, and proposed improvements to the park. Dana Williams reported that a NAHRO conference is being held in town and the City's receipt of a Quality Growth Award for the implementation of the trails master plan. He personally thanked Matt Twombly for his efforts. Candace Erickson explained that the legislature's interim committees are debating tourism, resort cities sales tax, and the ability for municipalities to sell water rights. She urged the public to attend the Historic Home Tour scheduled this Saturday and added that the computer component refuse collection at the Recycling Center was extremely popular.

2. **Review of regular meeting:**

Town Lift Plaza outdoor music application. Alison Butz referred to the work session discussion last week and the current ordinance reflects Council comments. Staff placed a maximum of four hours between noon and 8:30 p.m. With regard to a decrease in decibel level, a test was conducted and staff is recommending 85 decibels. In another effort to mitigate neighborhood impacts, there are five residents willing to provide regular feed-back on performances. Fred Jones recommended that there be a provision to lower the decibel level administratively based on findings, rather than going through a lengthy process to amend the ordinance. The City Attorney agreed and felt confident that he could draft language before the regular meeting. Mike Sweeney reported that his research revealed that 85 decibels is actually half the intensity of 90 decibels. The

sound will be significantly less at 85 decibels, and not detectable at the residences on Park Avenue across the street.

KPCW lease. Alison Butz explained that the lease is for one year with options of two one year renewals for a total of three years. The service agreement will be before Council in July. Blair Feulner pointed out that the last sentence in Section 14 reads, *"There is no option for renewal crated by this lease"* which the City Attorney concurred should be deleted. In Section 15. Default/Termination, Mr. Feulner felt that vacating the premises in three days is not reasonable or consistent with the six month provision. Kay Calvert asked for clarification of default, since KPCW is not paying rent. The City Attorney explained that default could be interference with City operations in the building, telecommunications, access to parking, failure to have insurance, pay utilities, etc. He added that six months could be added to the paragraph as a maximum. Jim Hier emphasized that this provision is for default which should be cured immediately, not six months later. Mr. Feulner noted that the lease is tied to the service agreement which is somewhat unclear and makes him nervous about the default provision. Peg Bodell agreed that they should be separate. Mark Harrington explained that the only reference in the lease to the service agreement deals with the requirement to pay rent if the special service contract is eliminated, i.e, change to for-profit status. Peg Bodell pointed out that the value of community radio remains whether or not the station stays in the building. Jim Hier believed that the special service agreement can reference the lease contribution and Blair Feulner emphasized that he would rather not tie the special service contract to the lease. It was agreed to delete the last sentence in Section 15, "*Termination of this Agreement shall also terminate the Grant Agreement between the parties".* Fred Jones felt that the three days notice in Section 15 is reasonable, with 60 days to cure the default. Mr. Feulner reiterated that the doesn't want the lease tied to the service agreement, specifically default. Mr. Hier explained that the special service contract needs to be referenced because it sets rent at $1 per annum, but without one, rent is calculated at fair market value calculated at $17.50 per square foot.

The City Manager suggested that the space be made available to KPCW on a month to month basis until the lease and the special service contract can be reviewed by Council on July 17. He continued that the City's rent contribution is $26,000 and for that, KPCW provides public radio, news, emergency broadcasts, and public service announcements which in his mind are tied to the lease. Candace Erickson stated that she feels uncomfortable with approving a lease that refers to a special service contract which is not available for review at this point. Blair Feulner requested that if the lease can not be agreed upon by both parties, that the six month notice is triggered. The Council agreed. He continued that KPCW is interested in access to meeting rooms on a space available basis. The City Manager clarified that the current administrative policy limits meeting rooms to City departments and/or business but there could be an adjustment to that policy.

See regular meeting minutes.

Prepared by Janet M. Scott, City Recorder

PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
JUNE 19, 2003

I ROLL CALL

Mayor Dana Williams called the regular meeting of the City Council to order at approximately 6 p.m. at the Marsac Municipal Building on Thursday, June 19, 2003. Members in attendance were Dana Williams, Peg Bodell, Kay Calvert, Candace Erickson, Jim Hier, and Fred Jones. Staff present were Tom Bakaly, City Manager; Mark Harrington, City Attorney; Mark Christensen, Grants and Budget Manager; Brian Anderson, Parking Manager; Ken Cashel, Transportation Director; Alison Butz, Special Events and Facilities Manager; and Ray Milliner, Planner.

II PUBLIC INPUT

The Mayor invited the public to comment on any matter of City business. Hearing none, the public input session was closed.

III COMMUNICATIONS FROM COUNCIL AND STAFF

Peg Bodell complimented the Parks Department on our festive summer look with the beautiful flowers, flags and banners about town.

IV MINUTES OF MEETING OF JUNE 5, 2003

Peg Bodell, "I move approval of the Minutes of June 5". Jim Hier seconded. Motion carried unanimously.

V RESIGNATIONS AND APPOINTMENTS

Three appointments to the Library Board for terms expiring July 1, 2006 - The City Manager stated that the Library Board is recommending consideration of the appointment of Carol Agle, and reappointment of Chris Haeter, and Kate Doordan. Fred Jones, "I so move". Kay Calvert seconded. Motion unanimously carried.

VI PUBLIC HEARINGS

1. Revised budget for fiscal year 2002-03; the tentative budget for fiscal year 2003-2004; and the final budget for fiscal year 2003-2004 for Park City Municipal Corporation and its related agencies - Mark Christensen asked Council for authorization to issue general obligation debt over the next few months. Interest rates are at an all time low at 4% and staff is recommending setting a tax rate including budgeting debt payment next year for $5 million to reimburse open space and/or parks bonds. The City Manager clarified that the debt would have to be issued by December. Kay Calvert asked how staff

arrived at the $5 million figure and Mr. Christensen responded that the recommendation is conservative but the amount could be increased to cover more debt. Jim Hier expressed concern about imposing a higher tax rate without a defined project and preferred to issue debt in increments minimizing any increase to the tax rate. Mr. Christensen continued that new policy language has been incorporated in the budget document. Council member Erickson also expressed concern about issuing more debt without a defined plan. Mr. Hier pointed out that the City has outstanding debt of $1.2 million relating to the McMillian purchase and about $500,000 for the Wisnewski purchases on Main Street. The City Manager referred to voter authorization for parks and open space, and Mr. Hier suggested issuing $2 million for parks and $3 million for open space, but that decision doesn't need to be made tonight. Mr. Christensen explained that if approved, a parameters resolution will be prepared and will define details; it could be available in July. Fred Jones felt the $5 million figure is appropriate.

Jim Hier believed the budget is more understandable but felt that it could be clearer to the lay reader by comparing operating expenses to income and eliminating inter-fund transfers and debt service. While that has not been done, CTAC will continue to work on a friendlier version of the budget for the public. He continued that operating expenses for 2003 were $23,067,000 and the operating expenses for 2004 are projected at $23,822,000. This is a $750,000 increase or just a little over 3%; 2.2% of that relates to personnel costs leaving an increase of $200,000 in other operating expenses which he believes is reasonable. Ms. Erickson asked why the $7,400 for the golf course is allocated to the General Fund rather than the enterprise fund and Mark Christensen explained that this money will be set aside in the capital improvements account in the enterprise fund.

With no further comments from the City Council or the audience, the Mayor closed the public hearing on the budget.

2. Ordinance amending Title 4, Chapter 8 of the Municipal Code of Park City regulating Master Festival Licensing; by amending sub-chapter 8A regulating public outdoor music plazas (Sweeney Town Lift Plaza application) - Alison Butz explained the changes to the ordinance per Council direction including providing administrative authority to alter conditions including decreasing decibel levels in five decibel increments with at least three days between each reduction. There is also provision for updates to Council on a monthly basis and if the applicant violates any provisions of the code, the Police Chief can suspend the permit and initiate a revocation process. She continued that staff still needs to approve a stage for the Town Plaza consistent with criteria.

The Mayor invited the public and the Council to comment. Applicant Mike Sweeney explained that reducing sound by increments of five decibels is significant which cuts the emanation in half. He suggested reducing sound by three decibels. Council concurred and Ms. Butz expressed that she is not a sound expert but understood that

sound decreases by half in the reduction of five. However, there is provision to reduce the sound further if needed.

Hearing no further input, the public hearing was closed.

3. Ordinance amending Title 9, Parking Code, of the Municipal Code of Park City, Utah - Parking Manager Brian Anderson explained that this was presented to Council during last week's work session. The Parking Code amendments address restrictions on over-sized vehicles on Main Street, immobilization provisions for unpaid parking tickets, fire lane restrictions, the adoption of the color red for no parking zones, inclusion of dumpsters as non-motorized vehicle types, and inclusion of language regarding towing and impound yards. Mr. Anderson discussed the intent to continue publishing maps in the newspaper and using our website for parking information. The HMBA and delivery industry have reviewed the draft; objections to the amendments have not been voiced. Kent Cashel discussed improvements to parking signs.

The Mayor opened the public hearing. Hearing no comments or questions, the public hearing on the parking code was closed.

4. Ordinance approving the subdivision of Lot 8, Block 74 of the Park City Survey into two lots of record located at 57 Daly Avenue, Park City, Utah - Planner Ray Milliner explained that there is an encroachment of 61 Daly on the property and staff has requested that an easement for encroachment as well as maintenance and access be placed in the conditions. Staff is recommending approval of the plat amendment according to the findings of fact, conclusions of law, and conditions of approval after conducting a public hearing. In response to a question from Peg Bodell, Mr. Milliner stated that he received a call from the owner of 61 Daly Avenue asking for clarification of the conditions. He indicated he was satisfied with the conditions of approval. The Mayor invited the public to comment. Hearing no input, the public hearing was closed.

VII CONSENT AGENDA

Fred Jones, "I move approval of Consent Agenda Items 1 through 5 with the noted changes to Item 1, the Ordinance amending Title 4, Chapter 8 of the Municipal Code, including the decibel level and the change allowing the reduction by staff". Kay Calvert seconded. Motion continued unanimously. Fred Jones, "I move to continue the lease with KPCW (Item 6) to July 17". Peg Bodell seconded. Motion unanimously carried.

1. Ordinance amending Title 4, Chapter 8 of the Municipal Code of Park City regulating Master Festival Licensing; by amending sub-chapter 8A regulating public outdoor music plazas (Sweeney Town Lift Plaza application) - See work session, staff report and public hearing comments.

2. Resolution proclaiming June 30, 2003 as the Journey of Hope - Push America Day in Park City, Utah - Staff recommends approval.

3. Ordinance amending Title 9, Parking Code, of the Municipal Code of Park City, Utah - See staff report and public hearing.

4. Ordinance approving the subdivision of Lot 8, Block 74 of the Park City Survey into two lots of record located at 57 Daly Avenue, Park City, Utah - See staff report and public hearing.

5. Resolution proclaiming the Month of July as Recreation and Parks Month in Park City, Utah - Staff recommends approval.

6. Lease with KPCW for space located in the Marsac Municipal Building, 445 Marsac Avenue - Item continued to July 17. See staff report, and work session comments.

VIII NEW BUSINESS

Resolution adopting a revised budget for fiscal year 2002-03; the tentative budget for fiscal year 2003-2004; and the final budget for fiscal year 2003-2004 for Park City Municipal Corporation and its related agencies - See staff report and public hearing. Kay Calvert, "I move to accept the revised budget for fiscal year 2002-03; the tentative

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

Prepared by Janet M. Scott

Janet M. Scott, City Recorder

Recommended Budget.

C. Analysis: The following are updates on previous council-directed issues or items that have not yet been addressed by Council.

Budget Changes: Attachment A (to be provided prior to June 19th after final adjustments have been made to the budget system) summarizes the changes that have been made to the Budget since it was presented to City Council on May 1, 2003, including Council-directed changes from June 12 (last week). Additional changes recommended for adoption (including updated revenues) are listed below:

- $15,000 has been added to the Public Safety Department budget for training.

- The Public Works Director position now reflects a car allowance of $350 per month. The vehicle previously used by Public Works administration has been placed in the City fleet and will be used by the Public Safety department.

- Departmental Budget Adjustments – The vacancy factor is a budget-control method that removes 7 percent of all personnel budgets to reflect historical personnel expenditures. The City Manager has the ability to adjust personnel and offset it within the general fund through the use of the contingency fund. This year the contingency fund has been reduced to offset overages in the Public Safety and Public Works budgets due to the vacancy factor.

- CIP – A new CIP account was created (#789 – Golf Course Mitigation) with a recommended amount of approximately $7,400 for FY 2003. The amount is the result of excess revenues received from the hotel for reconstruction of the 18th green.

  Staff has also created a new CIP (#791) for Public Art. $100,000 has been appropriated for each of the next two fiscal years as directed by City Council on June 12.

Contracting and Purchasing Policy: During the 2003 General Session, the legislature increased state-mandated bid limits on certain capital projects from $25,000 to $40,000 for building improvements and $125,000 for public works projects. The legislation also included an inflationary component that will increase the bid limit each year by the lesser of the Consumer Price Index or 3%. The attached amendment to the Policies and Objectives brings our policy into compliance with state requirements.

Bond Issuance: Staff anticipates issuing debt on several bonds in the near future. An anticipated $5 million is planned to be reflected in the certified property tax rate for General Obligation bonds when it is calculated by the Budget and Grants Manager. City Council should provide direction if they would like to adjust that amount.

RDAs and MBA: As required by state law, Council must adopt a FY 2004 budget for the Main

Street Redevelopment Agency (RDA), the Lower Park Avenue RDA, and the Municipal Building Authority (MBA). The resolutions for the RDAs and MBA which reflect the recommended budgets will be provided prior to June 19th after final adjustments have been made to the City's budget system.

Summary:
The budget document represents the City Manager's Recommended budget. This report and Attachment A highlight the changes that have taken place since June 5th. By State law, Council is required to adopt a balanced budget by June 19, 2003.

D. Department Review: - All departments have reviewed the budget document.

ALTERNATIVES:

A. Conduct a public hearing and adopt the FY 2003 Amended Budget; the FY 2004 budget with recommended changes, and FY 2004 budgets for Park City's related agencies.

SIGNIFICANT IMPACTS: The City's budget must be balanced. Staff recommends that Council provide policy direction on budget issues.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION: The specific impacts of not approving individual recommended options will be discussed during budget presentations. Council should address any unresolved budget issues and adopt the budget on June 19th.

RECOMMENDATION: Council should adopt the City's budget policies, including changes to the Contracting and Purchasing Policy as amended. The Council should Pass and Adopt the Resolutions that contain the following items:

a) Adoption of the City Manager's Amended Budget for FY2002-03 (with adjustments that have occurred during the budget process).

b) Adoption of the FY 2003-04 City Manager's Recommended Budget presented to City Council on May 1st 2003 (with adjustments that have occurred during the budget process).

c) Authorization for the Budget and Grants Manager to compute the City's Certified Property Tax Rate for 2004 at a "No Tax Increase Rate" and file said rate with the County.

d) Adoption of FY 2004 Budgets for the Main Street RDA, Lower Park Avenue RDA, and the Municipal Building Authority.

Attachments:

A. Budget Changes From Tentative Document (to be provided prior to June 19th)
B. Final Adoption Resolution for FY 2004
C. Resolution adopting FY 2004 budgets for Park City's RDAs (to be provided prior to June 19th).
D. Resolution adopting a FY 2004 budget for the MBA (to be provided prior to June 19th)
E. Amended Policies and Objectives (Contracting and Purchasing policy)

Resolution No._____

A RESOLUTION ADOPTING A REVISED BUDGET FOR FY 2002-03, A BUDGET FOR FY 2003-04, A FINANCIAL PLAN FOR FY 2004-05 FOR PARK CITY MUNICIPAL CORPORATION AND ITS RELATED AGENCIES.

WHEREAS, the Utah State law requires that city budgets be adopted by resolution: and;

WHEREAS, a public hearing was held on May 29, June 5, and June 12, and June 19, 2003 at the City Council's regularly scheduled meetings, complying with State law;

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

SECTION 1. REVISED BUDGET ADOPTED. The budget as outlined in the City Manager's Recommended Budget presented on May 1, 2003 and with changes as summarized in the Attachments to this resolution is hereby adopted as the Revised 2002-03 Operating Budget for Park City Municipal Corporation and its related agencies.

SECTION 2. BUDGET AND FINANCIAL PLAN ADOPTED. The budget as outlined in the City Manager's Recommended budget presented on May 1, 2003 and with changes as summarized in the Attachments to this resolution is hereby adopted as the budget for FY 2003-04 and the financial plan for FY 2004-05 for Park City Municipal Corporation and its related agencies.

SECTION 3. CERTIFIED PROPERTY TAX RATE. The City's Budget and Grants Manager is authorized, after Summit & Wasatch Counties have provided the certified property tax data, to compute and file the City's Certified Property Tax rate for FY 2003-04 at a "no tax increase rate". The Budget and Grants Manager is also authorized to compute and file the City's Certified Property tax rate for the issuance of General Obligation Bonds as approved by a vote of the people in November of 2002. As is City practice, the tax rate for both counties will be the same. This resolution hereby adopts the Certified Property Tax rate for FY 2003-04.

SECTION 4. EFFECTIVE DATE. This Resolution shall take effect June 19th 2003 for the FY 2002-03 revised budget. And July 1, 2003 for the FY 2003-04 budget and 2004-05 financial plan.

PASSED AND ADOPTED this 19th day of June, 2003.

PARK CITY MUNICIPAL CORPORATION

Mayor Dana Williams

Attest:

Janet M. Scott, City Recorder

Approved as to form:

Mark D. Harrington, City Attorney

CONTRACTING AND PURCHASING POLICY

Purpose: These rules are intended to provide a systematic and uniform method of purchasing goods and services for the City. The purpose of these rules is to ensure that purchases made and services contracted are in the best interest of the public and acquired in a cost-effective manner.

Authority of Manager: The City Manager or designate shall be responsible for the following:

1. Ensure all purchases for services comply with these rules;

2. Review and approve all purchases of the City;

3. Establish and amend procedures for the efficient and economical management of the contracting and purchasing functions authorized by these rules. Such procedures shall be in writing and on file in the office of the manager as a public record;

4. Maintain accurate and sufficient records concerning all City purchases and contracts for services;

5. Maintain a list of contractors for public improvements and personal services who have made themselves

   known to the City and are interested in soliciting City business;

6. Make recommendations to the City Council concerning amendments to these rules.

Definitions:

Building Improvement: The construction or repair of a public building or structure (Utah Code 11-39-101).

City: Park City Municipal Corporation and all other reporting entities controlled by or dependent upon the City's governing body, the City Council.

Contract: An agreement for the continuous delivery of goods and/or services over a period of time greater than 15 days.

CPI: The Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics of the United States Department of Labor.

Manager: City Manager or designee.

~~**Public Improvement**: Projects for construction, reconstruction or major renovation on real property (building or public work) by or for a public agency. "Public Improvement" does not include emergency work, minor alteration, ordinary repair, or maintenance necessary to preserve a public improvement (such as lowering or repairing water mains; making connections with water mains; grading, repairing, or maintaining streets,~~

~~sidewalks, bridges, culverts or conduits).~~

Public Works Project: The construction of a park, recreational facility, pipeline, culvert, dam, canal, or other system for water, sewage, storm water, or flood control (Utah Code 11-39-101). "Public Works Project" does not include the replacement or repair of existing infrastructure on private property (Utah Code 11-39-101), or emergency work, minor alteration, ordinary repair, or maintenance necessary to preserve a public improvement (such as lowering or repairing water mains; making connections with water mains; grading, repairing, or maintaining streets, sidewalks, bridges, culverts or conduits).

Purchase: The acquisition of goods (supplies, equipment, etc.) in a single transaction such that payment is made prior to receiving or upon receipt of the goods.

General Policy:

1. All City purchases for goods and services and contracts for goods and services shall be subject to these rules.

2. No contract or purchase shall be so arranged, fragmented, or divided with the purpose or intent to circumvent these rules.

3. No purchase shall be contracted for, or made, unless sufficient funds have been budgeted in the year in which funds have been appropriated.

4. Subject to federal, state, and local procurement laws when applicable, reasonable attempts should be made to support Park City businesses by purchasing goods and services through local vendors and service providers.

5. All reasonable attempts shall be made to publicize anticipated purchases or contracts in excess of $10,000 to known vendors, contractors, and suppliers.

6. All reasonable attempts shall be made to obtain at least three written quotations on all purchases of capital assets and services in excess of $10,000.

7. When it is advantageous to the City, annual contracts for services and supplies regularly purchased should be initiated.

8. All purchases and contracts must be approved by the manager or their designee unless otherwise specified in these rules.

9. All contracts for services shall be approved as to form by the city attorney.

10. The following items require City Council approval unless otherwise exempted in these following rules:

    a. All contracts (as defined) over $20,000
    b. All contracts and purchases awarded through the formal bidding process.

c. Any item over $10,000 that is not anticipated in the current budget. .
d. Accumulated "Change Orders" which would overall increase a previously approved contract by
1) the lesser of 20% or $20,000 for contracts of $200,000 or less;
2) more than 10% for contracts over $200,000.

11. Acquisition of the following Items must be awarded through the formal bidding process:
~~a. All contracts for public improvements over the amount specified by state code (currently $25,000).~~
a. All contracts for building improvements over the amount specified by state code, specifically:
i – for the year 2003, $40,000;
ii – for each year after 2003, the amount of the bid limit for the previous year, plus an amount calculated by multiplying the amount of the bid limit for the previous year by the lesser of 3% or the actual percent change in the CPI during the previous calendar year.
b. All contracts for public works projects over the amount specified by state code, specfically:
i – for the year 2003, $125,000;
ii – for each year after 2003, the amount of the bid limit for the previous year, plus an amount calculated by multiplying the amount of the bid limit for the previous year by the lesser of 3% or the actual percent change in the CPI during the previous calendar year.
c. Contracts for grading, clearing, demolition or construction in excess of $2,500 undertaken by the Community Redevelopment Agency.

Exceptions: Certain contracts for goods and services shall be exempt from bidding provisions. The manager shall determine whether or not a particular contract or purchase is exempt as set forth herein.

1. Emergency contracts which require prompt execution of the contract because of an imminent threat to the safety or welfare of the public, of public property, or of private property; circumstances which place the City or its officers and agents in a position of serious legal liability; or circumstances which are likely to cause the City to suffer financial harm or loss, the gravity of which clearly outweighs the benefits of competitive bidding in the usual manner. The City Council shall be notified of any emergency contract which would have normally required their approval as soon as reasonably possible.

2. Projects that are acquired, expanded, or improved under the "Municipal Building Authority Act" are not subject to competitive bidding requirements.

3. Purchases made from grant funds must comply with all provisions of the grant.

General Rules:

1. **Purchases of Materials, Supplies and Services** are those items regularly

purchased and consumed by the City. These items include, but are not limited to, office supplies, janitorial supplies, maintenance contracts for repairs to equipment, asphalt, printing services, postage, fertilizers, pipes, fittings, and uniforms. These items are normally budgeted within the operating budgets. Purchases of this type do not require "formal" competitive quotations or bids.

2. **Purchases of Capital Assets** are "equipment type" items which would be included in a fixed asset accounting system having a material life of three years or more and costing in excess of $5,000. These items are normally budgeted within the normal operating budgets. Purchases of this type do not require "formal" bids. All reasonable attempts shall be made to obtain at least three written quotations on all purchases of this type. A reasonable attempt will be made to notify any business with a Park City business license that, in the normal course of business, sells the equipment required by the City.

3. **Contracts For Professional Services** are usually contracts for services performed by an independent contractor in a professional capacity who produces a service predominately of an intangible nature. These include, but are not limited to, the services of an attorney, physician, engineer, accountant, architectural consultant, dentist, artist, appraiser or photographer.

   Professional service contracts are exempt from competitive bidding. The selection of professional service contracts shall be based on an evaluation of the services needed, the abilities of the contractors, the uniqueness of the service and the general performance of the contractor. The lowest quote need not necessarily be the successful contractor. Usually, emphasis will be placed on quality, with cost being the deciding factor when everything else is equal. The manager shall determine which contracts are professional service contracts.

   Major professional service contracts ($20,000 and over) must be approved by the City Council.

4. **Contracts for Public Improvements:** are usually those contracts for the construction or major repair of roads, highways, parks, water lines and systems (i.e. Public Works Projects); and buildings and building additions (i.e. Building Improvements). Where a question arises as to whether or not a contract is for public improvement, the manager shall make the determination.

   Minor public improvements (less than the amount specified by state code.): The department shall make a reasonable attempt to obtain at least three written competitive quotations. A written record of the source and the amount of the quotations must be kept. The manager may require formal bidding if it is deemed to be in the best interest of the City.

   Major public improvements (greater than or equal to the amount specified by state code): Unless otherwise exempted, all contracts of this type require competitive bidding.

Bidding Provisions:

1. **Bid Specifications:** Specifications for public contracts shall not expressly or implicitly require any product by any brand name or make, nor the product of any particular manufacturer or seller, unless the product is exempt by these regulations or the City Council.

2. **Advertising Requirements:** An advertisement for bids is to be published at least twice in a newspaper of general circulation, printed and published in the city, and in as many additional issues and publications as the manager may determine, at least five days prior to the opening of bids.

All advertisements for bids shall state the following:

a. The date and time after which bids will not be accepted;
b. The date that pre-qualification applications must be filed, and the class or classes of work for which bidders must be pre-qualified if pre-qualification is a requirement;
c. The character of the work to be done or the materials or things to be purchased;
d. The office where the specifications for the work, material or things may be seen;
e. The name and title of the person designated for receipt of bids;
f. The type and amount of bid security if required;
g. The date, time, and place that the bids will be publicly opened.

3. **Requirements for Bids:** All bids made to the city shall comply with the following requirements:

a. In writing;
b. Filed with the manager;
c. Opened publicly by the manager at the time designated in the advertisement and filed for public inspection;
d. Have the appropriate bid security attached, if required.

4. **Award of Contract:** After bids are opened, and a determination made that a contract be awarded, the award shall be made to the lowest responsible bidder. "Lowest responsible bidder" shall mean the lowest bidder who has substantially complied with all prescribed requirements and who has not been disqualified as set forth herein.

   The successful bidder shall promptly execute a formal contract and, if required, deliver a bond, cashier's check, or certified check to the manager in a sum equal to the contract price, together with proof of appropriate insurance. Upon execution of the contract, bond, and insurance, the bid security shall be returned. Failure to execute the contract, bond, or insurance shall result in forfeit of the bid security.

5. **Rejection of Bids:** The manager or the City Council may reject any bid not in

compliance with all prescribed requirements and reject all bids if it is determined to be in the best interest of the City.

6. **Disqualification of Bidders:** The manager, upon investigation, may disqualify a bidder if he or she does not comply with any of the following:

   a. The bidder does not have sufficient financial ability to perform the contract;
   b. The bidder does not have equipment available to perform the contract;
   c. The bidder does not have key personnel available, of sufficient experience, to perform the contract;
   d. The person has repeatedly breached contractual obligations with public and private agencies;
   e. The bidder fails to comply with the requests of an investigation by the manager.

7. **Pre-qualification of Bidders**: The City may require pre-qualification of bidders.

   Upon establishment of the applicant's qualifications, the manager shall issue a qualification statement. The statement shall inform the applicant of the project for which the qualification is valid, as well as any other conditions that may be imposed on the qualification. It shall advise the applicant to notify the manager promptly if there has been any substantial change of conditions or circumstances which would make any statement contained in the pre-qualification application no longer applicable or untrue. If the manager does not qualify an applicant, written notice to the applicant is required, stating the reasons the pre-qualification was denied, and informing the applicant of his right to appeal the decision within five business days after receipt of the notice. Appeals shall be made to the City Council. The manager may, upon discovering that a pre-qualified person is no longer qualified, revoke pre-qualification by sending notification to the person. The notice shall state the reason for revocation and inform the person that revocation will be effective immediately.

8. **Appeals Procedure**: Any supplier, vendor, or contractor who determines that a decision has been made adversely to him, by the City, in violation of these regulations, may appeal that decision to the City Council.

   The complainant contractor shall promptly file a written appeal letter with the manager, within five working days from the time the alleged incident occurred. The letter of appeal shall state all relevant facts of the matter and the remedy sought. Upon receipt of the notice of appeal, the manager shall forward the appeal notice, his investigation of the matter, and any other relevant information to the City Council.

   The City Council shall conduct a hearing on the matter and provide the complainant an opportunity to be heard. A written decision shall be sent to the complainant.

DATE:	**June 19, 2003**
DEPARTMENT:	**Special Events and Facilities**
AUTHOR:	**Alison Butz**
TITLE:	**Public Outdoor Music Plazas**
TYPE OF ITEM:	**Legislative**

SUMMARY RECOMMENDATIONS: Staff requests the City Council conduct a public hearing and approve the ordinance amending Title 4, Chapter 8A of the Park City Municipal Code, regulating Public Outdoor Music Plazas within Park City.

A. TOPIC

Review of the Ordinances regulating Outdoor Music Plazas within Park City.

B. BACKGROUND

On May 8, 2003, the City Council approved changes to Title 4 Chapter 8A allowing for the programming of outdoor music on stages within Park City for the Summer of 2003. Since the approval, the owners of Town Lift Plaza approached the City requesting the addition of a new location at 825 Main Street.

On June 12, 2003, the Council discussed the proposed amendment and provided Staff with direction on the duration of music and days of the week. Since the meeting, the Sweeney Brothers and Staff performed a sound test to further assess the decibel level and impacts to the adjacent area.

C. ANALYSIS

Chapter 8A authorizes administrative approval of additional outdoor music locations provided the proposed location satisfies the criteria at Section 4-8A-6(C). Because the 825 Main Street location is located within 100 feet of a residential neighborhood, it is not eligible for administrative approval. Therefore, in order to add the Town Lift Plaza, the current ordinance governing Outdoor Music operations needs to be amended.

Music on Main Street provides the community with a free live music venues and adds vitality to the area. This type of entertainment is consistent with Council goal to enhance the Historic District as well as to maintain Park City's status as a World Class Resort.

Staff has included a summary of the applicant's request for the Town Lift Plaza below.

Town Lift Plaza

Location:	825 Main Street
Duration:	June 15th through September 15th
Operation Days:	Fridays, Saturdays and Sundays
Hours:	12:00pm until 8:30pm, with a maximum of 4 hours of music per day
Additional Exceptions:	Four additional nights from 5:30pm until 8:30pm
Type of Music:	Bands
Property Owner:	Sweeney Brothers

Additional Licenses: None requested.
Costs: None to the City

At the previous Council meeting discussion regarding the set decibel level occurred. Since that meeting an informal study was done regarding the appropriate decibel level from the stage and it's impacts to the adjacent neighborhood. The results are included within Exhibit B. Staff reviewed the results and based upon Staff's experience with the other plazas, Staff recommends setting the maximum DB levels to 85.

The proposed ordinance amendment sets the maximum decibel level from the stage at 85. Staff will also conduct monitoring of the sound levels during the first few concerts to confirm that the set DB level does not negatively impact the adjacent neighborhoods.

The Sweeney Brothers also stated their desire to meet the intent of the stage definition within the ordinance as raised and semi-enclosed platforms that are designed to attenuate sound. The applicant, under the proposed ordinance changes would still need to comply with those requirements for a stage. Since Staff has not yet seen the stage design, a condition of approval has been added.

ALTERNATIVES

1. Approve the ordinance amending Title 4, Chapter 8A, regulating Public Outdoor Music Plazas within Park City.
2. Modify and the request and approve the ordinance amending Title 4, Chapter 8A, regulating Public Outdoor Music Plazas within Park City.
3. Deny Title 4, Chapter 8A, regulating Public Outdoor Music Plazas therefore preventing music at this location.
4. The City Council may continue the discussion in order to receive additional information.

D. RECOMMENDATION:

Staff requests Council conduct a public hearing and approve the attached Ordinance amending Title 4, Chapter 8A of the Park City Municipal Code, regulating Public Outdoor Music Plazas within Park City.

E. EXHIBITS

Exhibit A - Proposed Ordinance Changes
Exhibit B – Analysis of Decibel Levels

ORDINANCE 03-___

AN ORDINANCE AMENDING TITLE 4, CHAPTER 8 OF THE MUNICIPAL CODE OF PARK CITY REGULATING MASTER FESTIVAL LICENSING; BY AMENDING SUB-CHAPTER 8A REGULATING PUBLIC OUTDOOR MUSIC PLAZAS

WHEREAS, Utah Code Annotated ("UCA") § 10-8-73 and 10-8-76 give the City the power to regulate and prohibit public demonstrations, processions and other street or otherwise public performances which may interfere with public order or otherwise create a noise nuisance; and

WHEREAS, UCA § 10-8-84 allows the City to pass all ordinances and rules, and make all regulations, not repugnant to law, necessary for carrying into effect or discharging all powers and duties conferred by Chapter 8 of UCA Title 10 which are necessary and proper to provide for the safety and preserve the health, and promote the prosperity, improve the morals, peace and good order, comfort and convenience of the City and its inhabitants, and for the protection of property in the city; and

WHEREAS, UCA § 10-8-60 gives the City the right to declare what constitutes a public nuisance, and provide for the abatement of the same, and impose fines upon persons who may create, continue or suffer nuisances to exist; and

WHEREAS, the City Council received a petition supporting outdoor music, but also heard from several area residents who objected to amplified music; and

WHEREAS, the City Council received recommendations based upon the findings and experiences of a volunteer citizen committee, and a University of Utah class concerning the effects and regulation of noise and the construction of sound mitigating stages, to properly set forth reasonable regulations and time limits to substantially mitigate the effects of such music upon neighboring residents and businesses; and

WHEREAS, the Community Development Department recommended the restrictions herein based upon the Department's noise measurements around the neighborhood and other parts of the City; and

WHEREAS, in 2000 the City commissioned an independent noise study by Spectrum Acoustical Engineers along Park Avenue and the study concluded that music performed pursuant to the restrictions herein should be compatible with the existing background and traffic noise of the neighborhood; and

WHEREAS, the plaza authorized herein are within the Historic Commercial Business ("HCB") zoning district, where noisy commercial operations, businesses and public master festivals/parades are common; and

WHEREAS, licensing and zoning are legitimate and reasonable means of time, place and manner regulations to ensure that outdoor music performers comply with reasonable regulations and to ensure that performers do not knowingly allow their music to become a nuisance to nearby residences and businesses, nor create public disorder; and

WHEREAS, the City Council received convincing testimony that outdoor music performances, because of their very nature, have a positive effect on both the existing businesses around them and the community at large, causing enhanced resort atmosphere and business patronage; and

WHEREAS, as a result of these findings and testimony, the City Council finds that public outdoor music in the specified plazas is not a nuisance per se, but if performed consistently with the regulations contained herein, is reasonably within the standard of comfort prevailing in the areas of and adjacent to the plazas defined herein, promotes the arts and cultural enhancement in the community; and

WHEREAS, the City Council desires to minimize and control these adverse effects and thereby preserve the property and character of surrounding neighborhoods, deter unreasonably large pedestrian crowds, protect the citizens from increased noise, preserve the quality of life, and protect the health, safety and welfare of the citizenry; and

WHEREAS, the time, place and manner restrictions of this ordinance are required to protect legitimate and important governmental interests and are reasonably related to achieve the protection of those interests with the minimum interference necessary to rights protected by state and federal constitutional provisions; and

WHEREAS, this ordinance does not prohibit other programming entities; and

WHEREAS, the City Council has reviewed the 2002 season's compliance with the regulations set forth in § 4-8A-5 and have conducted a public hearing and found no neighborhood impacts; and

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

SECTION 1. FINDINGS. The recitals above are incorporated herein as findings by the City Council, the legislative body of Park City.

SECTION 2. AMENDMENT. The Municipal Code of Park City is hereby amended by adding the following Chapter 8a to Title 4:

CHAPTER 8A - PUBLIC OUTDOOR MUSIC PLAZAS

4-8A- 1. TITLE FOR CITATION.

This section shall be known and may be referred to as the Public Outdoor Music Plaza Ordinance.

4-8A- 2. PURPOSE: REASONABLE LICENSING PROCEDURES.

It is the purpose and object of this Chapter that the City establish reasonable and uniform regulations governing the licensing and manner of operations of Public Outdoor Music Plazas in Park City. This Chapter shall be construed to protect the legitimate and important governmental interests recognized by this Chapter in a manner consistent with constitutional protections provided by the United States and Utah Constitutions. The purpose of these regulations is to provide for the regulation and licensing of Public Outdoor Music Plazas within the City in a manner which will protect the property values of surrounding businesses and neighborhoods, and residents from the potential adverse secondary effects, while providing to those who desire to perform in and patronize Public Outdoor Music Plazas the opportunity to do so. The purpose of this Chapter is to prevent and control the adverse effects of Public Outdoor Music Plazas and thereby to protect the health, safety, and welfare of the citizens and guests of Park City, protect the citizens from increased noise, preserve the quality of life, preserve the property values and character of the surrounding neighborhoods.

4-8A- 3. APPLICATION OF PROVISIONS.

This Chapter imposes regulatory standards and license requirements on certain activities, which are characterized as "Public Outdoor Music Plazas." It is not the intent of this Chapter to suppress any speech activities protected by the First and Fourteenth Amendments to the United States Constitution and the Constitution of the State of Utah, but to impose content-neutral regulations which address the adverse secondary effects of Public Outdoor Music Plazas. This Chapter is intended to supersede any other related ordinances including, but not limited to, Title 6 Chapter 3, Noise, and Title 15, Land Management Code, of the Municipal Code.

4-8A- 4. DEFINITIONS.

For the purpose of this Chapter, the following words shall have the following meanings:

(A) **AMPLIFIED EVENT OR MUSIC**. An event or music utilizing an amplifier or other input of power so as to obtain an output of greater magnitude or volume through speakers or other electronic devices.

(B) **STAGES**. The raised and semi-enclosed platforms that are designed to attenuate sound, or as otherwise approved by Special Events staff.

4-8A- 5. MASTER FESTIVAL LICENSE, REVIEW PROCEDURE.

The City Council hereby grants Master Festival Licenses for each of the Public Outdoor Music Plazas in Section 6. The Licenses shall be subject to all regulations and conditions of this Chapter. The Licenses shall be valid as of June 15, 2003 and shall expire September 15, 2003 ~~August 25, 2003~~, unless renewed by the City Council. The City Council may not renew said licenses until after a public hearing and receipt of a staff evaluation of the prior year's compliance with this Chapter. Renewal shall be granted in the sole judgment of the City Council based upon compliance with the regulations herein, community impacts, and so long as such decision is not arbitrary and capricious. No licensee nor performer shall accrue any vested rights under this revocable license.

4-8A- 6. PUBLIC OUTDOOR MUSIC PLAZAS.

The following locations, dates, and times may be programmed by Mountain Town Stages for public performances and outdoor music:

(A) **PARTY ON THE PLAZA**:

(1) **LOCATION**. On the north end of Summit Watch Plaza Approved plans are on file with the Special Events Department.

(2) **OPERATION DAYS/HOURS/MONTHS**. This Stage may be programmed Tuesdays, Fridays, and Saturdays from 5:30 PM to 8:30 PM from June 17th through August 24th. A timer device will be installed that shuts the power of the stage and sound system off at 8:30 PM.

(3) **TYPE OF MUSIC**. Amplified and acoustic with prerecorded music allowed during breaks. For amplified events or music on Summit Watch Plaza, the program manager shall be responsible to ensure that the sound system maintains the sound at an A-weighted sound level adjustment and maximum decibel level of 90, as measured twenty five feet (25') in front of the stage.

(4) **SPECIAL EVENTS**. This Public Outdoor Music Plaza may also be programmed for a maximum of four (4) additional week-nights during the summer for special events from 5:30 PM to 8:30 PM, provided these special events do not conflict with any City-sponsored or duly licensed Master Festival as approved by the Special Events Department.

(B) **MINERS PLAZA**.

(1) **LOCATION**. 415 Main Street.

(2) **OPERATION DAYS/HOURS/MONTHS**. This Stage may be programmed Saturdays and Sundays from 3:00 PM to 6:00 PM, from June 28th through August 24th, excluding August 2nd and 3rd due to other approved Master Festival Licenses.

(3) **TYPE OF MUSIC**. Solo and Duo acts with microphones for vocal, with prerecorded music during breaks. For amplified events, the program manager shall be responsible to ensure that the sound system maintains the sound at an A-weighted sound level adjustment and maximum decibel level of 90, as measured twenty five feet (25') in front of the stage.

(4) **SPECIAL EVENTS**. This Public Outdoor Music Plaza may ~~also~~ be programmed for a maximum of four (4) additional week-nights during the summer for special events from Noon to 6:00 PM, provided these special events do not conflict with any City-sponsored or duly licensed Master Festival as approved by the Special Events Department.

(5) **CONCESSION SALES**. This approval grants the applicant to apply to the State of Utah for a permit to allow for the sale of beer. The City further grants this right provided that the following conditions are met.

(a) Dedicated personnel at the ingress and egress of the area to prevent any beer from leaving the designated area as well as at the water fountain area;

(b) Placement of three feet (3') or higher barricades along the edge of the park to designate the service area; and

(c) Placement of the concessions along the eastern edge of the park to help maintain the barrier between the park and the sidewalk. Concessions may only be sold to people within the park.

(C) **TOWN LIFT PLAZA**.

(1) **LOCATION**. 825 Main Street.

(2) **OPERATION DAYS/HOURS/MONTHS**. This Stage may be programmed Fridays, Saturdays and Sundays from 12:00 PM to 8:30 PM, from June 15th through September 15th, excluding August 2nd and 3rd due to other approved Master Festival Licenses. The maximum duration of programming per day shall not exceed four (4) hours.

(3) **TYPE OF MUSIC**. Amplified and Acoustic acts with microphones for vocal, with prerecorded music during breaks. For amplified events, the program manager shall be responsible to ensure that the sound system maintains the sound at an A-weighted sound level adjustment and maximum decibel level of 85, as measured twenty five feet (25') in front of the stage.

(4) **SPECIAL EVENTS**. This Public Outdoor Music Plaza may also be programmed for a maximum of four (4) additional week-nights during the summer for special events from Noon to 6:00 PM, provided these special events do not conflict with any City-sponsored or duly licensed Master Festival as approved by the Special Events Department.

~~(C)~~ (D) **ADDITIONAL LOCATIONS; ADMINISTRATIVE REVIEW**. Additional Public Outdoor Music Plaza locations may be administratively approved by the Special Events Department for programming by Mountain Town Stages (MTS) of public performances and outdoor music pursuant to the criteria set forth herein. No additional Public Outdoor Music Plaza location shall be administratively approved unless the proposal fully complies with all of the following criteria:

(1) No more than two (2) additional Public Outdoor Music Plaza locations may be administratively approved;

(2) No proposed location may occupy or otherwise compromise any public parking space(s), whether for use by performers, attendees, or other amenities directly connected to programming pursuant to this Chapter;

(3) The proposed location must include sufficient area to accommodate performers, MTS staff, and anticipated attendees without interfering with pedestrian or vehicular traffic or otherwise impairing any public right of way;

(4) No proposed location shall be approved unless located within the HRC, HCB, RC, RCO, GC, or LI Districts, and in no case shall a proposed location be approved within one hundred feet (100') of a residential neighborhood;

(5) No additional Public Outdoor Music Plaza location shall be programmed prior to June 1, nor after September 30, 2002;

(6) Additional Public Outdoor Music Plaza locations may be programmed no more than three (3) days or evenings per week; and

(7) No additional Public Outdoor Music Plaza location may be programmed for more than five (5) hours in any day, and in no event shall programming commence prior to 11:30 AM nor end later than 8:30 PM.

4-8A- 7. GENERAL REGULATIONS.

(A) The program manager, or his/her designee, shall provide on-site management for each event.

(B) A sound technician shall provide on-site monitoring for each event with music, amplified or otherwise, and any amplified event.

(C) Except as otherwise provided at Subsection 6(A) herein, for amplified events or music, the program manager shall be responsible to ensure that the sound system maintains the sound at an A-weighted sound level adjustment and maximum decibel level of 90, as measured twenty-five feet (25') in front of the stage. The data currently available to the City indicates that a maximum decibel level of 90 satisfies the purpose

of this ordinance. The City may amend this ordinance consistent with newly acquired data.

(D) All events shall be open to the public and free of charge.

(E) No event shall exceed 250 people at one time unless a separate Master Festival License is granted for that event.

(F) The Police Department or other proper City official shall have access at all times to all Public Outdoor Music Plazas under this Chapter, and may make periodic inspection of said premises whether the officer or official is in uniform or plain clothes.

(G) All events shall take place only on authorized Stages and shall have clean-up services directly following each event so as to leave the plazas in a clean and litter free manner.

4-8A- 8. ALCOHOL.

It is unlawful for the licensee or any person or business to allow the sale, storage, supply, or consumption of alcoholic beverages at the Public Outdoor Music Plazas, unless licensed pursuant to Chapters 4-6 of Title 4, as applicable.

4-8A- 9. LICENSE HOLDER, PROGRAM BOARD.

(A) Mountain Town Stages (MTS) will be the licensee of the events and will own the Stages, except for 825 Main Street location, which licensee will be Sweeney Bros Town Lift Café (TLC). MTS or TLC will hire a program manager, approved by the City, said approval not to be unreasonably withheld. The program manager will be responsible for general management of each Public Outdoor Music Plaza and on-site oversight for each event. Agreements with the individual property owners will be provided to the City Special Events Department by the program manager.

(B) Mountain Town Stages or TLC shall schedule events in accordance with the regulations set forth in this Chapter. Nothing herein shall allow the City to regulate the content or otherwise censor plaza productions or speech. Mountain Town Stages or TLC shall at all times hold the City harmless and indemnify the City from all claims, actions and liability arising from Mountain Town Stage's or TLC's use of the Public Outdoor Music Plazas. Mountain Town Stages or TLC shall maintain ~~its~~ their own liability insurance, with the City listed as an additional insured in a form approved by the City Attorney.

(C) Nothing in this Chapter shall be interpreted to create a contract or implied-contract between the City and any performer, or Public Outdoor Music Plaza owner.

4-8A-10. ON-GOING COMPLIANCE EVALUATION.

(A) The Special Events Department will appoint an independent neighborhood review group of at least three (3) area residents which will be contacted weekly by the City Special Events staff and the program manager to receive comments and concerns. A phone number will also be available at each venue so that individuals may phone in comments. Based upon such comments, the Special Events staff may issue additional conditions consistent with the intent of this Chapter to the program manager. A summary of, and recommended response to comments will be forwarded to the City Council within seven (7) days of the end of each month of operation, or sooner if requested by the program manager to resolve any issue. At the end of the season, the Special Events staff will forward a final recommendation to the City Council, with proposed changes, if any, prior to renewal of the licenses granted herein.

(B) The Police Chief, or his/her designee, may suspend the licenses granted herein and schedule a revocation hearing before the City Council at the next regularly scheduled City Council meeting for any of the following causes:

(1) Any violation of this Chapter as evidenced by a citation issued by the Police Department.

(2) Any violation of law or City ordinance.

(3) Upon any other evidence that the program manager or entertainer constitutes a hazard or nuisance to the health, safety, or welfare of the community.

4-8A-11. TRANSFER LIMITATIONS.

The Master Festival Licenses granted under this Chapter are not transferable without the written consent of the Mayor. It is unlawful for an individual to transfer a Public Outdoor Music Plaza Master Festival License without City approval as provided herein. If any transfer of the controlling interest in a Public Outdoor Music Plaza license occurs without City approval, the license is immediately null and void and the Public Outdoor Music Plaza shall not operate until a separate new license has been properly issued by the City as herein provided. The City will not unreasonably withhold consent of transfer provided the proposed Licensee is a non-profit organization within Park City, meets all the criteria of this Chapter, and demonstrates experience managing special events.

4-8A-12. PLAZA LICENSES IN LIEU OF ADMINISTRATIVE PERMITS FOR OUTDOOR MUSIC AND OUTDOOR SPEAKERS.

The Master Festival Licenses granted under this Chapter are in lieu of any Administrative Conditional Use Permit (CUP) for outdoor music, including outdoor speakers, pursuant to Title 15 of the Municipal Code, Land Management Code. The Community Development Department shall not issue any outdoor music permits in the Historic Commercial Business (HCB) zoning district north of Heber Avenue. The City may still issue outdoor music permits in conjunction with an approved Master Festival License.

SECTION 3. SEVERABILITY. If any phrase, clause, sentence, paragraph, or section of this Ordinance is declared unlawful by a Court of competent jurisdiction, such decision shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this Ordinance.

SECTION 4. STAGE APPROVAL. Staff approval of the stage for Town Lift Plaza is a condition precedent to any music event on the plaza.

SECTION 5. EFFECTIVE DATE. This ordinance shall become effective upon publication.

PASSED AND ADOPTED this ____ day of _____ , 2003.

Park City Municipal Corporation

_____
Dana Williams, Mayor

Attestation by:

_____
Jan Scott, City Recorder

Approved as to Form:

_____
Mark D. Harrington, City Attorney

Sound Test for Town Lift Plaza – June 16, 2003

Location of Testers	DB Level 25' from Stage	What was the base DB level in the area?	What was the DB level with the sound from Town Lift?	Was the sound plainly audible?
Park Avenue & 9th Street	85DB	50 – 65L	50 – 65L – No Change	No
703 Park Avenue	85 DB	50 L; 42 – 48H	50 L; 42 – 48H – No Change	No
Woodside Avenue & 8th	85 DB	58L; 37 – 45H	58L; 37 – 45H – No Change	No
Woodside Avenue & 9th	85 DB	56L; 48H	56L; 48H – No Change	No

W 90

Education

- History of Howard Leight
- Glossary of Terms
- Protecting Your Hearing
- ISO 9001
- Ear Anatomy 101
- Hearing Loss
- Noise Level and Frequency
- Noise Exposure in the Workplace
- Regulatory Agencies
- Attenuation
- How to Select Hearing Protection Devices
- Hearing Conservation Programs
- Frequently Asked Questions
- Informational and Training Materials

Education

< Back

Noise Levels and Frequency

Sound can be measured scientifically in two ways. Intensity, or loudness of sound, is measured in decibels. Pitch is measured in frequency of sound vibrations per second. A low pitch such as a deep voice or a tuba makes fewer vibrations per second than a high voice or violin.

Decibels

Intensity of sound is measured in decibels (dB). The scale runs from the faintest sound the human ear can detect, whichis labeled 0 dB, to over 180 dB, the noise at a rocket pad during launch. Decibels are measured logarithmically. This means that as decibel intensity increases by units of 10, each increase is 10 times the lower figure. Thus, 20 decibels is 10 times the intensity of 10 decibels, and 50 decibels is 10,000 times as intense as 10 decibels. Each increase of 5 decibels doubles the loudness in your ear. For example, being exposed to a 90 decibel noise for eight minutes is the same as being exposed to a 95 decibel noise for four minutes.

A noise level above 125 decibels can be painful. Obviously, noise at this level can cause damage to your hearing. But more importantly, noise levels between 85 and 125 decibels can cause "painless" hearing damage—damage that you may not be aware of at the time, but that can be causing permanent damage to your inner ear.

Approx. dB level	Examples
0	The Quietest sound you can hear
20	Whisper, quiet library
65	Normal conversation, sewing machine, typewriter

Frequency

Frequency is measured in cycles per second, or Hertz (Hz). The higher the pitch of the sound, the higher the frequency. Young children, who generally have the best hearing, can often distinguish sounds from about 20 Hz, such as the lowest note on a large pipe organ, to 20,000 Hz, such as the high shrill of a dog whistle that many people are unable to hear.

Human speech, which ranges from 300 to 4,000 Hz, sounds louder to most people than noises at very high or very low frequencies. When hearing impairment begins, the high frequencies are often lost first, which is why people with hearing loss often have difficulty hearing the high pitched voices of women and children.

Frequency is important because higher frequency noise can cause more damage to the hair cells in the inner ear. So, even though a high-frequency noise may only have a loudness of 85 dBA, it can cause more damage than a low-frequency noise that has a loudness of 95 dBA.

90	**Lawnmower, shop tools, truck traffic; 8 hours per day is the maximum exposure (protects 90% of people.**
110	**Chainsaw, pneumatic drill, snowmobile; 2 hours per day is the maximum exposure without protection.**
115	**Sandblasting, loud rock concert, auto horn; 15 minutes per day is the maximum exposure without protection.**
140	**Gun muzzle blast. jet engine; noise causes pain and even brief exposure injures unprotected ears. Maximum allowed noise with hearing protector.**

Loss of high frequency hearing also can distort sound, so that speech is difficult to understand even though it can be heard. Hearing impaired people often have difficulty detecting differences between certain words that sound alike, especially words that contain S, F, SH, CH, H, or soft C, sounds, because the sound of these consonants is in a much higher frequency range than vowels and other consonants.

▲ Noiseways Home
◀ New York Home
How Does This Work?
Map
About This Project
Credits

Brooklyn Bridge
Central Park
Queensborough Bridge
Hudson River Greenway
New Jersey Turnpike
Wards Island Bridge
Battery Park City
Williamsburg Bridge
The Heliport

Table of Noise Levels

The average noise level at each location visited for the Noiseways project.

Location	dBA
30th Street Heliport	91.3
New Jersey Turnpike Overpass	85.8
Queensborough Bridge North Outer Roadway	84.4
Hudson River Greenway at Perry St. (with traffic)	79.4
Brooklyn Bridge Promenade	79.1
Central Park Loop Drive (with traffic)	72.5
East River Promenade *(at 102nd St., where the six-lane FDR Drive is adjacent to the promenade)*	70.3
North Meadow, Battery Park City	63.9
Central Park Loop Drive (without traffic)	61.2
Hudson River Greenway at Perry St. (without traffic)	61.1
Wards Island Bridge (bike-pedestrian only)	60.8
East River Promenade *(at 84th St., where the six-lane FDR Drive is buried beneath the promenade)*	59.4

DATE:	June 19, 2003
DEPARTMENT:	Public Works
AUTHOR:	Brian Andersen, Parking Services Rick Ryan, Police Lieutenant
TITLE:	Ordinance Amending Title 9 of the Municipal Code of Park City
TYPE OF ITEM:	Legislative

SUMMARY RECOMMENDATIONS: . On June 12, 2003, staff asked Council to discuss, holding a public hearing and adopting the attached ordinance which would amend Title 9 of the Municipal Code of Park City to: **a)** prohibit parking of vehicles more than 26 feet in length or more than 8 feet in height on Main Street, except for legal commercial deliveries, Construction Mitigation approvals, and special uses approved by the City under a permit process; **b)** amend the criteria to qualify a repeat offender for the boot list; **c)** establish a violation for fire lanes; **d)** amend the noticing provisions, as discussed last week **e)** and correct other issues in the Parking Code as outlined in this report

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DESCRIPTION:

A. Topic. Ordinance amending the Park City Municipal Code Title 9 (Parking Code)

B. Background. ***Oversized Vehicles*** - The need to park oversized vehicles in the Main Street Core, excepting certain necessary uses such as deliveries, has become impractical as the demand for Main Street parking resources has increased. To manage this problem, staff has tried to encourage drivers of motor homes and tour busses to park outside the Main Street Core. Under the present Parking Code, drivers of motor homes and other large vehicles can legally park on Main Street and display a pay stub. Staff has received complaints when large vehicles block visual access to store fronts, and Police has expressed security concerns about oversized vehicles blocking officers visual access as well.

Immobilization Ordinance - In August 1999, staff recommended and Council amended a repeat offender ordinance. Under the present rules, a vehicle must accrue at least $300 in fines and late fees to be eligible for immobilization. After a vehicle is identified with electronic means in the field, staff places a 72-hour notice to pay on the vehicle and mails a notice to the owner of record. Staff believed at the time the $300 amount would be an adequate limit to motivate repeat offenders to settle unpaid tickets. However, more than 100 vehicles are now eligible for immobilization and booting under the present ordinance is not an effective management tool.

Fire Lanes - Park City's Municipal Code incorporates the International Fire Code. There is currently no provision in the International Fire Code or Title 9 of the Municipal Code of Park City to allow a police officer to write a parking ticket if a vehicle is parked

in a marked fire lane. The City receives complaints regarding parking in fire lanes from concerned citizens on a fairly regular basis.

Other Issues - 1) Dumpsters have been used frequently during building cleanup or renovation. Dumpsters are not mentioned in the Parking Code, but the need to regulate their placement in parking spaces exists.

2) The Manual of Uniform Traffic Control Devices (MUTCD) is a federal standard for signs, markings and signal devices for highways and roadways. The MUTCD provides local highway agencies the ability to specify particular colors for curb markings. Park City has used the color red to indicate general no parking areas, fire lanes, and fire hydrant zones but has not adopted the color as an official City curb marking color.

3) The parking management area, comprising Old Town residential permit areas and managed parking areas, is maintained on a map at Public Works. Changes to that map are currently noticed in the newspaper.

4) Private tow companies are used in rotation jointly by the Police Department and Parking Services when a car requires removal. Storage may occur at private companies' facilities. One section of the Parking Code needs to be corrected to reflect this practice.

C. Analysis. *Oversized Vehicles* - Large vehicles pose the following problems in the Main Street Core:

Impaired visual access of pedestrians and motorists;

Inability of tall vehicles to park close to curbs;

Noise and air pollution in the Main Street core;

Difficulty in maneuvering the narrow streets;

Each of these issues is detailed below.

Impaired visual access - Large vehicles block the visual access of storefronts from motorists who are unfamiliar with Park City. Pedestrians browsing Main Street cannot view the shops on the opposing side of the street. From a safety standpoint, pedestrians may be at greater risk when crossing the street from behind a large vehicle; and police officers cannot patrol and monitor the activity of large crowds with large vehicles obstructing the view.

Curbing and tall vehicles - Due to the crown on Main Street, excessively tall vehicles lean toward the sidewalk and cannot approach the curb as closely as other vehicles. This can cause broken sign hardware, which is attached to the light poles. Most careful delivery drivers understand this problem and avoid parking close to the curb, which is a workable scenario during delivery times but not during peak times.

Noise and air pollution - Even though excessive engine idling is prohibited, large vehicles that are unfamiliar to Park City tend to violate this regulation. Large vehicles create unnecessary noise and air pollution, which ruins the experience for Main Street visitors.

Safety concerns - Due to the tight turns and narrow streets in the Main Street core, large vehicles experience difficulty in maneuvering the narrow streets. This can inhibit traffic flow and contribute to congestion. A second concern is the potential for vehicle runaway due to the grade of Main Street.

Staff has included the following exceptions in the ordinance change: legal commercial deliveries, approved construction uses, allowances approved by the City under a special use permit, and City, Fire, and public utility vehicles.

Provision for Fire Lanes - Several fire lanes are marked within town, usually in areas with heavy vehicle and pedestrian traffic. Inappropriate parking in those lanes poses a health, safety and welfare risk to victims by impeding emergency response and a greater property loss risk when fire access is needed. The Police department receives several requests for enforcement of fire lane parking. Enforcement of a no parking violation within a marked parking lane requires a provision within the parking code.

Immobilization Ordinance Revision - Currently, there are 112 vehicles that have accrued over of $300 in fines and late fees and qualify for vehicle immobilization. Many of those violators, who generally stay only one season and have little concern about customer priority parking, can accrue tickets and never pay them before leaving town for good. Usually by the time a candidate vehicle is immobilized, the violator must pay upwards of $800 to retrieve the vehicle. Staff believes immobilizing a vehicle after five unpaid tickets have been received will allow for earlier education of repeat offenders and will result in more convenient parking for the Main Street visitor.

Other Code Corrections - Additional recommended changes are:
include dumpsters as a non-motorized vehicle,
adopt the color red as a City-approved curb marking color for no parking,
allow changes to the parking map to be noticed on City website,
include private impound facilities designated by City as approved tow storage sites.

Dumpsters - The placement of dumpsters, whether in on-street public parking spaces or in public parking facilities, requires a special permit. Currently, no prohibition of dumpsters exists in the Parking Code. Adding the recommended language will clarify the issue.

Red Curb - The Manual of Uniform Traffic Control Devices (MUTCD) allows municipalities to adopt specific curb marking colors. Adoption of the color red for curb markings of no parking zones is recommended.

Parking Area Map Changes - The Parking Code requires parking map changes to be

noticed to the public. For effectiveness and efficiency, it is recommended the City website be used to notice changes to the map. A secondary benefit is a current map that is readily accessible for public viewing.

Private Tow Storage - The Parking Code requires an update to reflect the practice of using private companies for towed vehicle storage.

Staff has prepared the attached amendment to the parking ordinance which will:

prohibit parking of vehicles more than 26 feet in length and more than 8 feet in height on Main Street except for: legal commercial deliveries, approved construction uses, exceptions approved by the City under a special use permit, and City, Fire, and public utility vehicles;
establish a provision to enforce no parking in fire lanes which have been designated by the City Fire Marshal;
revise the immobilization eligibility requirement of repeat offenders to include five or more unpaid citations in addition to the current $300 trigger amount;
cleanup other issues in the parking code, such as adding dumpsters as a non-motorized vehicle to require permit for placement, including prohibitions for parking on landscaped areas, adopting red as a curb marking color, allowing changes to the Parking Area Map to be noticed on the City website, and including private tow companies as approved storage sites.

Staff recommends Council review and adopt the attached ordinance amendments.

D. Department Review. This report has been reviewed by the City Manager, Police Department, City Attorney's Office, Building Department, and the Public Works Director.

ALTERNATIVES:

A. Pass and Adopt the Entire Ordinance: Adoption of the ordinance will amend the Park City Municipal Code to allow no parking provisions for oversized vehicles on Main Street, for fire lanes, and for red curb areas. Additionally, adopting the ordinance will: a) place repeat offenders on the immobilization list after five unpaid tickets; b) include dumpsters in the non-motorized vehicle category; c) codify the practice of using private tow companies as an option for towed vehicle storage; d) include the color red as a City-adopted curb marking color; and, e) revise the noticing requirement to post changes to the Parking Area Map on the City's website.

B. Pass and Adopt Parts of the Ordinance: Passing the ordinance in a piecemeal fashion will require the Police Department and Parking Services to deal with the failed parts as they have in the past. Staff does not recommend this option.

C. Continue the Item: Council could delay decision on this item. The Police Department and Parking Services will continue to manage parking in regards to the highlighted issues as they have in the past.

D. Do Nothing: This alternative may require consideration of revisions to the Parking Code at a later date and would not provide a long term solution.

SIGNIFICANT IMPACTS: If adopted by Council, the attached ordinance would codify the changes to the Parking Code as recommended. Staff does not anticipate any significant negative impacts to arise as a result of adoption of the ordinance.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION: Not taking the recommended action will require Police and Parking Services to enforce the current Parking Code. The issues addressed within this report would need to be revisited at some future point in time.

Ordinance No.

ORDINANCE AMENDING TITLE 9, PARKING CODE OF THE PARK CITY MUNICIPAL CODE

WHEREAS, it is necessary to update Title 9, Parking Code, to reflect modifications to the parking program and to better clarify provisions in the section; and

WHEREAS, the City Council held a duly advertised public hearing on June 19, 2003 and deems it appropriate and in the public's best to amend the Municipal Code;

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

SECTION 1. AMENDMENT. The following amendments are hereby made to Title 1, Parking Code of the Park City Municipal Code:

9- 1- 3. DEFINITIONS.
(D) NON-MOTORIZED EQUIPMENT. Any equipment that is non-motorized and is so designed as to require a Motorized Vehicle for mobility, including but not limited to uncoupled trailers, detached snowplows, dumpsters, and other non-motorized items.

9- 2- 1. PARKING PROHIBITED IN CERTAIN PLACES.

It shall be unlawful and a violation of this Title for any person to Park a Vehicle, or to permit others to Park a Vehicle in any of the following places on a Street or Public Parking Facility:

(N) In such a location or manner so as to occupy two or more marked Parking spaces~~; unless the Vehicle is in a paid parking area and all spaces have been paid for~~;

~~(O) In accordance with Section 11-15-2, parking on pervious surfaces with the area outlined by Section 11-15-1 is prohibited.~~ [Editor's note - Strikeout area moved to newly created section 9- 2- 16]

(O) At any place marked with a red curb.

9- 2- 15. FIRE ACCESS WAYS.
It shall be unlawful and a violation of this Title for any person to Park a Vehicle, or to permit others to Park a Vehicle in any marked fire lane, emergency access road, or vehicle thruway which is designated and approved for fire access by the City Fire Marshall or his/her designee, whether on public or private property.

9- 2- 16. PARKING ON PERVIOUS SURFACES IN SOIL COVERAGE AREAS PROHIBITED.
[Editor's note - Moved from 9-2-1 (O)] In accordance with Section 11-15-2, parking on

pervious surfaces with the area outlined by Section 11-15-1 is prohibited whether on public or private property.

9- 2- 4. PARKING FOR CERTAIN PURPOSES PROHIBITED.

It shall be unlawful to Park a Vehicle on any Street or within any Public Parking Facility for the following purposes.

~~(E) Camping or other habitation.~~ [Editor's note - This is a duplication of 9-2-9]

9- 2-14. OVERSIZED VEHICLES.

No person shall Park a Vehicle that is over eight feet (8') in width in a Public Parking Facility~~, unless the Vehicle is properly Parked in a designated oversize Vehicle area or space~~.

No person shall Park a Vehicle that is over 26 feet in length or over 8 feet in height on Main Street. The following exceptions apply:

(A) Vehicles allowed under the Construction Mitigation Plan and complying with Section 9-2-12;

(B) commercial delivery Vehicles complying with Chapter 8 of this Title;

(C) Vehicles permitted under a Special Use of Public Parking Application,

(D) City, Fire, and Public Utility Vehicles or equipment engaged in official business.

9- 3- 3. ~~TWO HOUR~~ TIME-LIMITED PARKING IN COMMERCIAL AREAS.

Public Streets and Public Parking Facilities within commercial areas may be designated with time limitations. It shall be unlawful to Park a Vehicle in any area so designated by posting signs or meter legends for longer than designated time limits. Vehicles Parked longer than posted time limits are subject to fine(s) and/or impoundment.

9- 6- 3. ADDITIONAL MARKINGS APPROVED.

The City adopts the marking and sign requirements of the Manual of Uniform Traffic Control Devices (MUTCD) with the exception that the color red shall be adopted as a supplemental curb marking color to indicate general no parking zones, fire hydrant no parking zones, and fire lanes. In accordance with the MUTCD, signs shall supplement curb markings for parking except for the general restrictions outlined in Chapter 2 Section 9-2-1 Items A through H of this Title.

9- 9- 2. OBLIGATION OF OWNER TO MOVE VEHICLE.

It is the obligation of the owner or operator of a Vehicle to remove that Vehicle when it is illegally Parked. When an officer finds an illegally Parked Vehicle that is impeding traffic or snow removal, the officer is authorized to move the Vehicle to the extent

necessary to remove the obstruction, including towing the Vehicle to the City impound yard or an impound facility of a private tow company designated by the City.

9- 9- 6. IMMOBILIZATION OF REPEAT OFFENDERS.

Any Vehicle or registered owner(s) with five or more outstanding Parking citations or an aggregate balance of $300 or more due for Parking citations including all late fees and penalties, shall be subject to Immobilization. The Vehicle does not have to be parked illegally at the time the Immobilization device is attached, so long as proper notice procedures have been followed. Immobilization may be removed upon payment of ~~$35~~ the Immobilization Fee as established in the Fee Resolution and the total balance due to the City for all outstanding Parking citations. If the payment for the removal of the Immobilization device has not been received nor provided for within 24 hours of deployment, the Vehicle may be immediately towed and Impounded.

SECTION 2. EFFECTIVE DATE. This Ordinance shall become effective upon publication.

PASSED AND ADOPTED this 19th day of June, 2003.

PARK CITY MUNICIPAL CORPORATION

_____

Mayor Dana Williams

Attest:

_____

Janet M. Scott, City Recorder

Approved as to form:

_____

Mark D. Harrington, City Attorney

RESOLUTION PROCLAIMING JUNE 30, 2003 AS THE JOURNEY OF HOPE - PUSH AMERICA DAY IN PARK CITY, UTAH

WHEREAS, the Pi Kappa Phi Fraternity founded "Push America" with th intention of providing service and education to promote a greater understanding of persons with disabilities; and

WHERES, the Journey of Hope Team, consisting of members of Pi Kappa Phi Fraternity, is going the extra mile for people with disabilities; and

WHEREAS, the Journey of Hope Team began a bicycle trip on June 15, 2003, leaving San Francisco, and arriving in Washington DC on August 16, 2003, traveling over 3,900 miles; and

WHEREAS, the team has cycled from city to ci6y carrying its message of acceptance and understanding to the hearts and homes of people across the United States; and

WHEREAS, now completing their nation-wide trek, the team has raised more than $350,000 which will further the case of Push America;

NOW, THEREFORE, BE IT RESOLVED that the Mayor and City Council proclaim June 30, 2003 as:

PUSH AMERICA DAY IN PARK CITY, UTAH

and urge all citizens to recognize the accomplishments of the members of the Journey of Hope Team who have donated so much of their time, energy, and resources for the creation of a greater understanding of Americans with disabilities.

PASSED AND ADOPTED this 19th day of June, 2003.

PARK CITY MUNICIPAL CORPORATION

_____
Mayor Dana Williams

Attest:

_____
Janet M. Scott, City Recorder

Approved as to form:

_____
Mark D. Harrington, City Attorney

P.O. Box 241368
Charlotte, NC 28224
(704) 504-2400
Fax (704) 504-0880
www.pushamerica.org

May 30, 2003

Ms. Jan Scott
Park City Municipal Corporation
PO Box 1480
Park City, UT 84060

Dear Ms. Scott,

Greetings from Charlotte, NC! I hope you are doing well and are eagerly anticipating our event together. Thank you so much for sponsoring the Journey of Hope 2003 team during our visit to Park City. The team is very excited to begin our summer in San Francisco, where we will cycle across the Golden Gate Bridge on Sunday, June 15, 2003.

The 35-man Journey of Hope team is scheduled to arrive at City Park at 1:00 p.m. on Monday, June 30, 2003. Thank you preparing the proclamation for the team and scheduling Mayor Williams to attend our event with the Park City Parks and Recreation kids. I am looking forward to working with you this summer.

Thank you for your tremendous support of Push America and assisting us to raise funds and awareness on behalf of people with disabilities across the country. Our trip would not be possible without the incredible support that we receive from volunteers like you. Your hard work and dedication is going to change a lot of lives this summer!

I will be departing for San Francisco on Wednesday, June 5, 2003. Please feel free to leave me a message at (704) 504-2400 ext. 127 throughout the summer, as I will check my voicemail daily. If you need to reach me immediately, I can be reached on my cell phone at (704) 609-9141. Please contact me with any questions or concerns regarding our plans together as our event draws near Have a terrific day!

Sincerely,

Ty Hampton
Journey of Hope Project Manager

I AM LOOKING FORWARD TO MEETING YOU JAN!

Building leaders of tomorrow by serving people with disabilities today.

CITY COUNCIL STAFF REPORT

DATE: June 19, 2003
DEPARTMENT: Planning Department
TITLE: 57 Daly Avenue Subdivision
TYPE OF ITEM: Legislative; Subdivision Plat

RECOMMENDATION: Staff recommends that the City Council review the proposed plat amendment, conduct a public hearing and consider approving it according to the findings of fact, conclusions of law and conditions of approval outlined in this staff report.

PROJECT

Applicant:	Jason Gyllenskog
Location:	57 Daly Avenue
Zoning:	Historic Residential (HR-1)
Adjacent Land Uses:	Residential / Open Space
Date of Application:	May 13, 2003
Project Planner:	Ray Milliner

BACKGROUND
The applicant wishes to subdivide 57 Daly Avenue, a 57' x 100' lot into two lots of record. Each lot would then be used to construct a single-family home. A historic single family home encroaches approximately 1.5 feet onto proposed Lot B near the southeast corner. The applicant has agreed to grant an easement for the encroachment on the proposed plat. Lot A would be approximately 27.6 feet wide with 2,760 square feet and Lot B would be 29.6 feet wide with 2,960 square feet.

ANALYSIS
The property is located in the HR-1 zone, and within zone A of the FEMA Flood Insurance Rate Map. Therefore, the applicant must meet the criteria for the construction of a single-family home in the Historic District Design Guidelines and Land Management Code Chapter 15-2.2. as well as submit a flood elevation certificate to the Building Department prior to the issue of a building permit. Both proposed lots front Daly Avenue with 29.6 and 27.6 feet of frontage respectively measured 15 from the front property line. The proposed lots comply with all required LMC lot size, lot arrangement, lot dimension and access requirements.

As stated, the historic home at 61 Daly Avenue encroaches 1.5 feet onto Lot B of the property. In addition to the encroachment easement shown on the plat, staff is requesting that the applicant provide a maintenance easement allowing the owner/occupants of the historic home at 61 Daly Avenue to perform necessary upkeep on the structure, such as painting, and repair work.

NOTICE
Notice of this hearing was sent to property owners within 300' on May 28, 2003. Staff has received no comments from the public at the time of this writing.

DEPARTMENT REVIEW
The Planning Department has reviewed this request. The City Attorney and City Engineer will review the plat for form and compliance with the LMC and State Law prior to recording. The

request was discussed at a Staff Review Meeting on June 3, 2003, where representatives from local utilities and City Staff were in attendance.

RECOMMENDATION
Staff recommends that the City Council review the proposed plat amendment, conduct a public hearing and consider approving it according to the findings of fact, conclusions of law and conditions of approval outlined in this staff report.

Findings of Fact:
1. The property is located in the Historic Residential (HR-1) zone.
2. The HR-1 District is a residential zone characterized by a mix of small historic structures and larger contemporary residences.
3. The property is located within zone A of the FEMA Flood Insurance Rate Map.
4. The amendment will subdivide Lot 8, Block 74 of the Park City Survey into two lots of record.
5. A historic single-family home at 61Daly Avenue encroaches approximately 1.5 feet onto lot B.
6. Access to the historic home at 61 Daly from proposed Lot B is necessary for exterior/ structural maintenance.
7. The minimum lot square footage for a single family home on a lot in the HR-1 zone is 1,875 square feet.
8. Lot A will consist of 2,760 square feet.
9. Lot B will consist of 2,960 square feet.
10. The minimum width of a lot for a single-family home in the HR-1 zone is 25 feet measured 15 feet from the front property line.
11. The minimum square footage for a duplex dwelling in the HR-1 zone is 3,750.
12. The front width of both lots exceeds 25 feet measured 15 feet from the front property line.
13. The depth of each lot will be 100 feet.
14. No remnant lots will be created as a result of this application.
15. Minimal construction staging area is available along Daly Avenue.
16. Snow removal is necessary for emergency access, and snow storage areas are necessary for good snow removal.
17. The applicant has stipulated to the conditions of approval, including the grant of an encroachment/maintenance easement to 61 Daly Avenue.

Conclusions of Law:
1. There is good cause for this subdivision.
2. The subdivision is consistent with the Park City Land Management Code and applicable State law regarding subdivisions.
3. Neither the public nor any person will be materially injured by the proposed subdivision.

Conditions of Approval:
1. The City Attorney and City Engineer review and approval the final form and content of the plat for compliance with the Land Management Code and conditions of approval is a condition precedent to recording the plat.
2. Prior to the receipt of a building permit, the applicant shall submit an application for review for compliance with the Historic District Design Guidelines.
3. Prior to the receipt of a building permit, the applicant shall submit a plan for flood

protection that will be reviewed by the Building Department. A flood elevation certificate or flood-proofing certificate is required.

4. No building permits shall be issued prior to the final recordation of the plat at the County Recorder's Office.
5. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval and the plat will be void.
6. In order to ensure access for routine exterior/structural maintenance of the adjacent home at 61 Daly Avenue, a three-foot wide encroachment and maintenance easement shall be dedicated. A note shall be added to the plat explaining the grant of encroachment and maintenance easements to 61 Daly Avenue or identifying the easement separately recorded at the Summit County Recorder.
7. A 10-foot snow storage easement shall be dedicated to the City on the front of the two lots.

EXHIBITS

Exhibit A – Proposed Ordinance
Exhibit B - Proposed Plat Amendment
Exhibit C - Plat

Ordinance No. 03-

AN ORDINANCE APPROVING THE SUBDIVISION OF LOT 8, BLOCK 74 OF THE PARK CITY SURVEY INTO TWO LOTS OF RECORD LOCATED AT 57 DALY AVENUE.

WHEREAS, the owner of the property known as 57 Daly Avenue, has petitioned the City Council for approval of a subdivision; and

WHEREAS, proper notice was sent and the property posted according to requirements of the Land Management Code and State Law; and

WHEREAS, on June 11, 2003 the Planning Commission held a public hearing to receive public input on the proposed plat amendment and forwarded a positive recommendation of approval to the City Council; and

WHEREAS, the proposed subdivision allows the property owner to subdivide one platted lot into two lots of record; and

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

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

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

1. The property is located in the Historic Residential (HR-1) zone.
2. The HR-1 District is a residential zone characterized by a mix of small historic structures and larger contemporary residences.
3. The property is located within zone A of the FEMA Flood Insurance Rate Map.
4. The amendment will subdivide Lot 8, Block 74 of the Park City Survey into two lots of record.
5. A historic single-family home at 61Daly Avenue encroaches approximately 1.5 feet onto lot B.
6. Access to the historic home at 61 Daly from proposed Lot B is necessary for exterior/ structural maintenance.
7. The minimum lot square footage for a single family home on a lot in the HR-1 zone is 1,875 square feet.
8. Lot A will consist of 2,760 square feet.
9. Lot B will consist of 2,960 square feet.
10. The minimum width of a lot for a single-family home in the HR-1 zone is 25 feet measured 15 feet from the front property line.
11. The minimum square footage for a duplex dwelling in the HR-1 zone is 3,750.
12. The front width of both lots exceeds 25 feet measured 15 feet from the front property

line.

13. The depth of each lot will be 100 feet.
14. No remnant lots will be created as a result of this application.
15. Minimal construction staging area is available along Daly Avenue.
16. Snow removal is necessary for emergency access, and snow storage areas are necessary for good snow removal.
17. The applicant has stipulated to the conditions of approval, including the grant of an encroachment/maintenance easement to 61 Daly Avenue.

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

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

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

1. The City Attorney and City Engineer review and approval the final form and content of the plat for compliance with the Land Management Code and conditions of approval is a condition precedent to recording the plat.
2. Prior to the receipt of a building permit, the applicant shall submit an application for review for compliance with the Historic District Design Guidelines.
3. Prior to the receipt of a building permit, the applicant shall submit a plan for flood protection that will be reviewed by the Building Department. A flood elevation certificate or flood-proofing certificate is required.
4. No building permits shall be issued prior to the final recordation of the plat at the County Recorder's Office.
5. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval and the plat will be void.
6. In order to ensure access for routine exterior/structural maintenance of the adjacent home at 61 Daly Avenue, a three-foot wide encroachment and maintenance easement shall be dedicated. A note shall be added to the plat explaining the grant of encroachment and maintenance easements to 61 Daly Avenue or identifying the easement separately recorded at the Summit County Recorder.
7. A 10-foot snow storage easement shall be dedicated to the City on the front of the two lots.

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

PASSED AND ADOPTED this 19th day of June, 2003.

PARK CITY MUNICIPAL CORPORATION

_____

Dana Williams, Mayor

Attest:

_____

Janet M. Scott, City Recorder

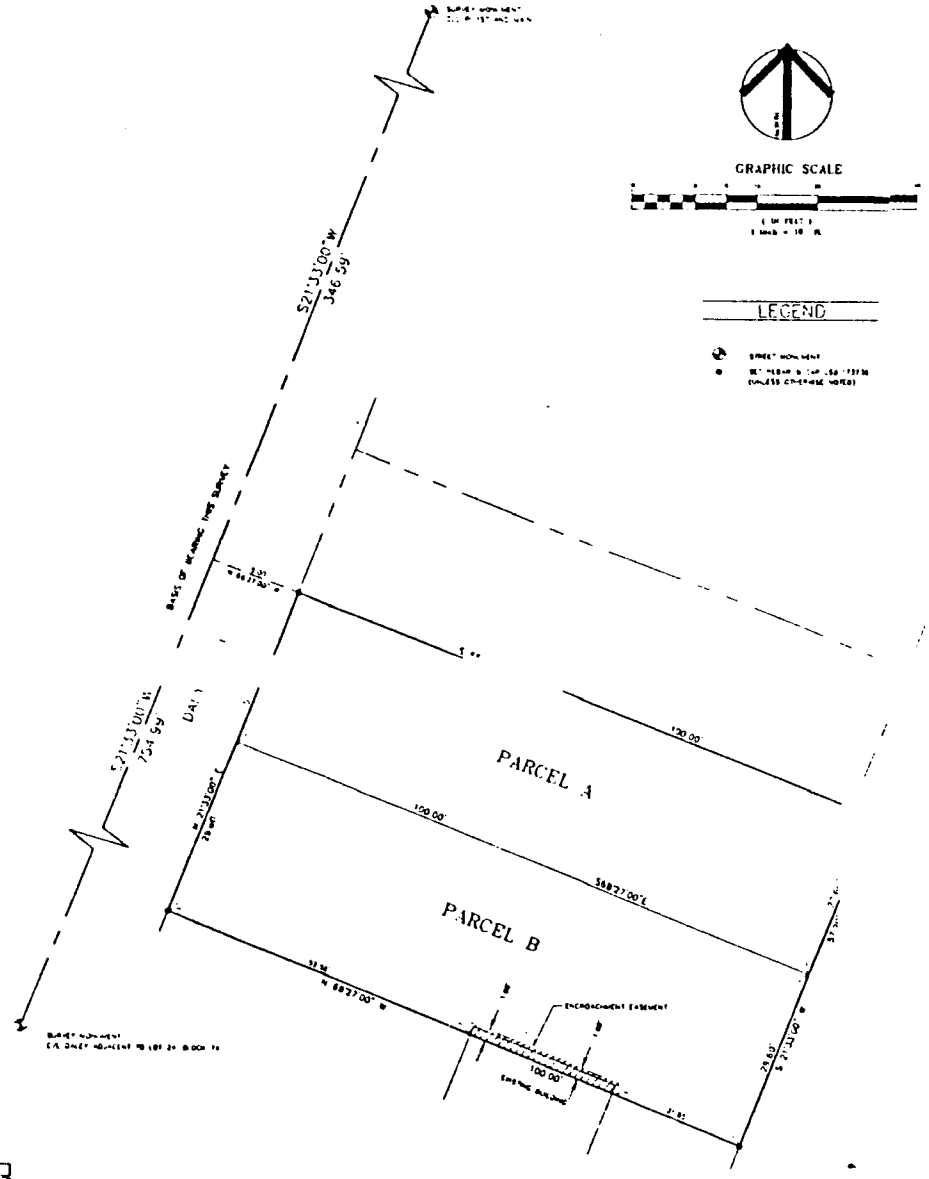
Approved as to form:

_____

Mark D. Harrington, City Attorney

DALY NO. 8 SUBDIVISION PLAT

LYING WITHIN SECTION 21
TOWNSHIP 2 SOUTH, RANGE 4 EAST,
SALT LAKE BASE AND MERIDIAN
SUMMIT COUNTY, UTAH



OWNER'S DEDICATION AND CONSENT TO RECORD

ACKNOWLEDGMENT

SURVEYOR'S CERTIFICATE

STATE OF UTAH
ROBERT W. POHL
NO. 173736
PROFESSIONAL LAND SURVEYOR

AS SURVEYED DESCRIPTION

Beginning at a point South 346.59 feet and S 68°27'00"E a distance of 15.00 feet from a brass cap survey monument located in the intersection of first street and Main Street, on file and of record in the office of the Summit County Recorder (Basis of bearing being South 21°33'00" West 1101.66 feet between said brass cap and a brass cap at Daly Avenue opposite Lot 24 of Block 74 Park City Survey) said point also being on the easterly edge of the Daly Avenue right of way line thence leaving said right of way line S 68°27'00"E a distance of 100.00 feet thence S 21°33'00"W a distance of 57.20 feet thence N 68°27'00"W a distance of 100.000 feet to said easterly right of way line thence along said right of way line N 21°33'00"E a distance of 57.20 feet to the POINT OF BEGINNING

Containing 0.720 square feet or 0.13 acres more or less

PCS
PARK CITY SURVEYING
P.O. BOX 3003
PARK CITY, UTAH 84060
(435) 649-2010

RECEIVED

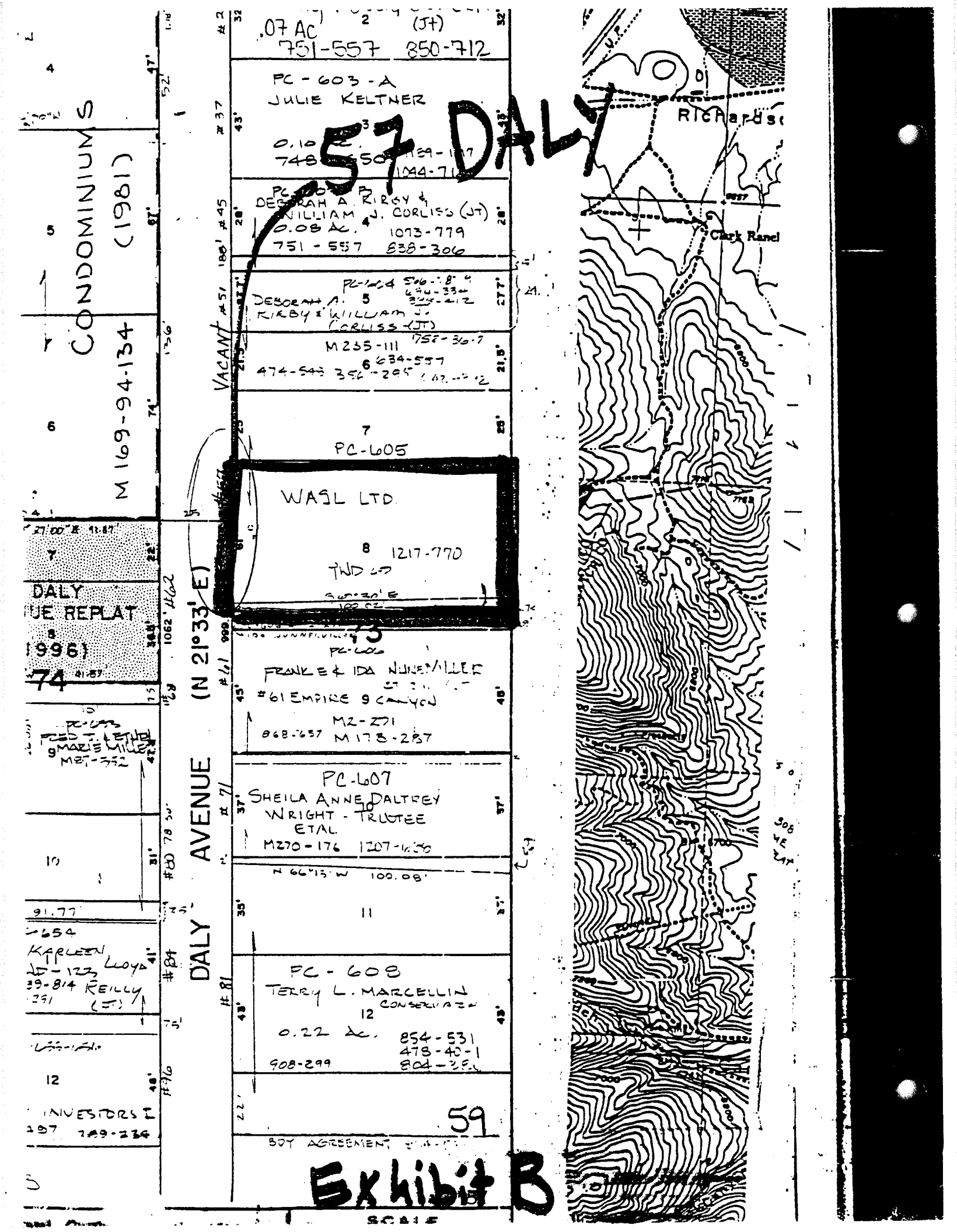
PAGE 1 of 1

COUNTY PLANNING COMMISSION	CERTIFICATE OF ATTEST	SNYDERVILLE BASIN WATER RECLAMATION DISTRICT	...EERS CERTIFICATE	APPROVAL AS TO FORM	COUNCIL APPROVAL AND ACCEPTANCE	RECORDED
APPROVED AND ACCEPTED BY THE _____ COUNTY PLANNING COMMISSION ON THIS DAY OF _____ A.D. 20__	I CERTIFY THIS RECORD OF SURVEY MAP WAS APPROVED BY PARK CITY COUNCIL THIS _____ DAY OF _____, 2003 A.D.	REVIEWED FOR CONFORMANCE TO SNYDERVILLE BASIN WATER RECLAMATION DISTRICT STANDARDS ON THIS _____ DAY OF _____, 2003 A.D.	...D THIS PLAT TO BE IN ...NCE WITH INFORMATION ON ... MY OFFICE THIS _____ ..., 2003 A.D.	APPROVED AS TO FORM THIS _____ DAY OF _____, 2003 A.D.	APPROVAL AND ACCEPTANCE BY THE PARK CITY COUNCIL THIS _____ DAY OF _____ 2003 A.D.	STATE OF UTAH COUNTY OF SUMMIT AND FILED AT THE REQUEST OF _____ DATE _____ TIME _____ BOOK _____ PAGE _____
CHAIRMAN _____	BY _____ PARK CITY RECORDER	BY _____ SBWRD	...ARK CITY ENGINEER	BY _____ PARK CITY ATTORNEY	BY _____ MAYOR	_____ FEE _____ RECORDER

Exhibit A

58

56



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(JT)
751-557 850-712
PC-603-A
JULIE KELTNER
57 DALY
DEBORAH A. KIRBY & WILLIAM J. CORLISS (JT)
0.08 Ac.
1073-779
751-557 838-306
DEBORAH A. KIRBY & WILLIAM J. CORLISS (JT)
M235-111
634-557
474-543 356-295
VACANT
PC-605
WASL LTD.
1217-770
PC-606
FRANK E & IDA NUNEMILLER
#61 EMPIRE 9 CANYON
M2-271
868-657 M178-287
PC-607
SHEILA ANNE DALTREY WRIGHT - TRUSTEE ETAL
M270-176 1207-
N 66°13' W 100.08'
PC-608
TERRY L. MARCELLIN CONSERVATOR
0.22 Ac.
854-531
478-40-1
908-299
59
BOY AGREEMENT
CONDOMINIUMS (1981)
M169-94-134
DALY AVENUE (N 21°33' E)
DALY
UE REPLAT
1996)
74
KARLEEN LLOYD
39-814 REILLY (JT)
INVESTORS I
Richards
Clark Ranch
Exhibit B
SCALE

RESOLUTION PROCLAIMING JULY AS RECREATION AND PARKS MONTH IN PARK CITY, UTAH

WHEREAS, The National Recreation and Park Association brings visibility to parks and recreation and quality sports programs; and

WHEREAS, parks, recreation activities, and leisure experiences provide opportunities for young people to live, grow and develop into contributing members of society; and

WHEREAS, parks and recreation create lifelines and continues life experiences for older members of our community; and

WHEREAS, generating opportunities for people to come together brings a sense of community through fun recreational pursuits; and

WHEREAS, parks, playgrounds, ball fields, nature trails, open spaces, community and cultural centers and historic sites make a community attractive and desirable places to live, work, play and visit to contribute to our on-going economic vitality; and

WHEREAS, green and open space provide a welcome respite from our fast paced, high tech lifestyles while protecting and preserving our natural environment; and

WHEREAS, parks and recreation agencies touch the lives of individuals, families, groups and the entire community which positively impacts upon the social, economic, health and environmental quality of our community;

NOW, THEREFORE, BE IT RESOLVED that the Mayor and City Council of Park City, Utah hereby proclaim July as:

Recreation and Parks Month in Park City, Utah

and encourage all citizens to celebrate by participating in their choice of pleasurable activities to find refreshment from their leisure.

PASSED AND ADOPTED this 5th day of June, 2003

PARK CITY MUNICIPAL CORPORATION

_____

Mayor Dana Williams

Attest:

_____

Janet M. Scott, City Recorder

Approved as to form:

_____

DATE:	**June 19, 2003**
DEPARTMENT:	**Special Events Department**
AUTHOR:	**Alison Butz, Special Events and Facilities Manger**
TITLE:	**KPCW Lease**

SUMMARY RECOMMENDATIONS: Approve a new lease, for space within City Hall, to KPCW.

I. TOPIC

Review the draft lease for the rental of space within City Hall to KPCW.

I. BACKGROUND

In 1999, KPCW signed a three-year lease with the City to continue occupying 1,566 square feet on the north side of the first floor within City Hall. The current lease expires on June 30, 2003.

On June 12, 2003, Council provided Staff with direction to proceed with a new lease with KPCW and to further clarify services provided within the Service Agreement. Staff will at the July 17th meeting with the modified Service Agreement for Council to review.

II. ANALYSIS

The proposed lease is for 1,566 square feet within City Hall and would be for a one-year lease with option of two (2) one-year renewals, for a total of three years. The lease also requires the City to give KPCW six (6) months notice of its intention to renew or not renew the lease before the expiration of the term.

As part of the radio service KPCW provides to the community, the City discounts the standard rental rate. In the previous lease the annual rent for the space was set at $1.00. Council will have an opportunity to view the Service Agreement at a future meeting. The annual value for the space shall be set at $26,481.

ALTERNATIVES

A. Recommend the draft lease, which authorizes the rental of 1,566 square feet, in City Hall, to KPCW.
B. Modify duration and/or the annual rent of the lease or available space within City Hall.
C. Recommend denial of the new lease with KPCW, preventing them to further occupy City Hall.
D. The City Council may continue the discussion in order to receive additional information.

III. RECOMMENDATION:

Staff recommends that 1,566 square feet, in City Hall, be leased to KPCW.

IV. Exhibits

Exhibit A - Lease

EXHIBIT B

SUBLEASE AGREEMENT BETWEEN PARK CITY COMMUNITY WIRELESS, INC. (a.k.a. KPCW) AND PARK CITY MUNICIPAL CORPORATION

THIS AGREEMENT is made by and between PARK CITY MUNICIPAL CORPORATION (hereinafter "City") and PARK CITY COMMUNITY WIRELESS, INC., a non-profit corporation (hereinafter "KPCW"), to set forth the terms and conditions under which City will lease to KPCW certain surplus City space as described below. The parties agree as follows:

1. Property. The property covered by this lease is located on the first (basement) level of the Marsac Municipal Building, 445 Marsac Avenue, Park City, Utah. The specific suite of office consists of the northernmost 1,566 square feet of the first floor, together with the right of access through the common hallways and entrances during normal business hours of City. Subject to paragraph 8 below, KPCW may convert the hallway between the office space to additional finished tenant space provided alternative ADA access is provided at KPCW's cost. The property also includes the right to use the yard area on the north side of the building for the location of a satellite downlink, and the flagpole or roof as a location for an emergency broadcast antenna, subject to Community Development Department historic design review approval. Construction on the property to the north may make the flagpole location unsuited for the use of KPCW, in which case KPCW may use the roof of the building.

2. Term. The term of this lease is from July 1, 2003 to June 30, 2004, unless sooner terminated under the provisions of this Agreement, or by the joint agreement of the parties. Upon mutual agreement of the parties, this Agreement shall renew twice for an additional term of one (1) year (July 1, 2004 to June 30, 2005 and July 1, 2005 to June 30, 2006). Notice of renewal must be given pursuant to Paragraph 14.

3. Rent. The consideration for the space shall be one dollar ($1.00) per year for the space, together with the observance of the other covenants and conditions of the lease and that Special Service Contract between the parties dated 7/10/03. If the Special Service Contract is terminated pursuant to the terms of the Special Service CONTRACT Policy in the Park City Municipal Corporation Annual Budget, Policies and Objectives- General Budget Policies, the rent shall be in an amount agreed by both parties but in no event shall exceed $17.50 per square foot annually.

4. Tenant Improvements. KPCW agrees to install, at its own expense, all specialized equipment needed for the operation of its radio and future television studios, offices and other facilities it may require. This includes any additional partitioning, soundproofing, specialized or additional electrical and mechanical equipment, air conditioning, internal heating, and any other tenant improvements that are necessary for KPCW's intended use of the space. Any tenant improvement items that can be removed at the end of the lease without causing substantial damage to the remaining walls, ceilings, or other finishes may be removed by KPCW at the termination or

expiration of the lease. All work done by KPCW will comply with the applicable building codes.

5. Utilities. City agrees to pay the utility bills for light and heating of the space, as those services are tied into the central mechanical system of the building. City will also provide water and sewer service. KPCW will provide its own telephone system and its own monthly service fees for telephone service at its own expense. If City has any surplus telephone equipment that could be made available to KPCW without charge, except that installation, monthly line, and long distance charges will be paid by KPCW. KPCW agrees to pay utilities for the Park City Police Station's main transmitter unit, which is located in KPCW's space on Quarry Mountain. KPCW agrees to contribute, in a fair and equitable amount mutually agreed upon by the parties to this Agreement, funds for the cost of an emergency back-up generator in the event that the City proceeds with such proposal.

6. Janitorial Services. KPCW will provide its own janitorial service for the space it occupies. In the event KPCW desires to have the City's janitorial contractor maintain KPCW's space, KPCW will pay the additional costs incurred by the City for that service at a cost basis to the City.

7. Insurance. City will carry insurance on the structure for casualty loss, and public liability policies that provide insurance against claims of persons injured in or about the building in amounts in excess of those required by state law. The City policies will not extend to any contents of KPCW's space, and the City will not have any liability to KPCW for loss or damage to its equipment or contents, except through the gross negligence of the City or its employees or agents. KPCW will carry insurance on its contents as it deems appropriate. KPCW will not store or keep any product or equipment within the space that will, because of its nature, increase the risk of casualty losses to the overall building, or that will require additional premiums or specialty coverage. KPCW will provide a policy of liability insurance on its premises in an amount of not less than One Million Dollars ($1,000,000) per person and Two Million Dollars ($2,000,000) per occurrence, with the City named as an additional insured. The policy will provide that no cancellation will be made without first having given the City thirty (30) days notice of the cancellation. Failure to maintain the insurance is a violation of the lease, and grounds for termination.

8. Access and Parking. KPCW's primary access to the building will be through the exterior doors on the north end of the first floor of the building. Another entrance may be designated by the City Manager, with the consent of the Chief Building Official. During City's normal business hours, KPCW will have the right to use the common hallways in the building for access, in addition to the outside door to the leased suite. Use of the north parking lot shall be on an as available basis subject to the same regulations as generally applicable to the public and employees of the City. Additional parking for KPCW will be limited to the public parking in Swede Alley, except that on nights when there is no City meeting or other public use of the building, after normal business hours KPCW's employees may park in the Marsac Building lot to the south of the building. KPCW hereby acknowledges the planned construction of the Transit Center and understands that said construction will result in the closure of the access driveway to the parking lot north of City Hall and loss of

parking. Upon completion of the north parking lot, KPCW employees may resume use of the lot, unless otherwise directed in writing by the City Manager.

9. Interference with City Telecommunication Systems. The City has extensive computer, radio, and telecommunication systems in the building. This electronic equipment may be sensitive to the electronic equipment installed by KPCW. KPCW agrees that it will so install its equipment that there is no interference with the City equipment, and will pay all costs associated with isolating KPCW's equipment from the City's. In the event interference occurs, KPCW will discontinue use of its equipment until the cause of the interference can be determined and a solution found. If City adds new equipment or changes its existing equipment, and interference occurs after the change, it is KPCW's responsibility to eliminate interference on these future installations as well.

10. Contribution. In making this lease, the City is recognizing the unique community contribution of KPCW to Park City. This lease is a form of grant in aid to KPCW, in lieu of cash donations from the City.

11. Force Majeure. This lease agreement shall automatically terminate upon any holding, interpretation, or determination by a Court, legislative, or administrative body, that bonds issued by Park City Corporation or the Municipal Building Authority will not qualify as tax exempt if the property is leased to a private entity or monies are received for so leasing, or that the MBA may not lease to a private entity, either under existing state and federal law regulation or future state and federal law regulation. In the event of termination pursuant to this paragraph, tenant shall have six (6) months to vacate the premises, and the City may, at its option, either eliminate or reduce rent from the date of termination until the date of vacation of the premises so as to not endanger its tax exempt status.

12. Tax Exempt Status. KPCW is a non-profit corporation under the Internal Revenue Code, and the subsidy by the City is made only as long as the non-profit, tax exempt status remains. In the event KPCW loses it tax-exempt status, the City shall have the option of terminating the lease, or increasing the rental to the fair market value of the space occupied by KPCW on the date that the tax exemption was revoked. KPCW will provide its annual report and audit to the City each year.

13. Assignment/Sublease. KPCW has no right to sublet or assign all or any portion of the leased space for any purpose whatsoever, including subleases or assignments to other non-profit organizations, or assignments for the benefit of creditors. Any attempt to sublet or assign shall cause this lease to immediately terminate.

14. Notice. In recognition of the time it takes to move the radio station equipment and obtain FCC approval for the move, the City will give six (6) months notice of its intention to renew or not renew the lease before the expiration of the term. There is no option for renewal created by this lease.

15. Default/Termination. If the City determines that KPCW is in default of the observance of any of the covenants of this Agreement, it shall give KPCW notice of the alleged default, and a reasonable period of time, not less than thirty (30) days nor more than sixty (60) days, in which to cure the default. If KPCW fails to cure the default, this lease shall terminate. KPCW will immediately become a tenant at will of the City, and the City may demand possession of the space upon three (3) days written notice, or, at the City's option, the City may increase the rental to the fair market value of the space until KPCW has vacated it, and state a date certain by which the space must be vacated. Termination of this Agreement shall also terminate the Grant Agreement between the parties.

16. Building Directory. KPCW will be shown on the building directory, but will be placed there in a manner that does not suggest that KPCW is a department or agency of the City.

17. Indemnity. KPCW covenants and agrees to indemnify and hold the City harmless from all claims, loss damage, injury or liability (hereafter "liability") resulting from KPCW's use and occupancy of the leased premises (including broadcasts) to the full extent provided in the Utah Governmental Immunity Act, including reasonable attorney's fees, but excluding any liability resulting from acts or omissions of City, its officers, employees or agents. Nothing herein shall be construed as a waiver of any of the rights or defenses under the Utah Governmental Immunity Act (Utah Code Ann. §§ 63-30-1, et seq.). The obligations hereunder shall be determined under principles of tort law including, but not limited to, the Governmental Immunity Act.

The City will indemnify and hold KPCW and its employees harmless to the full extent provided in the Utah Governmental Immunity Act, from claims, loss, damage, injury, or liability resulting from City's use and occupancy of the leased premises or from the conduct of City's operations; including, but not limited to, City's negligence or intentional acts. Nothing herein shall be construed as a waiver of any of the rights or defenses under the Utah Governmental Immunity Act (Utah Code Ann. §§ 63-30-1, et seq.).

18. City Liable only for City's Negligence. Except where caused by City's negligence, City shall not be liable for any failure of water supply, natural gas supply or electrical supply; or for any injury or damage to persons or property caused by gasoline, oil, steam, gas or electricity; or hurricane, tornado, flood, wind or similar storms or disturbances; or water, rain or snow which may leak or flow from the street, sewer, gas mains or any subsurface area or from any part of the building or buildings or for an interference with light.

19. Municipal Building Authority Consent. The City's position in the Marsac Building is one of a lessee of the Municipal Building Authority of Park City, with the full right to sublet all or portions of the building. The Municipal Building Authority has signed this lease to indicate its consent to the sublease to KPCW in order to comply with the provisions of its financing arrangements on the building.

20. Waiver of Covenants. It is agreed that the waiver of any of the covenants of this Lease Agreement by either party shall be limited to the particular instance and shall not be deemed to waive any other breaches of such covenant or any provisions herein contained.

21. Entire Agreement. This Agreement constitutes the entire and only agreement between parties and it cannot be altered or amended except by written instrument, signed by both parties.

EFFECTIVE THIS 1st day of July, 2003.

PARK CITY COMMUNITY WIRELESS, INC. (KPCW)

_____

Blair Feulner

CORPORATE ACKNOWLEDGMENT

STATE OF _____)
: ss.
COUNTY OF _____)

On this ___ day of _____, 2003, personally appeared before me Blair Feulner, who being duly sworn, did say that he/she is the Secretary and Treasurer of **PARK CITY COMMUNITY WIRELESS, INC**, and acknowledged to me that the preceding Agreement was signed on behalf of said company, by their authority and he/she acknowledged that the company did execute the same for its stated purpose.

_____

NOTARY PUBLIC

MUNICIPAL BUILDING AUTHORITY

by: _____
Dana Williams, Chairman

PARK CITY MUNICIPAL CORPORATION

by: _____
Tom Bakaly, City Manager

Attest:

_____
Janet M. Scott, City Recorder

Approved as to form:

_____
Mark Harrington, City Attorney