PARK CITY WORK SESSION
SUMMIT COUNTY, UTAH
JUNE 17, 2004

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

Tom Bakaly, City Manager; Ken Fisher, Recreation Manager; Gary Hill, Budget Manager; Colin Hilton, Economic Development Director; Kathy Gammel, Water Manager; Jeff Schoenbacher, Environmental Specialist; Ron Ivie, Chief Building Official

Council questions/comments – Mayor Williams welcomed a new reporter from KPCW, Linda Gordon, to the meeting. He thanked everyone involved with producing the Fiesta del Sol where the new playground was dedicated. He acknowledged the resignation of Water Manager Kathy Gammel. He expressed that she will be leaving Park City a better place because of her accomplishments and wished her the best. Dana Williams stated that he attended the Community Leadership Association conference in Tuscon last week where he participated in courses and received an award.

He pointed out the level of correspondence he and other Council members are receiving opposing the basketball court feature in the Prospector neighborhood park. There is an opportunity for the public to comment at the Planning Commission level, but he asked if there is any interest in changing the current Council direction to proceed with the design as proposed. Jim Hier interjected that it may save money to proceed with a schematic and not final design at this point. Ken Fisher explained that the cost to design the court isn't significant, but the area could be better comprehensively designed if amenities are identified. Mr. Hier asked if the proposal could be modified to request options and felt it important to notify the neighborhood of the meeting. There was discussion about adjustable basketball standards and Ms. Cone expressed that generally basketball courts are loud and annoying. Council member Kernan recalled early discussions on the Comstock park where a climbing wall and dog park were entertained. Although these are wonderful amenities, they may not be appropriate in a neighborhood park; attracting people to drive there should be discouraged. In his opinion, these small neighborhood parks should have a certain quiet quality that should be preserved. Amenities attracting users should be located in areas like City Park or the Racquet Club and perhaps a policy should be considered.

Kay Calvert felt that moving forward on design plans with options and holding public meetings would be helpful. Candace Erickson relayed that she felt some property owners changed their minds after the initial meeting and there are four houses in the area that would be largely impacted. Ken Fisher clarified that the basketball court idea was driven by the neighborhood. Ms. Erickson stated that she supported design options. Joe Kernan emphasized that in his opinion, basketball courts should not be considered for any small neighborhood park. Mr. Hier felt that may be a finding that the

Planning Commission may recommend. Ms. Erickson referred to comments made about the basketball courts at the school, which may be under-utilized because of their condition. Joe Kernan disclosed that he spoke with School District Superintendent Dave Adamson and Board member David Chaplin who are exploring improvements which may provide a solution for players. Tom Bakaly acknowledged Mr. Kernan's comment on formulating a policy on neighborhood park. It may be good direction to the Recreation Advisory Board members in July when they will meet with Council.

Kay Calvert reported on an economic development meeting held during the week. Ms. Erickson echoed the Mayor's compliments to Kathy Gammel and commented on her trip to McCall, Idaho. Marianne Cone reported that she and Ms. Erickson attended a tour of the sewer plant and commented on library and public art board business. She discussed the Historic Preservation Board meeting. Joe Kernan added that as a interested citizen and a member of the water task force, Kathy Gammel was extremely helpful over the years. He suggested some sort of notice on the water bill in the future to discourage wasting water and thanked Matt Twombly on organizing a community clean-up of the trails over the weekend. Mr. Kernan reported on the status of activities of the County solid waste committee. The Fiesta del Sol was a great celebration and it's good to see cultures assimilate.

There was discussion about scheduling conflicts with the regional ice facility meeting with the Snyderville Special Recreation District and the quarterly dinner meeting for mayors and councils hosted by Summit County on June 23. Colin Hilton emphasized the importance of attending the RIC meeting and finalizing the interlocal agreement with the SBSRD board. There is a $2 million commitment from each party on this joint venture, which has been a long process and next week is the appropriate time to reach consensus on the agreement. Finalizing the agreement will initiate the next step of planning and hopefully breaking ground next spring. He encouraged as much representation of the Council as possible. In consideration of this, it was agreed to move the ice discussion back to 7:45 p.m. at Trailside Park so that all members can attend.

Budget wrap-up. Gary Hill referred to the topics covered in previous budget sessions. Tonight, the recommended action is to adopt the final budget for the City, the RDA and the MBA. This year, there will be a transfer of $3 million from the General Fund to the five-year CIP, which is $1.5 million more than reflected in the tentative budget adopted last week. This will bring the total to $5.1 million as of July 1. He added that to a large degree, the reason the City carries a favorable bond rating is due to the amount of money in the CIP. Staff recommends that the reserve be maintained and any requests lowering it be carefully considered. Last week, it was reported that the sales tax distribution for last month was lower than projected, but the number reported by the Tax Commission was incorrect and the actual is higher than anticipated. He described the contingency created by the vacancy factor, which is a portion of the budget that is reduced for associated unfilled personnel positions. Departmental budgets are reduced by 7% to stay within projections and the contingency is intended to deal with staffing issues as a result of the vacancy factor. This year, $55,000 will be transferred to the Pubic Safety budget as it is fully staffed and the overtime demands of the recent strike will also be accounted for. Mr. Hill clarified that the bond issuance was identified at $9.25 million in prior documents, but it will be $9 million. The parameters resolution for the issuance is scheduled on tonight's agenda.

The RDA mitigation payment to the School District is included and has been programmed for future years. Gary Hill addressed the Telecommunications Tax Ordinance. Currently there is a 6% tax on land lines, but recent state legislation added cell phones, which the City does not currently charge. A rate of 4% was established as a tax for both groups and this Ordinance actually lowers the charge from 6% to 4%, but broadens the base. However, it is expected that this change will be revenue neutral.

Increases to the water impact and user fees, by way of resolution and ordinance, are also scheduled and recommended for approval tonight. The ordinance offers a rebate of up to 50% of outdoor water impact fees for installation of an approved drip irrigation systems. Mayor Williams stated that this provision is a great start in a sustainability effort and Gary Hill added that this would only affect new construction. Kathy Gammel noted that she explored incentives for changing an irrigation system to drip, but couldn't find any models. Staff decided to focus on the impact fee approach first to determine if it is effective. She felt it is worthwhile to implement. There was discussion about the possibility of people changing out the drip irrigation system after receiving a refund.

With regard to the topsoil assistance program, Mr. Hill reported that $32,000 has been allocated to this new category this year and an additional $15,000 in the second year, which is reflected in the proposed final budget resolution. Jeff Schoenbacher explained the priority designations in the two-phased program approach, which encourages property owners to mitigate their properties sooner by being eligible for a greater reimbursement amount. Ms. Calvert asked if the program will be demanding to manage and Mr. Schoenbacher felt that the first two years may be busy. Ron Ivie interjected that back-up contract services will be used if needed, and Gary Hill noted that administration of the program is covered in the existing budget. The City Manager expressed that Phase 2 has the potential of increasing.

Council member Cone questioned the message this proposal will send to property owners who have capped their properties at their own expense in a timely fashion and Mr. Schoenbacher acknowledged that she brings up a valid point. The ordinance has evolved into specific goals and he views this program as a partnership to close the door on environmental issues. Dana Williams believed the first year will be a good trial to monitor the program and modify it if needed. There was discussion on tracking the program and Ron Ivie assured Council that the Building Department's year-end report will reflect activities of the project. Mr. Schoenbacher emphasized that the program is for duplexes and single family, not condominium or commercial parcels. Mr. Ivie stated that this has proposal has some precedent in Park City, and he compared it to the Main Street fire-sprinkling program in the 1980s. There were 18 buildings in violation by the dead line and the City created a grant program for property owners, which resulted in significant compliance. This may cost some money, but he felt it is more effective to create an incentive than to prosecute violations, which also creates a cost. Joe Kernan stated that his original position was to retain responsibility with the property owners to cap their yards. However, he appreciates the Council's support of creating incentives and staff crafting this proposal, which sets forth time limits, and encourages and expedites compliance in the first year. Mr. Kernan hoped that if a situation arose with a Type C needing $450, that it would be treated and awarded like a Type A application. It was clarified and confirmed by the City Council that eligibility will be retroactive from January 1, 2004 and that it will be managed administratively. Marianne Cone stated that she appreciated staff's arguments in support of the program.

She suggested that redlining the changes in the budget next year would be helpful. Gary Hill noted that there have been very few changes, less than $100,000, from the City Manager's recommended budget to the final budget. There was discussion about the janitorial contract being removed from the agenda as there are questions regarding the bid process. Mayor Williams thanked the budget staff for their efforts.

Prepared by Janet M. Scott, City Recorder

PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
JUNE 17, 2004

I ROLL CALL

Mayor Dana Williams called the regular meeting of the City Council to order at approximately 6 p.m. at the Marsac Municipal Building on Thursday, June 17, 2004. Members in attendance were Dana Williams, Kay Calvert, Marianne Cone, Candace Erickson, Jim Hier, and Joe Kernan. Staff present were Tom Bakaly, City Manager; Mark Harrington, City Attorney;

II COMMUNICATIONS FROM COUNCIL AND STAFF

None.

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

The Mayor invited the audience to comment on any matter of City business not scheduled on the agenda.

Primary election – Sue Follett, Summit County Clerk, reminded the public that a primary is scheduled this Tuesday, June 22 and encouraged everyone to vote. She relayed information on the polling places.

With no further comments, the public input session was closed.

IV WORK SESSION NOTES AND MINUTES OF MEETINGS OF MAY 27 AND JUNE 3, 2004

Kay Calvert, "I move to adopt the minutes of the meeting of May 27". Jim Hier seconded. Motion unanimously carried. Marianne Cone, "I move to accept the work session notes and minutes of the meeting of June 3, 2004". Kay Calvert disclosed that she will be abstaining as she was not in attendance. Jim Hier seconded. Motion carried.

Kay Calvert	Abstention
Marianne Cone	Aye
Candace Erickson	Aye
Jim Hier	Aye
Joe Kernan	Aye

V CONSENT AGENDA PUBLIC HEARINGS

1. Ordinance approving a plat amendment for 41 Sampson Avenue, Park City, Utah **(motion to continue to July 22, 2004)** – The Mayor requested a motion to continue

this item to July 22. Jim Hier, "I so move". Marianne Cone seconded. Motion unanimously carried.

2. Ordinance adopting Title 4, Chapter 14A, Telecommunications Tax, and amending Title 4, Chapters 10 and 14 governing telecommunications franchises – Gary Hill explained that this ordinance essentially repeals the franchise tax and adds cell phones to the telecommunications tax. The rate would be lowered from 6% to 4% but the taxable base expanded. Hearing no comments or questions from the Council, the public hearing was closed.

3. Ordinance approving a plat amendment to the Park City Survey for Lots 13 and 14 of Block 2 of the Park City Survey, located at 255 Park Avenue, Park City, Utah – Jonathan Weidenhamer explained that the Planning Commission forwarded a positive recommendation at its June 9 meeting. The plat amendment will accommodate building a new single family home on two standard Old Town lots. Because this application involved a steep slope analysis, the Planning Commission is still reviewing the final design of the house. Hearing no comments or questions from the City Council or the audience, the Mayor closed the public hearing.

4. Ordinance approving a plat amendment for Lot 27B-2 in the Prospector Square Subdivision, removing a platted five foot setback at the east of the lot – Planner Jonathan Weidenhamer stated that the lot was originally subdivided in 1989 and five foot setbacks were placed at the rear and east lot line in the event of potential impacts of the adjacent Sun Creek Condominiums. The five-foot setback to the east only fronts Prospector Square common space and there is no compelling reason to retain the five foot setback. Two public hearings were held and there was no input and the Planning Commission forwarded a unanimous decision to approve at its June 9 meeting. The Mayor invited the Council and public to comment. Hearing no comments, the public hearing was closed.

5. Master Festival License for the Bright Lights Summer Concert Series at Deer Valley – PCPAF – Max Paap stated that staff recommends approval of the MFL, including a partial waiver of fees. Hearing no questions or comments from the Council or the audience, the public hearing was closed.

VI CONSENT AGENDA

Jim Hier, "I move approval of Consent Agenda Items 1 through 7". Kay Calvert seconded. Motion unanimously carried.

1. Ordinance adopting Title 4, Chapter 14A, Telecommunications Tax, and amending Title 4, Chapters 10 and 14 governing telecommunications franchises – See staff report, work session notes and public hearing.

2. Resolution of the governing body of Park City, Utah approving a Uniform Interlocal Agreement with the Utah State Tax Commission for the collection of telecommunications taxes authorized by Utah Code Sections 10-1-401, et seq. - See staff report, work session notes and public hearing.

3. Ordinance approving a plat amendment to the Park City Survey for Lots 13 and 14 of Block 2 of the Park City Survey, located at 255 Park Avenue, Park City, Utah - See staff report, work session notes and public hearing.

4. Ordinance approving a plat amendment for Lot 27B-2 in the Prospector Square Subdivision, removing a platted five foot setback at the east of the lot - See staff report, work session notes and public hearing.

5. Master Festival License for the Bright Lights Summer Concert Series at Deer Valley – PCPAF - See staff report and public hearing.

6. Approval of outdoor dining lease with Main Street Pizza & Noodle, located at 530 Main Street – See staff report.

7. Authorization to staff to enter into a contract, in a form to be approved by the Legal Department, to DVD Paving LLC for ADA access, stairs and walkway at the McPolin Farm in the amount of $20,750 – See staff report.

VII PUBLIC HEARINGS

1. Ordinance amending the Municipal Code of Park City, Utah, Title 11, Section 11-3-7, to provide a rebate of impact fees for installation of drip irrigation and drought tolerant landscaping on new construction, amending Title 13, Section 13-1-2, designated time periods for water conservation rates, amending Sections 11-13-1 and 11-12-5, and repealing Section 13-1-13 pertaining to development, connection and fire standby fees – The Mayor opened the public hearing and hearing no input, closed it.

2. Resolution adopting a final revised budget for fiscal year 2003-04; the final budget for fiscal year 2004-2005 for Park City Municipal Corporation and its related agencies and setting a certified tax rate – Marianne Cone stated that appropriations made to capital projects is the first step and there will be much more planning. With regard to the recreation complex at Quinns Junction, she felt it very important that the

corridor look like undisturbed open space and would prefer that the fields are set back. She also encouraged taking a holistic approach in evaluating the plaza, parking and the police department projects. It is also important to solicit participation from people who live and work there. With no further comments from the Council or the audience, the Mayor closed the public hearing on the final budget.

VIII NEW BUSINESS

1. Ordinance amending the Municipal Code of Park City, Utah, Title 11, Section 11-3-7, to provide a rebate of impact fees for installation of drip irrigation and drought tolerant landscaping on new construction, amending Title 13, Section 13-1-2, designated time periods for water conservation rates, amending Sections 11-13-1 and 11-12-5, and repealing Section 13-1-13 pertaining to development, connection and fire standby fees – Hearing no further comments, the Mayor requested a motion to approve. Kay Calvert, "I so move". Jim Hier seconded. Motion unanimously carried.

2. Resolution amending Section 2, Water Fees and Section 8, Recreation Services Fees, outlined in Exhibit A of Fee Resolution No. 5-04 and repealing Resolution No. 5-04 in its entirety – Jim Hier, "I move approval of the resolution outlined in Item 2". Marianne Cone seconded. Motion carried unanimously.

3. Resolution authorizing the issuance and sale of up to $9,000,000 aggregate principal amount of general obligation bonds to the City; fixing certain maximum terms for the Bonds; and providing for related matters – Mayor Williams requested a motion to approve. Kay Calvert, "I so move". Jim Hier seconded. Motion unanimously carried.

4. Resolution adopting a final revised budget for fiscal year 2003-04; the final budget for fiscal year 2004-2005 for Park City Municipal Corporation and its related agencies and setting a certified tax rate – Jim Hier, "I move adoption of the budget as presented". Candace Erickson seconded. Motion unanimously carried

IX ADJOURNMENT

With no further business, the regular meeting of the City Council was adjourned and a Redevelopment Agency meeting and a Municipal Building Authority meeting convened to adopt their annual budgets

MEMORANDUM OF CLOSED SESSION

The City Council met in closed session at approximately 3 p.m. Members in attendance were Mayor Dana Williams, Kay Calvert, Marianne Cone, Candace Erickson, Jim Hier, and Joe Kernan. Staff present was Tom Bakaly, City Manager; Myles Rademan, Public

Affairs Director, and Mark Harrington, City Attorney. Candace Erickson, "I move to close the meeting to discuss personnel and property". Joe Kernan seconded. Motion carried unanimously. The meeting opened at approximately 4:15 p.m.

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

Prepared by Janet M. Scott

PARK CITY SUMMIT COUNTY UTAH CORPORATE SEAL MARCH 1, 1884

Janet M. Scott

Janet M. Scott, City Recorder

PARK CITY
1884

City Council Staff Report

Building Department

Author: Jeff Schoenbacher, Environmental Coordinator
Subject: TOP-SOIL ASSISTANCE PROGRAM
Date: June 14, 2004
Type of Item: Legislative

Summary Recommendations:

Consistent with prior Council policy direction, to encourage accelerated compliance with the Soils Ordinance, staff recommends including $32,000 in Fiscal Year 2005 and $15,000 Fiscal Year 2006 in the budget for an assistance program titled the Top-Soil Assistance Program (TSAP).

Description:

Topic:

The Soils Ordinance titled "Landscaping and Maintenance of Soil Cover" found in Chapter 15 of the Building Code 11-15-1 was originally promulgated in 1988 to mitigate areas that were suspect for having underlying mine tailings. The strategy of the ordinance is to mandate the capping of lots that exhibit elevated levels of lead in order to protect human health and the environment from exposure. The implementation of the proposed TSAP is to provide property owners with assistance and incentive to procure compliant topsoil for adequately capping properties. The program is only eligible for R-3 occupancies (single family dwellings).

Analysis:

The Soils Ordinance district has 977 properties that are regulated by the City's Title 11 Soils Ordinance Regulations - Chapter 11-15. The following is a break down of the compliance status of these properties:

Type	Lot Number
Prospector Residential Area	
• Capped and in compliance.	**185**
• Capped and in compliance during the Improvement District.	**16**
• Lots under enforcement needing capped by year-end 2004.	**24**
• Lots that have not been sampled and not known to need a cap.	**65**
TOTAL	**290**

Prospector Development District	
• Capped Lots	**108**
• Non-Capped Lots	**50**
TOTAL	**158**
Expanded Area	
• Capped lots	**176**
• Non-capped lots	**353**
TOTAL	**529**

The TSAP would be divided into two funding phases; Phase I would be specific to lots within the Original Ordinance Boundary (Prospector) and a Phase II would be for the properties within the entire Soils Ordinance Boundary (Original and Expanded). The following figure represents these two areas by depicting the Original Boundary as yellow and the red representing the Expanded Boundary:

Phase I – Prospector Area - *Time Frame 7/2004 to 7/2006*

The following are the lot types that would be designated and considered under the Phase I TSAP:

Type A: **Lots that are under enforcement and are required to be capped by the end of 2004 (24).**

Type B: **Lots that have not been sampled and are required to be sampled and characterized by 2006 if elevated levels of lead are detected (65).**

Type C: **Owners that volunteer to have their property sampled (~40) for the data collection of the Environmental Management System (EMS).**

The Type A and B lots would be eligible during a two-year time frame to be reimbursed for implementing and successfully completing corrective actions. There would be a $450 ceiling for the first year, which the City would reimburse a property owner for topsoil used specifically for capping. Property owners that wait to participate in the TSAP in the second year (July 2005 – July 2006) of the program would result in the limit being reduced to $225. The reduction of the amount is intended to be an incentive for property owners to take advantage of the program in the first year and work towards Council's goal of immediately having all lots capped within Prospector area. The reimbursement of the topsoil cost would only be after the City has sampled the property and verified compliance with the 200-ppm lead standard and issued a "Certificate of Compliance". Upon issuance of the "Certificate of Compliance" the property owner would supply the Building Department with a copy of the topsoil receipt and proof of payment, at which the owner would then be reimbursed up to $450 for topsoil product. Landscaping labor is not eligible to be reimbursed; only the reimbursement of topsoil product is eligible.

Type C properties are owners that have already complied with the ordinance and volunteered their property to be field sampled for the purpose of obtaining verification data for the EMS. During the field sampling, properties are sampled front, back and both side yards and an average is taken for each lot. The City does not anticipate many lots failing the compliant benchmark; however in the event a lot fails during Phase I, TSAP would reimburse the property owner for topsoil costs up to $150, subject to the same eligibility and reimbursement rules discussed above. This amount is intended to cap the portion of the property that exhibited elevated levels of lead, thereby exceeding the average.

Phase I Budget

The current priority is to implement corrective actions on the 24 lots (Type A) that are on record as having elevated levels of lead. Providing all properties participate in the program at a cost of $450 per property this portion of the budget would be $10,800. Regarding the 65 Type B properties, staff would anticipate half of these properties participating within the time frame specified resulting in a budget need of $14,625. Lastly, for Type C properties the City currently has 40 enrolled in the field sampling, in the worst case scenario if all these properties needed minor corrective action of $150 per property the need would be $6,000. Therefore, the estimated annual budget for the Phase I two-year time, frame would be for $ 31,425. A CIP account has been established for 2004 –2005 containing $32,000.

Phase II – Entire Ordinance Boundary - Time Frame 7/2006 to 100% Compliance

The following are the lot types that would be designated and considered under the Phase II TSAP:

Type A: **Lots that have been sampled and are required to install a clean topsoil cap due to elevated levels of lead being detected.**

Type B: **Lots that have not been sampled and the lead levels are unknown.**

Type C: **Owners that volunteer to have their property sampled for the data collection of the Environmental Management System (EMS).**

The implementation of Phase II would result in the TSAP evolving into a program that all R3 occupancies that are within the Soils Ordinance would be eligible. However, lot Types A and B would only be eligible for $450 reimbursement if the corrective actions were implemented within the same year of discovery of elevated levels of lead on the property. If the property owner remediates the lot in the second year, the reimbursement is reduced to $225. After the second year the property is ineligible for any reimbursement of costs associated with the introduction of topsoil.

Type C properties within the Phase II program would remain the same regarding owners that have volunteered their property to be field sampled for the purpose of obtaining data for the EMS. The City does not anticipate many lots failing the compliant benchmark; however in the event a lot fails, again Phase II would reimburse the property owner up to $150. This amount of soil is intended to cap the portion of the property that exhibited elevated levels of lead, thereby exceeding the average.

Phase II Budget

Phase II would include all Type A and B properties remaining within the whole ordinance district (both Original and Expanded). The current goal of the EMS is to have 15 lots (Type A and B) per year sampled and capped. The worst-case scenario is that all Type A and B properties which were characterized and exceed the ordinance standard would need to be capped. For the purpose of estimating the budget of Type A and B, staff has rounded up to 20 lots resulting in a budget need of $9,000. Regarding the Type C properties if 40 properties were sampled resulting in all needing minor landscaping adjustment this would result in a budget need of $6,000. As a result, for the Phase II TSAP it is estimated that a $15,000 annual budget for Fiscal Year 2006 would fulfill the topsoil needs for Type A, B, and C properties.

Regarding Park City owned properties within the Original Ordinance Boundary. The City currently has one lot in the Prospector District that will be mitigated during the Prospector Park Project by the end of the calendar year and therefore comply with the ordinance. Furthermore, the City will also seek to characterize all properties in the expanded boundary by the 2006 deadline. In the event, any properties exhibit elevated levels of lead that exceed the ordinance standard, capping will be required. It should be noted that Phase II would be subject to future budget approval of the program.

Approved Topsoil RFP

Before the program begins an RFP will be drafted in order to compile an approved topsoil vendor list. Contained within the RFP is the specification that all topsoil that is provided and reimbursed to the property owner will be certified to be compliant with the 200-ppm lead standard in the ordinance.

Department Review:

The content of the TSAP has been reviewed and approved by Ron Ivie, Tom Bakaly, and Gary Hill.

Alternatives:

Approve the Request:

The recommendation is that Council consider budgeting funds for the program as outlined or amended by Council by adopting the budget and provide staff direction to formalize the TSAP for later adoption

Deny the Request:

Council has the option of denying the TSAP concept and keeping the past strategy the same.

Delay Implementation and request additional information/analysis from staff, or direct staff to develop an alternative program:

Same as B.

Do Nothing:

Same as B.

Significant Impacts:

Assisting property owners with the goal of 100% cap compliance could expedite de-listing the site and protecting human health and environment. However, the coordination of the TSAP will be an increase in tasks in regards to administering the "Certificate of Compliance" issuance, sampling, mapping, report writing, EMS outreach, and other responsibilities. Staff is recommending a 2-year trial period (Phase I) for the TSAP program with further consideration being the expanded area (Phase II). Currently it is anticipated that the TSAP would be coordinated with the Certificate of Compliance issuance by existing staff. It is possible that additional staff will be needed in the spring of 2005 to administer this new program on a ongoing basis.

Other impacts would be related to lots that began mitigation after January 1st, 2004 and achieved compliance this calendar year before the TSAP. The TSAP considers reimbursing those property owners (15) that complete compliance this calendar year even though they began mitigation before the program was formally developed.

Consequences of not taking the recommended action:

The main impact is that lot owners will have to pay for their own capping efforts and resolving an environmental and human health issue.

Recommendation:

Consistent with Council direction, staff recommends including $32,000 fiscal year 2005 and $15,000 fiscal year in 2006 in the budget for an assistance program titled the Top-Soil Assistance Program (TSAP).

Attachment: TSAP Policy and Procedures

TSAP Policy and Procedures

Phase I – Prospector Area - Time Frame 7/2004 to 7/2006

The following are the lot types that would be designated and considered under the Phase I TSAP:

Type A: **Lots that are under enforcement and are required to be capped by the end of 2004 (24).**

Type B: **Lots that have not been sampled and are required to be sampled and characterized by 2006 if elevated levels of lead are detected (65).**

Type C: **Owners that volunteer to have their property sampled (~40) for the data collection of the Environmental Management System (EMS).**

The Type A and B lots would be eligible during a two-year time frame to be reimbursed for implementing and successfully completing corrective actions. There would be a $450 ceiling for the first year, which the City would reimburse a property owner for topsoil used specifically for capping. Property owners that wait to participate in the TSAP in the second year (July 2005 – July 2006) of the program would result in the limit being reduced to $225. The reduction of the amount is intended to be an incentive for property owners to take advantage of the program in the first year and work towards the goal of having all lots capped within Prospector area. The reimbursement of the topsoil cost would only be after the City has sampled the property and verified compliance with the 200-ppm lead standard and issued a "Certificate of Compliance". Upon issuance of the "Certificate of Compliance" the property owner would supply the Building Department with a copy of the topsoil receipt, at which the owner would then be reimbursed up to $450 for topsoil product. Landscaping labor is not eligible to be reimbursed; only the reimbursement of topsoil product is eligible.

Type C properties are owners that have volunteered their property to be field sampled for the purpose of obtaining data for the EMS. During the field sampling, properties are sampled front, back and both side yards and an average is taken for each lot. The City does not anticipate many lots failing the compliant benchmark; however in the event a lot fails during Phase I, TSAP would reimburse the property owner for topsoil costs up to $150, subject to the same eligibility and reimbursement rules discussed above. This amount is intended to cap the portion of the property that exhibited elevated levels of lead, thereby exceeding the average.

Phase II – Entire Ordinance Boundary - Time Frame 7/2006 to 100% Compliance

The following are the lot types that would be designated and considered under the Phase II TSAP:

Type A: Lots that have been sampled and are required to install a clean topsoil cap due to elevated levels of lead being detected.

Type B: Lots that have not been sampled and the lead levels are unknown.

Type C: Owners that volunteer to have their property sampled for the data collection of the Environmental Management System (EMS).

The implementation of Phase II would result in the TSAP evolving into a program that all R3 occupancies that are within the Soils Ordinance would be eligible. However, lot Types A and B would only be eligible for $450 reimbursement if the corrective actions were implemented within the same year of discovery of elevated levels of lead on the property. If the property owner remediates the lot in the second year, the reimbursement is reduced to $225. After the second year the property is ineligible for any reimbursement of costs associated with the introduction of topsoil.

Type C properties within the Phase II program would remain the same regarding owners that have volunteered their property to be field sampled for the purpose of obtaining data for the EMS. The City does not anticipate many lots failing the compliant benchmark; however in the event a lot fails, again Phase II would reimburse the property owner up to $150. This amount of soil is intended to cap the portion of the property that exhibited elevated levels of lead, thereby exceeding the average.

Approved Topsoil RFP

Before the program begins an RFP will be drafted in order to compile an approved topsoil vendor list. Contained within the RFP is the specification that all topsoil that is provided and reimbursed to the property owner will be certified to be compliant with the 200-ppm lead standard in the ordinance.

Phase I	**Number**	**Reimbursement Cap**	**Budgeted**
• Lot Type A	**24**	**$450.00**	**$10,800.00**
• Lot Type B	**32.5**	**$450.00**	**$14,625.00**
• Lot Type C	**40**	**$150.00**	**$6,000.00**
Phase II			
• Lot Type A & B	**20**	**$450.00**	**$9,000.00**
• Lot Type C	**40**	**$150.00**	**$6,000.00**

CITY COUNCIL
Staff Report

PLANNING DEPARTMENT

Planner:	**Ray Milliner**
Subject:	**255 PARK AVENUE PLAT AMENDME**
Date:	**June 17, 2004**
Type of Item:	**Administrative; Plat Amendment**

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.

DESCRIPTION

Project Name:	Brad Dicks Subdivision
Project Planner:	Ray Milliner
Applicant:	Brad Dicks (Kevin King Representative)
Location:	255 Park Avenue
Zone:	Historic Residential (HR-1)

BACKGROUND

The applicant is requesting a plat amendment to combine all of Lots 13 and 14 of Block 2 of the Park City Survey into one lot of record, for the purpose of building a new single family home with a lockout unit on the site. If approved, the plat amendment will create a lot of approximately 3,750 square feet. The Planning Commission at its June 9, 2004 meeting reviewed this application where a positive recommendation was made to the City Council.

ANALYSIS

The property is located in the HR-1 zone. The proposed plat amendment will create a lot of approximately 3,750 square feet in size, with 50 feet of frontage on Park Avenue. All access to the lot will come from Park Avenue. The proposed single-family use is allowed in the zone, however it is proposed on a lot that exceeds 30% in slope. Therefore, in addition to meeting the required minimum lot and site requirements of the LMC any construction on the site must receive a CUP for construction on a steep slope from the Planning Commission. Additionally, the applicant is proposing a lockout unit in the plans, which also requires Conditional Use Permit review by the Planning Commission. The applicant has submitted said applications, which are being reviewed concurrently by the Planning Commission at this meeting. The proposed application complies with all required lot size and dimension requirements set forth in the LMC.

NOTICE

Notice of this hearing was sent to property owners within 300' on May 5, 2004. Comments regarding the massing of the building were received from an adjacent property owner. No comments have been received to date regarding the proposed plat.

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 May 4, 2004, where representatives from local utilities and City Staff were in attendance.

RECOMMENDATION

Staff recommends that the Planning Commission review the proposed plat amendment, conduct a public hearing and consider forwarding a positive recommendation to the City Council according to the findings of fact, conclusions of law and conditions of approval outlined in the Ordinance.

EXHIBITS

Exhibit A – Proposed Plat Amendment
Exhibit B – Site Survey

Ordinance No. 04-

AN ORDINANCE APPROVING AN AMENDMENT TO ALL OF LOT 13 AND 14 OF BLOCK 2 OF THE PARK CITY SURVEY, LOCATED AT 255 PARK AVENUE PARK CITY, UTAH

WHEREAS, the owner of the property known as 255 Park Avenue, has petitioned the City Council for approval of a plat amendment; 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 9, 2004 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 plat amendment allows the property owner to remove one lot line between two lots of record creating one lot 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 zone is a residential zone characterized by a mix of contemporary residences and smaller historic homes.
3. The amendment will combine lots 13 and 14 of Block 2 of the Park City Survey to create one lot of record.
4. The proposed lot would consist of 3,750 square feet.
5. The lot has 50 feet of frontage on Park Avenue.
6. Portions of the lot exceed 30% slope, which requires a Steep Slope CUP.
7. The Planning Commission reviewed this application at its June 9, 2004 meeting, and forwarded a positive recommendation to the City Council.
8. No remnant lots will be created as a result of this application.

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

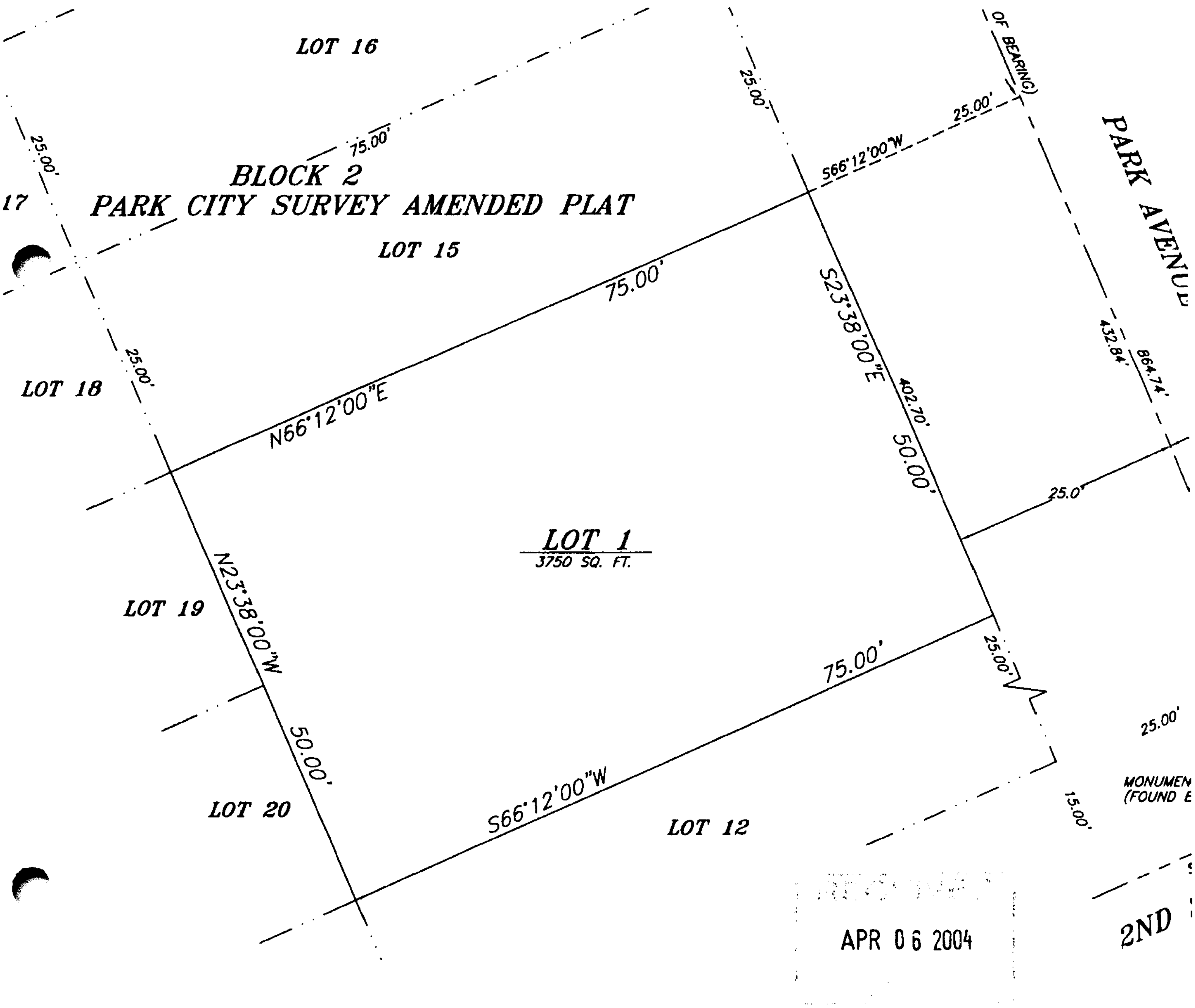
1. There is good cause for this plat amendment.
2. The plat amendment is consistent with the Park City Land Management Code and applicable State law.
3. Neither the public nor any person will be materially injured by the proposed plat amendment.
4. As conditioned the plat amendment is consistent with the Park City General Plan.

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 of 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. No building permits shall be issued prior to the final recordation of the plat at the County Recorder's Office.
3. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval and the plat will be void.

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

PASSED AND ADOPTED this 17th day of June 2004.



LOT 16
BLOCK 2
PARK CITY SURVEY AMENDED PLAT
17
LOT 15
LOT 18
LOT 19
LOT 20
LOT 12
LOT 1
3750 SQ. FT.
75.00'
N66°12'00"E
S23°38'00"E
402.70'
50.00'
N23°38'00"W
S66°12'00"W
S66°12'00"W
25.00'
25.0'
432.84'
864.74'
15.00'
OF BEARING)
PARK AVENUE
MONUMEN
(FOUND E
2ND
APR 0 6 2004

City Council Staff Report

PLANNING DEPARTMENT

Planner: Jonathan Weidenhamer
Subject: 1889 PROSPECTOR AVENUE - PLAT AMENDMENT
Date: June 17, 2004
Type of Item: Administrative

RECOMMENDATION: Staff recommends that City Council conduct a public hearing and consider approving the plat amendment according to the findings of fact, conclusions of law and conditions of approval as found in the attached ordinance:

DESCRIPTION

Project Name: Lot 27B-2 Subdivision
Project Planner: Jonathan Weidenhamer
Applicant: Rex Keeler
Location: 1889 Prospector Avenue
Zone: General Commercial

BACKGROUND

The Planning Commission reviewed this item at the May 26, 2004 meeting, and again at the June 9, 2004 meeting. Public hearings were held at each meeting. No public comment was received. The Planning Commission, at the June 9, 2004 meeting voted unanimously to forward a positive recommendation to the City Council to approve the plat amendment.

In 1989, Lot 27B in the Prospector Square Subdivision was subdivided into two lots, Lot 27B-1 and Lot 27B-2 (Exhibit A). An office building is currently located on Lot 27 B-1 (1881 Prospector Avenue – Dewall and Keeler Building). That lot is 2,700 s.f. Lot 27B-2 is 2,250 s.f., and is currently vacant. During the 1989 subdivision process, 5' setbacks were platted on lot 27B-2 at the south (toward Sun Creek Condominiums) and east (undeveloped, Prospector Square Common Area). This application is a request to remove the 5' setback to the east, but maintain the 5' setback to the south.

ANALYSIS

The property is located in the GC zone. At this time staff understands that the Board of Realtors is interested in building an office building at this location. The anticipated construction on the vacant lot is allowed in the zone, provided it meets the criteria in LMC Chapter 15-2.18. Because lot 27-B-2 lies within the Prospector Overlay, development in this location is allowed to the lot lines, with zero setbacks, per LMC section 15-2.18-3(I)(3). Section 15-2.18-3(I)(2) of the LMC establishes a maximum floor area ratio of 2.0, meaning up to 4,500 s.f of development may be permitted on lot 27-B-2.

Staff has researched the record of the 1989 subdivision, and finds that the City Attorney recommended the additional setbacks at the south and east of the lot in order to take into consideration impacts on the adjacent Sun Creek Condominiums. Sun Creek Condominiums are built 5' from their lot line to the north (Exhibit B). The International Building Code will require building separation between the existing condominium and any new structure. The building permit process will also address any associated snow release issues. These issues do not exist with respect to the easterly 5' setback. At this time, staff finds no compelling reason to maintain the 5' setback to the east.

NOTICE
Notice of this hearing was sent to property owners within 300' on May 14, 2004. Staff has received no comments from the public at the time of this writing.

DEPARTMENT REVIEW
The request was discussed at a Staff Review Meeting on May 4, 2004, where representatives from local utilities and City Staff were in attendance.

RECOMMENDATION
Staff recommends that City Council conduct a public hearing and consider approving the plat amendment according to the findings of fact, conclusions of law, and conditions of approval as found in the attached ordinance:

EXHIBITS
Ordinance
Exhibit A – Existing Subdivision
Exhibit B - Proposed Subdivision Plat
Exhibit C – Site photograph
Exhibit D – 1989 Subdivision of Lot 27-B
- Planning Commission Report (11/15/89)
- Planning Commission Minutes (11/15/89)
- City Council Minutes (11/16/89)

Ordinance No. 04-

AN ORDINANCE APPROVING A PLAT AMENDMENT FOR LOT 27 B-2 IN THE PROSPECTOR SQUARE SUBDIVISION WHICH WILL REMOVE A PLATTED FIVE FOOT (5') SETBACK AT THE EAST OF THE LOT.

WHEREAS, the owner of the property known as 1889 Prospector Avenue, has petitioned the City Council for approval of a plat amendment; and

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

WHEREAS, on May 26 and June 9, 2004 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 plat amendment allows the property owner to remove a platted five foot (5') setback located at the east of the lot; 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 Planning Commission reviewed this item at the May 26, 2004 meeting, and again at the June 9, 2004 meeting. Public hearings were held at each meeting. No public comment was received.
2. The Planning Commission, at the June 9, 2004 meeting voted unanimously to forward a positive recommendation to the City Council to approve the plat amendment.
3. The property is located in the General Commercial (GC) zone.
4. The GC zone is a residential/commercial mix zone characterized by a mix larger contemporary residences and commercial structures.
5. In 1989, Lot 27B in the Prospector Square Subdivision was subdivided into two lots, Lot 27B-1 and Lot 27B-2.
6. An office building is currently located on Lot 27 B-1 (1881 Prospector Avenue – Dewall and Keeler Building). That lot is 2,700 s.f.
7. Lot 27B-2 is 2,250 s.f., and is currently vacant.
8. During the 1989 subdivision process, 5' setbacks were platted on lot 27B-2 at the south (toward Sun Creek Condominiums) and east (undeveloped, Prospector Square Common Area). This application is a request to remove the 5' setback to the east, but maintain the 5' setback to the south.
9. A 5' easement exists at the front of the lot in favor of Mountain States Telephone. This easement will be removed by Quit Claim, and will not be shown on the final plat.
10. Because lot 27-B-2 lies within the Prospector Overlay, development in this location is allowed to the lot lines, with zero setbacks, per LMC section 15-2.18-

3(l)(3).

11. Section 15-2.18-3(l)(2) of the LMC establishes a maximum floor area ratio of 2.0, meaning up to 4,500 s.f of development may be permitted on lot 27-B-2.
12. Staff has researched the record of the 1989 subdivision, and finds that the City Attorney recommended the additional setbacks at the south and east of the lot in order to take into consideration impacts on the adjacent Sun Creek Condominiums.
13. Sun Creek Condominiums are built 5' from their lot line to the north The International Building Code will require building separation between the existing condominium and any new structure. The building permit process will also address any associated snow release issues. These issues do not exist with respect to the easterly 5' setback.

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

1. There is good cause for this plat amendment.
2. The plat amendment is consistent with the Park City Land Management Code and applicable State law.
3. Neither the public nor any person will be materially injured by the proposed plat amendment.
4. As conditioned the plat amendment is consistent with the Park City General Plan.

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 of 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. No building permits shall be issued prior to the final recordation of the plat at the Summit County Recorder's Office unless those plans respect currently platted setbacks.
3. The applicant will record the plat amendment at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval and the plat amendment will be void.
4. As a condition precedent to final plat approval, applicant shall submit documentation evidencing recordation of a deed or other legal instrument removing the Mountain States Telephone easement at the northerly portion of the lot.

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

PASSED AND ADOPTED this 17th day of June, 2004.

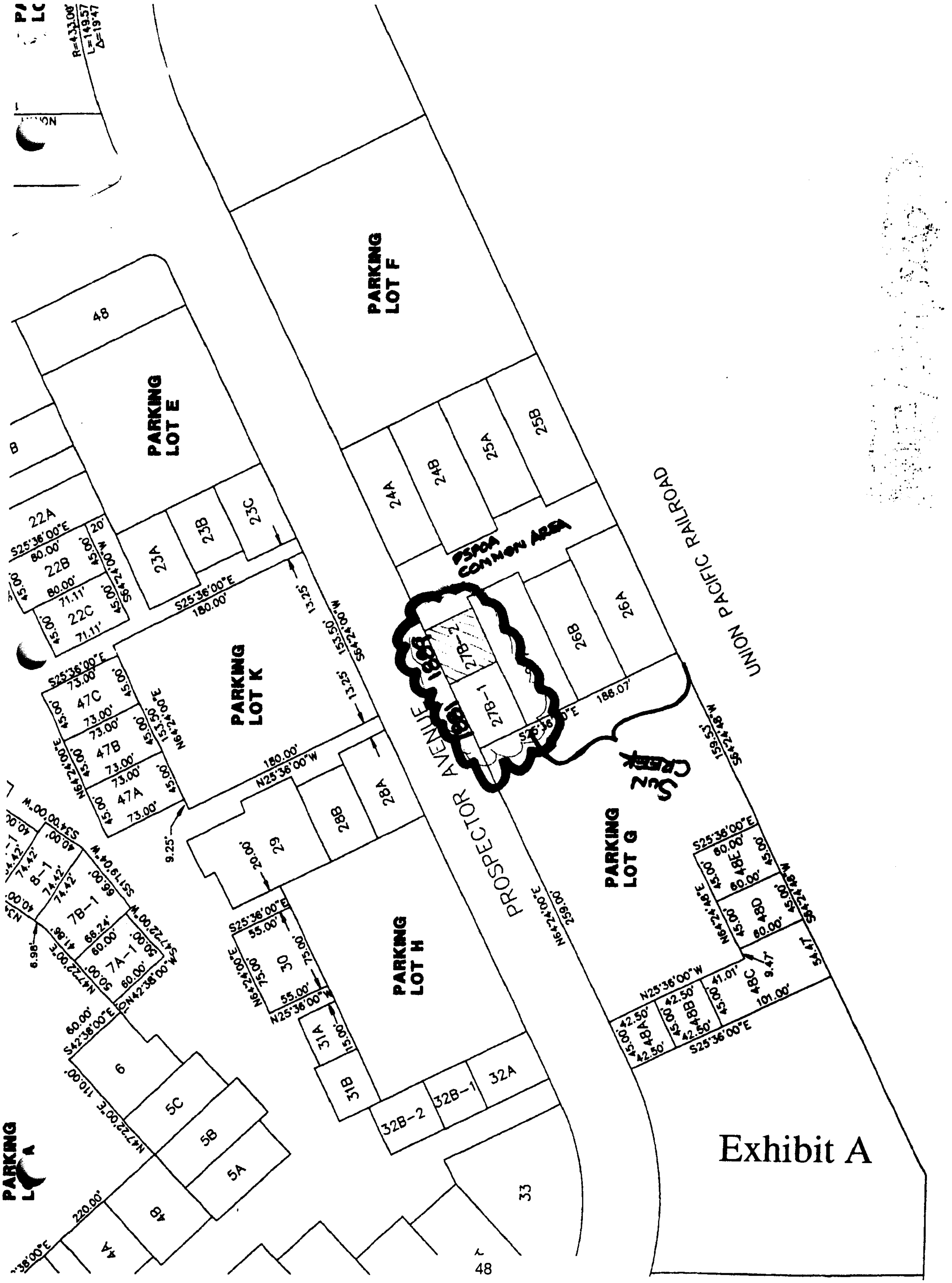

PARKING LOT F
PARKING LOT E
PARKING LOT K
PARKING LOT G
PARKING LOT H
PROSPECTOR AVENUE
UNION PACIFIC RAILROAD
PSPOA COMMON AREA
48
22A
22B
22C
23A
23B
23C
24A
24B
25A
25B
26A
26B
27B-1
27B-2
28A
28B
29
30
31A
31B
32A
32B-1
32B-2
33
47A
47B
47C
48A
48B
48C
48D
48E
5A
5B
5C
6
4B
7A-1
7B-1
8-1
S25°36'00"E
N25°36'00"W
N64°24'00"E
S64°24'00"W
S64°24'48"W
N64°24'48"E
180.00'
153.50'
259.00'
186.07'
159.53'
R=433.00'
L=149.57
Δ=19°47'

Exhibit A

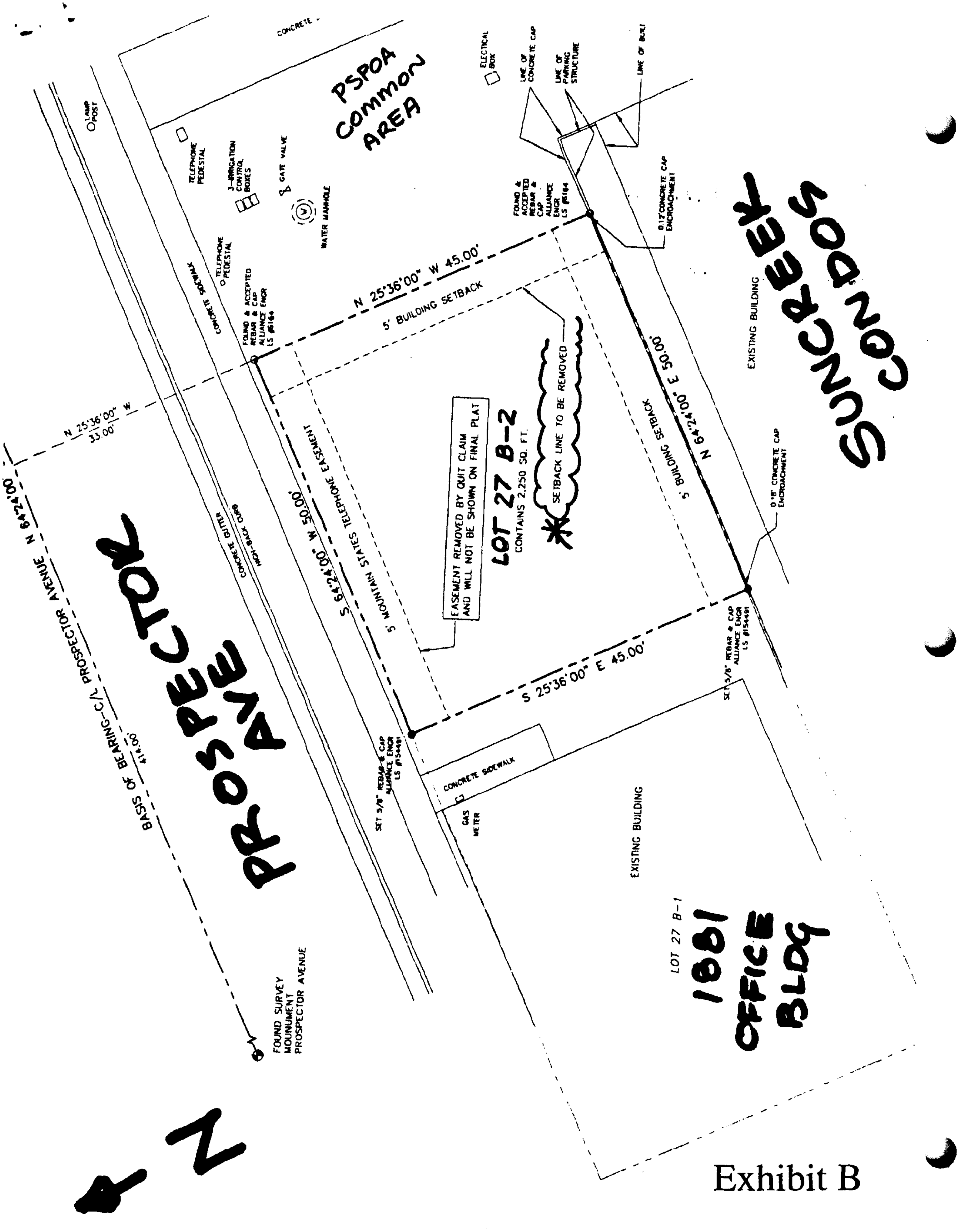
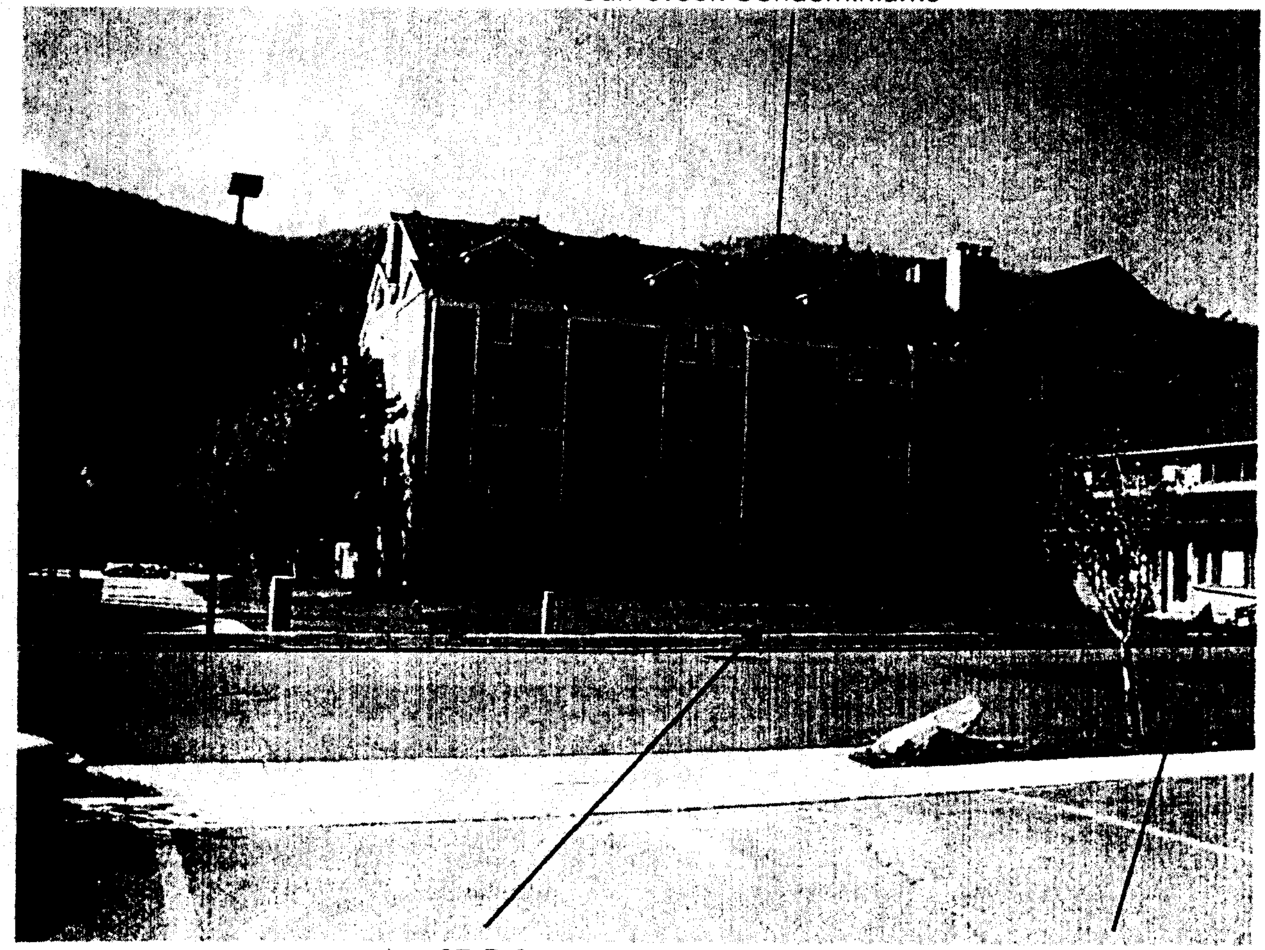

PROSPECTOR AVE
PSPOA COMMON AREA
SUNCREEK CONDOS
1881 OFFICE BLDG
LOT 27 B-2
CONTAINS 2,250 SQ. FT.
LOT 27 B-1
N
BASIS OF BEARING-C/L PROSPECTOR AVENUE N 64°24'00"
414.00'
N 25°36'00" W
33.00'
N 25°36'00" W 45.00'
S 64°24'00" W 50.00'
S 25°36'00" E 45.00'
N 64°24'00" E 50.00'
5' BUILDING SETBACK
5' BUILDING SETBACK
5' MOUNTAIN STATES TELEPHONE EASEMENT
EASEMENT REMOVED BY QUIT CLAIM AND WILL NOT BE SHOWN ON FINAL PLAT
SETBACK LINE TO BE REMOVED
FOUND SURVEY MONUMENT PROSPECTOR AVENUE
CONCRETE GUTTER
HIGH-BACK CURB
CONCRETE SIDEWALK
CONCRETE SIDEWALK
CONCRETE
LAMP POST
TELEPHONE PEDESTAL
TELEPHONE PEDESTAL
3-IRRIGATION CONTROL BOXES
GATE VALVE
WATER MANHOLE
ELECTRICAL BOX
LINE OF CONCRETE CAP
LINE OF PARKING STRUCTURE
LINE OF BUILI
FOUND & ACCEPTED REBAR & CAP ALLIANCE ENGR LS #8164
FOUND & ACCEPTED REBAR & CAP ALLIANCE ENGR LS #8164
0.12' CONCRETE CAP ENCROACHMENT
0.18' CONCRETE CAP ENCROACHMENT
EXISTING BUILDING
EXISTING BUILDING
SET 5/8" REBAR & CAP ALLIANCE ENGR LS #154491
SET 5/8" REBAR & CAP ALLIANCE ENGR LS #154491
GAS METER

Exhibit B

Exhibit C – Existing conditions



PARK CITY PLANNING DEPARTMENT
STAFF REPORT

TO: PLANNING COMMISSION
FROM: PLANNING STAFF JL
DATE: NOVEMBER 15, 1989
RE: **SUBDIVISION OF LOT 27B, PROSPECTOR SQUARE**

I. PROJECT STATISTICS

Applicant:	Rex Keeler
Owner:	Surplus, Inc.
Proposal:	Subdivide Lot 27B
Location:	1885 Prospector Avenue
Zoning:	General Commercial (GC)
Date of Application:	October 12, 1989
Staff Recommendation:	**APPROVE**

II. BACKGROUND INFORMATION/DESCRIPTION

The Prospector Square Subdivision was platted in 1974 and zoned General Commercial. The development of the subdivision has taken place gradually with the sale of individual parcels to developers interested in constructing a building or buildings suited to their specific needs.

Lot 27B is owned by Surplus, Inc. In August, 1989 they began construction of the Dewall and Keeler Building on a portion of Lot 27B. In order to build another building and develop the remainder of the parcel, the subdivision of Lot 27B is required. That is the request before the Planning Commission.

Lot 27B is rectangular in shape and easily divisible. Lot 27B-1 at the west corner of Lot 27B will have an area of 2700 square feet and Lot 27B-2 on the east corner will contain 2250 square feet. The standard City development and impact fees will be required as part of the subdivision and subsequent development.

Due to the close proximity of these buildings to the street and adjacent structures, compatibility with surrounding structures is of concern in the development of the parcel. The applicants have submitted a separate application requesting to be allowed to use aluminum siding. The Staff is concerned about allowing aluminum siding in such a prominent location, and next to such a large structure (the Sun Creek Condominiums) and is recommending Denial of that separate application.

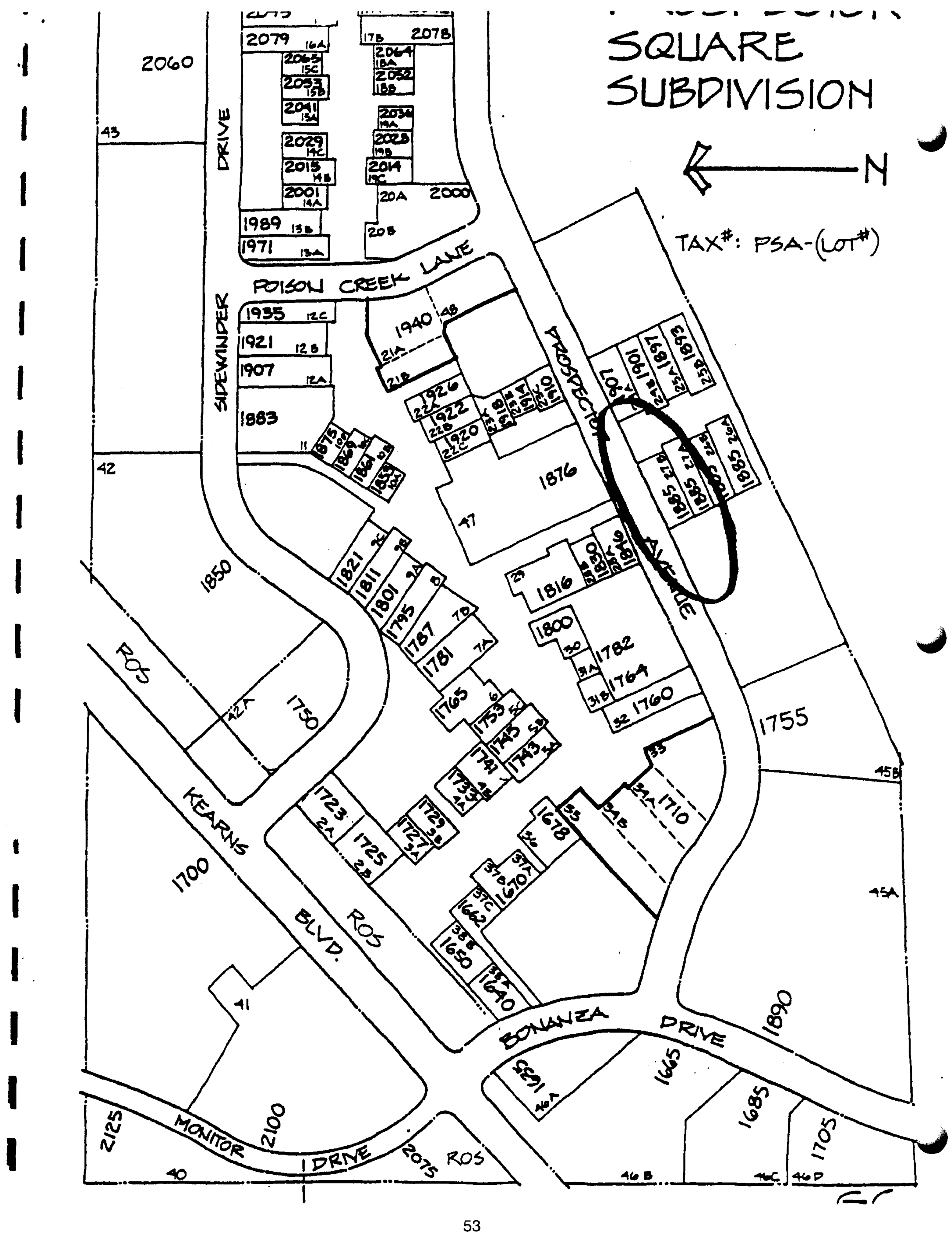
Exhibit D

This application has been noticed and the property posted according to the legal requirements set forth in the Land Management Code and no public input has been received.

III. STAFF RECOMMENDATION

The Planning Staff recommends the Planning Commission **APPROVE** the request to subdivide Lot 27B, Prospector Square, subject to the following condition:

1. A sanitary sewer and culinary water plan acceptable to the City Engineer shall be prepared prior to plat approval. A guarantee for any necessary public improvement shall be provided.


SQUARE
SUBDIVISION
N
TAX#: PSA-(LOT#)
SIDEWINDER DRIVE
POISON CREEK LANE
KEARNS BLVD.
BONANZA DRIVE
MONITOR DRIVE
ROS
2060
43
42
2079
2078
1989
1971
1935
1921
1907
1883
1940
1926
1922
1920
1876
47
1816
1800
1782
1764
1760
1755
1850
1750
1700
1821
1811
1801
1795
1787
1781
1765
1753
1745
1743
1741
1733
1723
1725
1727
1729
1710
1678
1670
1662
1650
1640
1635
1665
1685
1705
1890
2125
2100
2075
40
41
42A
45A
45B
46A
46B
46C
46D
1885
1893
1897
1901
1907

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
NOVEMBER 15, 1989

COMMISSIONERS IN ATTENDANCE:

Chairman Ron Whaley, Bruce Erickson, Ruth Gezelius, Dean Berrett, Carol Calder, and Diane Zimney.

COMMISSIONERS ABSENT AND EXCUSED:

Dick Lueck.

EX OFFICIO:

Suzanne McIntyre, Planner II; Steve Osguthorpe, Planner I; Janice Lew, Planning Intern; Jim Carter, City Attorney; Shauna Kerr, Deputy City Attorney; Sharon Bauman, Administrative Secretary.

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FIELD TRIP - 5:00 P.M.
1. Field trip to Carl Winters Middle School.

SPECIAL WORK SESSION - 6:00 P.M.
1. Discussion of Planning Commission Procedures.

PUBLIC HEARING

Chairman Whaley called the Public Hearing to order to 7:08 P.M. and introduced the City Staff.

1. To receive input on a request to subdivide Lot 27B in Prospector Square Subdivision, 1885 Prospector Avenue.

Planner Suzanne McIntyre explained that Rex Keeler, Surplus, Inc., had requested the subdivision of Lot 27B, 1885 Prospector Avenue, in the Prospector Square Subdivision. She noted that construction of the Dewaal & Keeler Building on a portion of Lot 27B began in August, 1989 and in order to develop the remainder of the parcel the subdivision of Lot 27B was required.

Planner McIntyre noted that Lot 27B-1 at the west side of Lot 27B would have an area of 2700 square feet and Lot 27B-2 on the east side would contain 2250 square feet. She added that standard City development and impact fees would be required as part of the subdivision and subsequent development. She added that this application was similar to the requested subdivision of Lot 32 in Prospector Square which had recently been approved by the Planning Commission.

Planner McIntyre stated that the application had been noticed and the property posted according to the legal requirements set forth in the Land Management Code and no public input had been received.

Kathleen McKenna, 1885 Prospector Avenue, commented that this subdivision was not like Lot 32 because it would create an alley between two buildings and would cut off the light and the views for approximately 15 condominiums. She stated that the homeowners had considered hiring a private engineer to estimate the probability of the weight of the snow which will build up in the alley between the buildings. She also expressed concern that the alley would cut off emergency access to some of the units whose only window exit is on that side of the street, and could also create a possible crime area. She expressed her belief that the building would destroy Sun Creek due to the impact on the tenants' ability to live in the building and the owners' ability to sell their units in the building.

Rex Keeler, 4072 N.E. Meadows Drive, stated that he was the owner of the building. He noted that the property had been for sale for approximately one year and after lengthy negotiations he purchased the parcel. He noted that he had tried to construct a building that would be conducive to the community and had built approximately 5-10 feet from the property line. He explained that the purpose of the subdivision was to cut off a portion that he did not need and yet was viable for the placement of a business.

Michael Polichette, Resort Property Management, representing Sun Creek Property Owners Association, expressed their concerns with snow sliding off the roof of the Sun Creek onto that lot and the liability they might incur from that lot being subdivided and built on at this time, and also their concerns about loss of views. He requested that the Planning Commission deny any subdivision of that parcel.

2. <u>To receive input on MPD Approval for Deer Lake Village Condominiums, a 51-unit condominium project located adjacent to Queen Esther Drive on the west side of Queen Esther Drive</u>.

Planner Steve Osguthorpe explained that the proposal for the final 51 unit densities that remain from the original Queen Esther Project had received Planning Commission approval on September 27, 1989. He explained that the approval was appealed to the City Council by Howard Kadwit alleging that proper legal notice was not received by all adjacent property owners. He stated that the City Council had voted to "uphold the Planning Commission decision subject to verification that there was proper notice and direction to the City Engineer to work within all reasonable means to address the drainage problems."

~~motion. Planner McIntyre requested a motion to remand to Staff. Ruth Gezelius amended her motion to REMAND the Conditional Use Review of the Sign Plan for Acclaim Lodging back to Staff. Diane Zimney accepted the amended motion, which was unanimously approved.~~

~~Chairman Whaley noted that it was remanded back to the Staff with the suggestion to work on the type of illumination, the generic nature of the sign and the border color. He noted that the concerns all stemming from the high visibility of the property in the Frontage Protection Zone.~~

3. <u>Subdivision of Lot 27B in Prospector Square Subdivision, 188[illegible] Prospector Avenue</u>.

This item was discussed during the Public Hearing and was moved from the Consent Agenda to New Business for further discussion.

Commissioner Dean Berrett stated that he would abstain from both the discussion and the vote due to his position with Prospector Square Property Owners Association Board.

Commissioner Gezelius noted that she asked that the item be moved to New Business for purposes of discussion on the side setbacks, parking areas, and implications to the surrounding properties.

Planner Suzanne McIntyre noted that when Prospector Square subdivision was platted in 1974 it was platted with General Commercial Zoning with the ability to have the buildings constructed lot line to lot line. She added that the reason there was a separation between structures now was because of the fire rating and fire wall requirements of the Uniform Building Code. She noted that there was sidewalk access to parking lots near Lot 27B.

Commissioner Bruce Erickson asked Mike Polichette, representative of the Sun Creek Condominium Homeowners Association, if they maintained nightly rentals. Mr. Polichette responded that several units were nightly rentals and several were owner occupied or second homes.

Commissioner Erickson asked Mr. Polichette if they were approached to purchase this lot to maintain open space. Mr. Polichette responded that one of the owners had inquired when the "for sale" sign was placed on the property but the amount was determined to be excessive considering the size of the land. He noted that at no time were they contacted regarding the purchase of the property by the Sun Creek Homeowners.

Mike Sloan, 2389 Doc Holiday, commented that the architect designed the Dewaal & Keeler Building so that the snow would not fall into that 5' setback area and they would do the same with any subsequent building to be placed on the other lot. He noted that parking was not a problem in that particular area, there was easy access to it and that particular parking lot was probably the most underused lot in all of Prospector Square because it had buildings on only one side of it.

Commissioner Gezelius asked Mr. Sloan to address the question as to why they were now asking to have this lot subdivided rather than prior to construction on the parcel.

Mr. Sloan responded that the configuration of the lot with ample street frontage made it economically easier to develop in sections as opposed to one massive building. He added that some of the lots in Prospector Square were just too big for buildings to be built on them economically. He noted they had been going through the process with Chief Building Official Ron Ivie from the time they submitted the drawings for the building.

Chairman Whaley asked the City Attorney where the responsibility for snow shedding was placed in this type of situation.

City Attorney Jim Carter responded that snow shedding was a "moving to a nuisance kind of thing" that the City doesn't address specifically and noted that essentially the first person there gets to shed snow and next person has to deal with that. He noted that the City attempts to address design issues with the developers of new structures and added that subsequent buildings cannot shed snow on pre-existing homes. He commented that in this circumstance the Chief Building Official was satisfied that the second building had taken adequate steps to mitigate the snow shedding problem and he would require that for any subsequent building.

Kathleen McKenna reiterated her concerns about snow and ice dumping off of the Sun Creek roof, the build-up of snow in the alleyway between the buildings, and also the loss of outside light source for numerous condo units. She noted that they had attempted to retain legal counsel to halt construction of the building but could not get the owners to act fast enough.

Commissioner Erickson commented that he was sympathetic to Sun Creek's position. He added that he was not pleased with fact that they built a building and them came in with subdivision plat to try to build another building, which he felt was not appropriate and he made a motion to Continue the item for two weeks.

MOTION: Bruce Erickson made a motion to CONTINUE the request for two weeks for some additional thought and more opportunity to find a solution. The motion died for lack of second.

Georgia Shane commented that the impact would be the same whether there was one long building or two smaller buildings on that particular lot. Mr. Sloan noted that there was 110' frontage along Prospector Avenue.

Commissioner Erickson expressed concern that two buildings being placed on that lot would increase the street parking and noted that he was not comfortable with it at this point.

MOTION: Carol Calder made a motion to APPROVE the Subdivision of Lot 27B subject to the Staff Condition. Diane Zimney seconded the motion. Dean Berrett abstained from the vote. Carol Calder, Ruth Gezelius, Diane Zimney and Bruce Erickson voted in favor of the motion. The motion carried.

STAFF CONDITION:

1. A sanitary sewer and culinary water plan acceptable to the City Engineer shall be prepared prior to plat approval. A guarantee for any necessary public improvement shall be provided.

At 8:50 P.M. the Regular Meeting adjourned and the Commissioners began Work Session where they discussed the Carl Winters Middle School Proposal and the revised site plan for the Solamere Lodge MPD.

Accepted by: ______________________________ Date: ____________
Chairman

PSC contract carrier authority. Approval of this contract will facilitate C&R's ability to obtain PSC carrier authority.

The agreement will require that C&R maintain insurance, that the City be indemnified, that the operators and drivers are specified as C&R employees or agents, and that workman's compensation be provided for those individuals. The vehicles must all pass the Department of Transportation safety requirements and all drivers and operators must be pre-qualified by the City. The staff recommends approval of this contract.

6. <u>Acceptance of improvements for Thaynes Formation Well - K&P Plumbing</u> - Normally staff would be responsible for accepting improvements and ensuring that the terms of the contracted work is satisfactorily performed. This particular contract specifies Council approval and staff recommends the same.

VI COMMUNICATIONS AND REPORTS FROM COUNCIL AND STAFF

None.

VII REPORTS FROM COMMISSIONS AND BOARDS

See work session notes.

VIII ORDINANCES

<u>An Ordinance amending Ordinance No. 84-3 to establish standards for the removal of snow from private streets and the private removal of snow from public streets in Park City, Utah</u> - Kristen Rogers, "<u>I move approval with the four inch amendment</u>". Jim Santy seconded. <u>Motion carried</u>.

IX NEW BUSINESS

<u>Approval of subdivision plat of Lot 27B, Prospector Square Subdivision, 1885 Prospector Avenue</u> - Lot 27B is owned by Surplus, Inc. In August 1989, they began construction of the Dewall and Keeler Building on a portion of Lot 27B. In order to build another building and develop the remainder of the parcel, the subdivision of Lot 27B is required. Approval is recommended subject to the condition that a sanitary sewer and culinary water plan acceptable to the City Engineer be prepared prior to plat approval. A guarantee for any necessary public improvement will be provided.

The City Attorney recommended that an additional condition be placed on the approval establishing a five foot setback on the east, south, and west sides of this parcel. This recommended condition takes into consideration the adjacent Sun

Creek Condominiums which were built on the property line which is allowable in the zone. However, the UBC would prohibit the new building to be constructed at the property line because of the proximity situation. For the benefit of Mr. Rex Keeler, owner, it was explained that the setback provision would not disturb his building plans.

Jim Santy, "I move approval with those conditions". Ray Johnson seconded. Motion carried.

Ann MacQuoid	Absent
Kristen Rogers	Aye
Brad Olch	Aye
Jim Santy	Aye
Ray Johnson	Aye

X ADJOURNMENT

The Mayor reminded the public that a Snyderville Basin Steering Committee public hearing will be held at 7 p.m. With no further business, the regular meeting of the City Council was adjourned.

MEMORANDUM OF CLOSED SESSION

The City Council met in closed session to discuss litigation matters at approximately 3 p.m., as advertised on the agenda. Members in attendance were Mayor Hal Taylor, Kristen Rogers, Ray Johnson, Brad Olch, and Jim Santy. Ann MacQuoid was absent and excused. Staff present were Toby Ross, City Manager; Jim Carter, City Attorney; Shauna Kerr, Deputy City Attorney; and Bob Johnston, Leisure Services Director. The meeting opened at approximately 4 p.m.

* * * * * * * * * * * * *

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

Prepared by Janet M. Scott

Deputy City Recorder

City Council Staff Report

SPECIAL EVENTS AND FACILITIES DEPARTMENT

Author: Max Paap
Subject: PCPAF/ Chloe Lane- Big Stars/ Bright Lights Summer Concert Series July 3, July 12, Aug. 1 & Sept. 4, 2004
Date: June 17, 2004
Type of Item: Administrative – Master Festival License

Summary Recommendations: Review the Master Festival License application, conduct a public hearing, and consider approving the license for the Park City Performing Arts Foundation/ Chloe Lane- Big Stars/ Bright Lights Summer Concert Series Deer Valley Resort Master Festival License, July 3, July 12, August 1 and September 4, 2004, and approve the partial waiver fees.

Description:
Topic:

Review the Master Festival License Application, submitted by the Park City Performing Arts Foundation, for the Big Stars/ Bright Lights Summer Concert Series at Deer Valley Resort to be held July 3, July 12 , August 1 and September 4, 2004.

Background:
The Park City Performing Arts Foundation submitted an application to hold a concert series concerts at the outdoor amphitheater at Deer Valley Resort's Snow Park Lodge. The concerts are to begin at 7 pm and end at 10 pm. Gates will open at 5:30 pm.

The concerts will be on July 3rd, July 12th, August 1st, and September 4th, 2004 and will run from 7 pm to 10 pm. There would be concessions and merchandise for sale at the concerts.

The Summer Concert Series provides the community with a diverse opportunity for live music throughout this series. This type of entertainment is consistent with Council's goal to increase the number of events in Park City during the summer season.

Analysis:
PCPAF will be holding concerts at Deer Valley's Snow Park Amphitheater. Anticipated attendance for these concerts is 2,000 - 5,000 people.

The Park City Performing Arts foundation will host Mavis Staples (July 3), Kenny Loggins (July 12), Chris Isaak (August 1), and TBA (September 4) 2004. This item is being reviewed as a Master Festival License, due to the crowd size anticipated as well as the use of amplified music.

Deer Valley Resort hosts a number of amplified music events during the summer. The events held at this location have been restricted to end by 10:00 pm.

Deer Valley Resort has adequate parking on site to accommodate the attendees of the Concert Series.

Transportation:
At this time, the organizer is discussing the option of extending transit to Deer Valley past 10:00 pm. If transit is extended, the applicant would responsible for all associated costs.

Police Department:
The number of police officers and security personnel would be determined by ticket sales. The applicant would be responsible for any additional costs not outlined within the fee estimate and amount waived by Council.

Fee Waiver Request:
Section 4-8-9 of the Municipal Code provides applicants for Master Festival and Special Event Licenses with criteria to request a waiver for all or a portion of associated fees. The Section further states that fee waiver requests for all new applications be reviewed and approved or denied by the City Council. Eligibility for a full or partial fee waiver shall be determined pursuant to the following criteria, none of which shall be individually controlling.

The Park City Performing Arts Foundation has requested a waiver of all fees associated with the Big Stars/ Bright Lights Summer Concert Series at Deer Valley. Please see text in italics for the Park City Performing Arts Foundation response to the criteria.

1. For-profit or non-profit status of the Applicant;
   non-profit (Park City Performing Arts Foundation).
2. Whether the event will charge admission fees;
   Yes, there are fees, $28-$50; Senior Discounts
3. Whether the event is youth-oriented;
   Yes - People of all ages enjoy the concerts.
4. The duration of the event;
   The concerts will last from 7 pm- 10 pm. Doors will open at 5:30 pm.
5. Whether and to what extent the City is likely to receive positive tax benefits by virtue of the event;
   Yes. We anticipate many of out-of-towners will attend the concerts and also shop, dine, and purchase lodging in Park City.
6. The degree of City services involved and whether City costs are likely to be

recovered by other revenue opportunities arising from the event;
We do not foresee city expenditures regarding these concerts, other than what is discussed within this report.

7. The season of occurrence;
   The event will take place during the Summer.
8. Demonstration of hardship by the Applicant.
   We are a non-profit organization. The funds we collect from the event's sponsors go to the performers (bands) and administration of the event. In other words, we hope to break even on these events- covering our administrative costs, as well as, artist fees and technical fees. We view the concerts as a benefit to the whole community and would really appreciate the city's help.

The applicant has requested a waiver of all fees associated with the event, which includes the application fee and police costs. Staff recommends the waiver of the application fee, but no waiver of police costs. The City Council has not waived police costs without a long term agreement. The PCPAF, while a non-profit organization, is charging $28-$50 per ticket for the event. Police costs are hard costs and would significantly impact departmental budgets if waived.

At this time the Council has not approved any additional waivers for new events in 2005, however there are already approximately $54,181 in waivers from the Art Festival and 4th of July Celebrations. The waiver requested by the Park City Performing Arts Foundation will not have budget impacts to a specific department.

Department Review:

All applicable departments, including Special Events, Legal, Police, and Finance have reviewed this ordinance request and comments have been incorporated into the report.

Alternatives:

Approve the Request:

Approve the Master Festival License allowing the Big Stars/ Bright Lights Summer Concert Series to be held at Deer Valley Resort.

Deny the Request:

Deny the Master Festival License, preventing the addition of the Big Stars/ Bright Lights Summer Concert Series at Deer Valley Deer Valley Resort's schedule of summer events.

Continue the Item:

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

Significant Impacts:

Deer Valley Resort has hosted many summer events with amplified music. The event, as proposed, would comply with a previous guideline set restricting events with music to end at 10:00pm.

Consequences of not taking the recommended action:

The Concert Series would not take place at Deer Valley Resort.

Recommendation:
Review the Master Festival License application, conduct a public hearing, and consider approving the license for the Big Stars/ Bright Lights Summer Concert Series at Deer Valley Resort on July 3, July 12 , August 1 and September 4, 2004 based on the following:

Findings of Fact:

1. The Big Stars/ Bright Lights Summer Concert Series will be held Deer Valley Resort on July 3, July 12 , August 1 and September 4, 2004. The event will take place from 7:00 until 10:00 pm. The event will include performances of live music bands and concession sales by Deer Valley Resort and PCPAF.
2. Parking for the anticipated crowd size throughout the duration of the event can be accommodated by the parking at Deer Valley Resort. The conduct of the Big Stars/ Bright Lights Summer Concert Series at Deer Valley Resort will not substantially interrupt or prevent the safe and orderly movement of public transportation or other vehicular and pedestrian traffic in the area of its Venue.
3. The event is oriented towards families with music for everyone. The Big Stars/ Bright Lights Summer Concert Series at Deer Valley Resort will not require the diversion of so great a number of police, fire, or other essential public employees from their normal duties as to prevent reasonable police, fire, or other public services protection to the remainder of the City.
4. The concentration of persons, vehicles, or animals will not unduly interfere with the movement of police, fire, ambulance, and other emergency vehicles on the streets or with the provision of other public health or safety services.
5. One other Master Festival License has been issued on the day that the The Big Stars/ Bright Lights Summer Concert Series will take place. The Triple Crown Girls Fast Pitch World Series will take place in City Park and at the Schools on July 12^{th}. The Big Stars/ Bright Lights Summer Concert Series at Deer Valley will not substantially interfere with the logistics and venue for the Triple Crown Softball Tournament, for which a license has already been granted and with the provision of City services in support of other such events or governmental functions based on the following:
    a. The Triple Crown Tournament is located at City Park and the schools. All parking for that event will take place at each field. All events will be contained within separate areas of town;
    b. The Triple Crown Tournament will overlap in time-periods with the Concert Series, but both events are in separate areas of town and will not take away the draw from the other.
    c. The Triple Crown Tournament will have a significant impact to town, but all impacts will be contained to their own venues and will not be impacted by the Concert Series;
    d. These events have their own venues and all people and all activities associated with each event will be contained to their own area. All public personnel, equipment, and/or transportation services at the event have

been coordinated with adequate time to insure there is no negative impact to those services in town; and,

e. Parking for the Concert Series will be located at Deer Valley Resort. Due to the anticipated size of the event adequate parking can be accommodated without negative impacts on other areas of town.

6. The size of the crowd and nature of the event will not create an imminent possibility of violent disorderly conduct likely to endanger public safety or cause significant property damage.
7. The applicant has been working with City Staff and applicable departments to address all event concerns. The Applicant does not demonstrates an inability or unwillingness to conduct the event pursuant to the terms and conditions of this Chapter or has failed to conduct a previously authorized event in accordance with the law or the terms of a license, or both.
8. The applicant shows significant reasons, such as the nature of the event as a promotion of a community event within Park City, for a partial waiver of $100 for the application.

Conclusions of Law:

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

Conditions of Approval:

1. The Applicant shall comply with all requirements set by the Building Department and Special Events Department which are reasonably related to Building Code or other health requirements for safety, sanitation equipment, and services or facilities reasonably necessary to ensure that the event will be conducted with due regard for safety.
2. The Applicant shall provide to the Special Events Manager proof of liability insurance as required by the Special Events Manager or the City Attorney's Office, and shall further name Park City Municipal Corporation as an additional insured.

Exhibits

Exhibit A – Fee Estimate

INVOICE				Special Events Department	
PCPAF Concerts				PO Box 1480	
July 3, July 12, Aug. 1 & Sept. 4, 2004				Park City, Utah 80460	
SERVICE DESCRIPTION				**COST WAIVED**	**COST**
Special Events and Facilities Department					
Application Fee - New Event				$100.00	$100
Police Department					
Base Officer Time					$3,360
TOTALS			Totals	$100.00	$3,460
				Waived Amount	$100
				TOTAL DUE	$3,360

City Council
Staff Report

PARK CITY 1884

Author: Pace Erickson, Lane Jensen
Title: Operations Manager, Bldg. Maintenance Supervisor
Subject: Building Maintenance Cleaning Contract **PUBLIC WORKS**
Date: June 17, 2004
Type of Item: Administrative

SUMMARY RECOMMENDATIONS: Consistent with Council approved budget policies, authorize staff to enter into a three (3) year contract renewable annually in a form approved by the City Attorney's office with Mister Propre Cleaning Solutions, Inc. for janitorial services in the amount not to exceed $76,997.00 per year.

DESCRIPTION:
Topic: Janitorial services and cleaning of thirteen (13) City buildings.

Background: Over the years Park City has looked at various approaches to janitorial services. At one point, all janitorial services were performed in-house by the building maintenance staff. As more buildings and areas of responsibility were added, rather than add staff, contract labor was increased to handle the additional workload.

Advantages:
- Outsourcing can be less costly.
- Ability to utilize the contractor's staff and resources as workload dictates.

Disadvantages:
- Contractor may have a different operating philosophy which can cause initial frustration.

There are currently areas in City buildings that are not included in the cleaning contract and are maintained by the City's building maintenance staff. The Library, Marsac offices and the Museum are examples of these areas.

Analysis: Staff advertised for a request for proposals in the Park Record on April 3 and 7, 2004 and in the Salt Lake Tribune on April 4 and 7, 2004. We received five (5) proposals. The janitorial company will clean thirteen City buildings (approximately 90,550 sq.ft.) on varying days and times. The contract includes but not limited to:

- cleaning restrooms;
- sweeping, mopping, and vacuuming floors;
- emptying trash and removing to dumpsters;
- cleaning entry doors and glass;
- emptying cigarette containers;
- restocking paper and soap products; and
- cleaning and disinfecting water fountains, sinks and work surfaces.

Buildings to be cleaned under the contract are:

Marsac building	Education Center
Recreation building	Miners Hospital Community Center
Racquet Club	Parks and Golf building
Public Works building	South End Park Restrooms (summer season)
Spiro Water building	North 40-High School Fields (summer season)
Farm shed	Miners Plaza and Swede Alley restrooms
Transit Center	

Company	**Monthly Charge**	**Yearly Charge**
Mister Propre Cleaning Solutions, Inc.	$6,416	$76,997
Resort Commercial Property Management	$7,504	$88,900
Park City Cleaning Services	$7,850	$94,200
Vanguard	$8,150	$97800
Sanitors Services	$13,350	$160,200

The criteria used for this recommendation are:

- The variety, creativity and scope of the services to be offered to the City.
- The proposed charges/fees to be paid to the contractor.
- The demonstrated professional experience of the contractor.
- The demonstrated financial responsibility and business viability of the contractor and their ability to commit to a three-year contract.
- The general attitude, ability and apparent willingness of the contractor to tenant, to cooperate and fulfill the City's requirements.

Department Review:
Proposals were reviewed by Public Works. Sufficient funding is designated in the Building Maintenance budget under line item 11-40091.

ALTERNATIVES:

- **Approve the Request:** Authorize staff to enter into a three (3) year contract renewable annually in a form approved by the City Attorney's office with Mister Propre Cleaning Solutions, Inc. for janitorial services in the amount not to exceed $76,997.00 per year. **(Staff recommended)**

- **Deny the Request**: Hire additional staff to perform the work in-house at a cost of $95,000 per year.

- **Continue the Item**: Reject all proposals and direct staff to issue a new request.

SIGNIFICANT IMPACTS: There is currently $85,000.00 in account 11-40091-4520 allocated for contract cleaning of City facilities. Delaying the contract is not recommended. If delayed, greater impacts on staff will result.

RECOMMENDATION: Authorize staff to enter into a three (3) year contract, renewable annually to allow City Staff to review contract and performance of contractor, for building maintenance cleaning with Mister Propre Cleaning Solutions, Inc. for $76,997.00 for thirteen (13) City buildings.

City Council
Staff Report

PARK CITY 1884

Author:	**Jonathan Weidenhamer**
Subject:	**530 Main Street**
	Sidewalk Dining - Lease
Date:	**June 17, 2004**
Type of Item:	**Administrative**

PLANNING DEPARTMENT

Summary Recommendations:

Approve the lease for sidewalk dining with Main Street Pizza & Noodle as presented

Topic:

Sidewalk Dining at 530 Main Street – Main Street Pizza & Noodle.

Background:

This application is consistent with the direction provided by City Council on May 24, 2004 regarding the use of City-owned property for sidewalk dining.

After a one-year trial period in summer '03, City Council has provided direction to continue seasonal Outdoor Dining on Main Street. On May 24, 2004, Staff presented a work session report to the City Council outlining the approval process staff will follow to regulate Outdoor Dining. Council provided direction supporting only dining immediately in front of a proprietor's restaurant, and did not support continuing sidewalk dining using the entire sidewalk, which was subsequently resulting in routing pedestrians into parking areas on Main Street.

Section 15-2.6-12 of the Land Management Code allows Outdoor Dining on "leased public property" as an Administrative Conditional Use Permit. On May 24, 2004, the City Council provided direction that they preferred to continue to sign only one-year leases for sidewalk dining. They also permitted the dining season to lengthen to May 1 – October 30.

Analysis:

This application is consistent with the direction provided by City Council on May 24, 2004 regarding the use of City-owned property for sidewalk dining.

Any seasonal lease the City enters would: regulate the time and duration of the use, provide for consistency in look and materials, ensure the aesthetic value of the Historic District by preventing visual clutter, prevent conflicts with Special Events/MFL's, mitigate for conflicting uses in the public right-of-way, ensure for cleanly sidewalks, and provide an ongoing monitoring mechanism and revocation provision for failure to comply with regulation.

Staff has prepared a draft lease that would be executed with each individual applicant prior to approving any Outdoor Dining on City Sidewalks (Exhibit A). At this time staff has made a preliminary determination that the following applicants' locations meet the standards for outdoor dining provided at LMC Section 15-2.6-12 as well as the proposed operational restrictions (Exhibit C):

530 Main Street – Main Street Pizza and Noodle

Per LMC requirement, notification of these applications was sent to adjacent property owners on June 3, 2004. The site plan is attached as Exhibit B.

Alternatives:

- Approve the lease for sidewalk dining the applicant as presented; or
- Modify the lease language or operational restrictions and then provide direction to approve the lease as amended; or
- Provide direction to not execute the lease as presented; or
- Continue the hearing for more information or discussion.

Recommendation:
Approve the lease for sidewalk dining for each of the applicants as presented

Exhibits
Exhibit A –Lease
Exhibit B – Site Plan
Exhibit C – Operational Restrictions

Exhibit A
MAIN STREET SIDEWALK
OUTDOOR DINING LEASE

This LEASE AGREEMENT is made and executed this 17rd day of June 2004, by and between Park City Municipal Corporation, a municipal corporation and political subdivision of the state of Utah ("Park City") and Park City Pizza Noodle, Inc., a Utah LLC doing business as Main Street Pizza and Noodle, located at 530 Main Street, Park City, Utah ("Tenant").

The Parties agree as follows:

PROPERTY. The property affected by this lease is generally described as the sidewalk area directly fronting Tenant's restaurant located at 530 Main Street, and more specifically described via site plan at Exhibit A, attached hereto and incorporated herein by reference (hereinafter referred to as the "Premises").

2. RENT. Tenant shall be solely responsible for payment of any and all costs associated with Tenant's performance under this lease, including but not limited to City additional business licensing fees, insurance, sales taxes and other expenses.

3. TERM. The term of this Agreement shall commence on June 17, 2004 and shall terminate on October 30, 2004, unless terminated earlier as provided herein.

4. USE OF PREMISES. Tenant may use the Premises only for the provision of outdoor dining services in a manner consistent with Section 15-2.6-12(B)(1) of the Park City Land Management Code and the terms of this Agreement. Additional operational restrictions are attached hereto at Exhibit C, if applicable.

5. IMPROVEMENTS TO THE PREMISES. Tenant shall not make any improvements to the Premises without first obtaining Park City's written consent. Any improvements approved by Park City shall be completed at Tenant's sole expense and removed at Tenant's sole expense upon expiration of this Agreement.

6. SIGNS. No signs shall be permitted on the Premises except as specifically approved pursuant to the Park City Sign Code and/or Tenant's Master Sign Plan.

7. INSURANCE. Tenant shall, at Tenant's sole expense, carry a policy of general liability insurance in an amount of at least One Million Dollars ($1,000,000) per person and One Million Dollars ($1,000,000.00) per incident or occurrence. Park City shall be named as an additional insured on each policy. A certificate of insurance with a thirty (30) day cancellation notice provision shall be provided to Park City on or before the lease commencement date, and maintained continuously during the term of the lease. Tenant may carry whatever other insurance Tenant deems appropriate. The parties agree that Tenant's sole remedy in the event of business interruptions, fire, windstorm, or other loss from hazard shall be its own insurance and Tenant will have no action against Park City. Park City is protected by the Utah Governmental Immunity Act, and nothing herein is intended to waive or limit the protection of the Act in behalf of either

entity, but to the extent it is consistent with this intent, it is the purpose of this provision to protect Park City for liability or allegations arising out of the Tenant's use of the Premises.

8. HOLD HARMLESS. Tenant covenants and agrees to indemnify, hold Park City harmless from all claims, loss damage, injury or liability (hereafter "Liability") resulting from Tenant' use and occupancy of the Premises 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 Park 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. Sections 63-30-1, et seq), as amended. The obligations hereunder shall be determined under principles of tort law including, but not limited to, the Governmental Immunity Act.

9. ASSIGNABILITY. Tenant shall not assign or transfer any interest in this Agreement without the prior written consent of Park City. Any assignment or transfer without written approval is void.

10. PROFESSIONAL PERFORMANCE. Tenant agrees to perform services under this contract at the highest professional standards, and to the satisfaction of Park City.

11. APPLICABLE LAW. This Agreement shall be governed by the laws of the state of Utah.

12. FORCE MAJEURE. Any delay or failure of either Party to perform its obligations under this Agreement shall be excused to the extent that it is caused by an event or occurrence beyond its reasonable control, including act of nature, terrorism or war.

13. 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.

Executed the day and year first above written.

Exihibit B

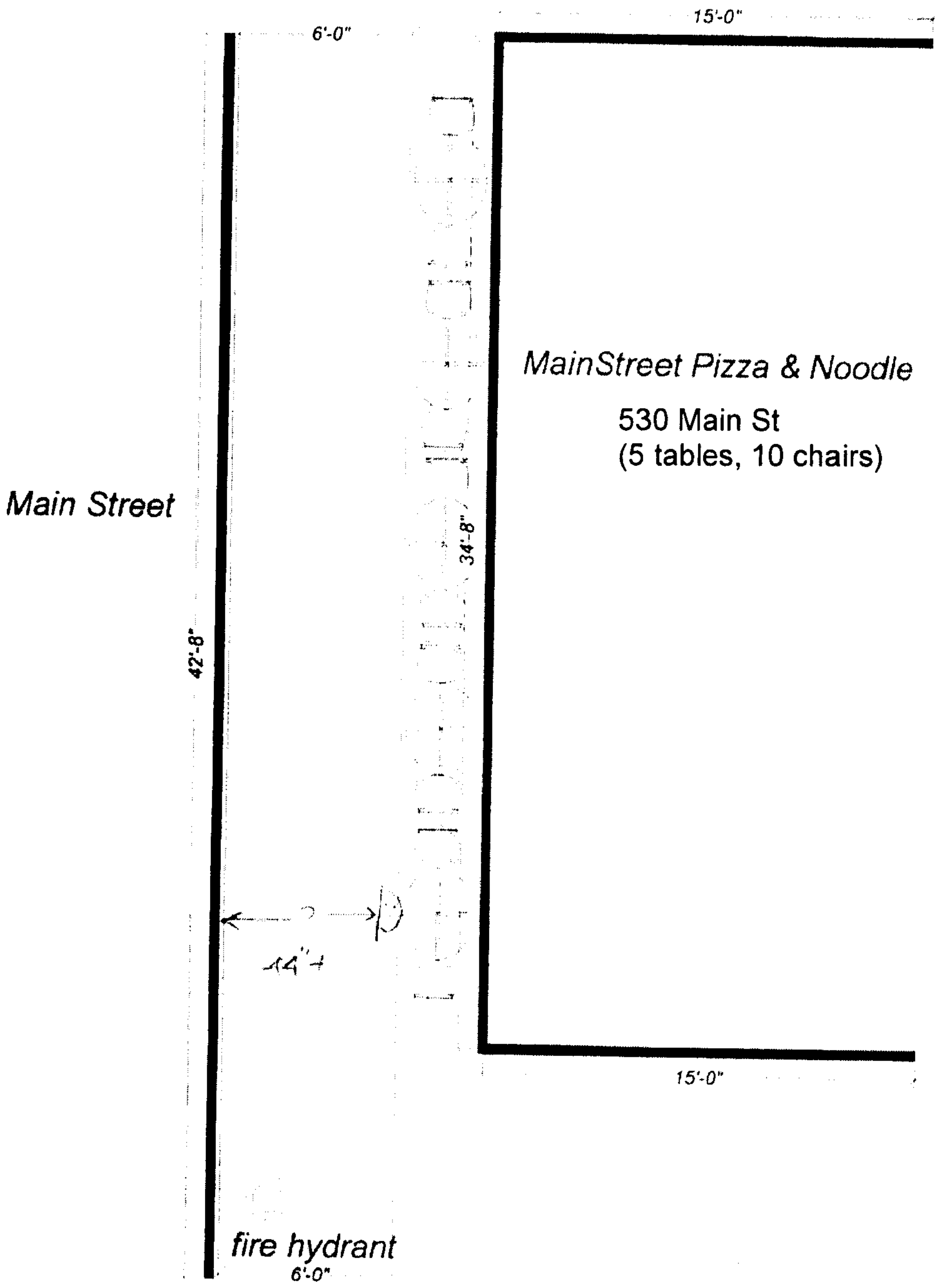
6'-0"
15'-0"
MainStreet Pizza & Noodle
530 Main St
(5 tables, 10 chairs)
Main Street
34'-8"
42'-8"
14'4
15'-0"
fire hydrant
6'-0"

EXHIBIT C
SIDEWALK DINING
OPERATIONAL RESTRICTIONS

The following operational restrictions shall apply to all leases for outdoor dining on Main Street sidewalks:

1. Site Plan - This plan shall be to scale and indicate: the proprietors' building as it relates to the exact locations of chairs, tables, stanchions, umbrellas, heaters, curb (width of sidewalk), and any other existing public improvements (light fixtures, fire department connections, parking meters, utility covers, etc.).
2. Details/ Spec Sheets – Shall be submitted for each piece of equipment proposed with this application. This will include all tables, chairs, umbrellas, heaters, lighting sources, and crowd barricades, etc.
3. Parameters of Permit - Sidewalk Dining is allowed from May 1until October 30, from 8:00 am until 10:00 pm.
4. Violations - Ongoing Monitoring will be provided to ensure compliance with lease parameters. A revocation provision will be included for lessee's failure to comply.

Design Standards

1. SIZE. Sidewalk dining area shall be limited to the linear frontage a building has on Main Street.
2. ADVERTISING. Additional signing or advertising is prohibited beyond what is allowed by the Sign Code. Umbrellas, table tents, or any other equipment must be free of branding or other promotion.
3. FURNITURE. All tables and chairs shall be metal and be either black or gray, and have a powder coated finish.
4. STANCHIONS. Any necessary crowd control barricades must be equivalent to the Crowd Controller TensaBarrier & Tape - Model 890 Standard, or T-Max, which has been approved by the Preservation Planner and chosen for its minimal visual intrusion, durability, and functionality. TensaBarrier poles shall be black and powder coated, and the tape shall be black also.
5. UMBRELLAS. Umbrellas are prohibited from having any advertising or signing and shall be in solid, primary colors. Umbrellas must be free standing and are prohibited from extending beyond the dining area. Any umbrellas must meet international building code and standards and shall not create any public hazard.
6. HEATERS. Any proposed heaters shall be reviewed at the time of initial application. In most cases, additional heating elements may require additional building permits.
7. LIGHTING. No additional electric lighting is permitted, including exterior building lighting.
8. LANDSCAPING/ ATMOSPHERE. Any proposed landscaping or atmosphere pieces shall be reviewed at the time of initial application, and shall not create any public hazard or unnecessary clutter.

9. ADDITIONAL EQUIPMENT. To prevent unnecessary visual clutter, additional equipment beyond those outlined in this section is prohibited. This includes server or bus-stations, garbage receptacles, podiums, pedestals, etc.
10. LICENSING. The additional square footage of the dining area must be added to the existing licensed area for the restaurant. The Applicant shall also adhere to other applicable City and State licensing ordinances.
11. HEALTH & SAFETY. The Use shall not violate the Summit County Health Code, the Fire Code, or International Building Code.
12. MUSIC. The use of outdoor speakers and music is prohibited unless expressly allowed by Park City Municipal Corporation Special Events Director.
13. SPECIAL EVENTS. Operation of Sidewalk Dining during Special Events and Master Festival Licenses is prohibited when the boundary of that Special Event includes Main Street unless expressly allowed by Park City Special Events Director.
14. MAINTENANCE. The dining area shall be cleanly and maintained in a neat and orderly fashion.
15. STORAGE. All equipment and other associated materials must be removed from the sidewalk and stored on private property overnight and during prohibited times.

City Council Staff Report

PARK CITY 1884

ECONOMIC DEVELOPMENT AND CAPITAL PROJECTS

Author:	**Matthew A. Twombly**
Subject:	**McPolin Farmhouse ADA Access, Stairs and Walkway**
Date:	**June 17, 2004**
Type of Item:	**Award of Construction Contract**

Summary Recommendation:
Staff requests authorization to award the construction contract for the Farm ADA access, stairs and walkway project in a form approved by the City Attorneys Office to D.R.D. Paving L.L.C., in the amount of Twenty Thousand Seven Hundred Fifty Dollars ($20,750.00).

Description:

Topic: McPolin Farmhouse ADA Access, Stairs and Walkway

Background:
ADA accessibility to the farmhouse has been planned since the reconstruction of the shed and grounds in 1999. Staff and Friends of the Farm would like to house pieces of furniture, etc. to show what may have been in the farmhouse during the 1900's. One half of the flooring and bead-board in the house was saved from the original structure. The farmhouse would be open to the public during events and accessibility to the porch to view through the windows will be open at all times. The farmhouse is secure with a fire sprinkler and alarm system.

Farm House History: The McPolin farmstead was built c.1900-1960 and is one of the best preserved historic farmsteads in Summit County--and the only significant farmstead within the municipal boundaries of Park City. The farmstead contains a broad range of buildings, including the barn which dates to 1912, a house built around 1890, two grain silos (c. 1950's), and turn-of-the-century granary, outhouses, storage sheds, and other accessory structures.

Directly west of the barn, lies the primary residence of the farmstead. The initial use of the house was as the main office for the Grasseli Mill (later the King Con Mill) a large mining operation in Park City. In 1923, it was moved in two pieces by wagon to its present location where it was reassembled with a front porch and a lean-to addition in the back.

In 1955, a fire started by a plumber who was working underneath the house which destroyed the dwelling. No one was injured, but the house suffered severe structural damage and was left abandoned on the site. The Osguthorpe family built a new home on the east end of the property, where they lived until the property was sold to Park City in 1990.

Analysis:
Stantec Consulting was hired to design the access walkways as part of the trail-head parking across SR-224 and the ADA access trail from the parking lot to the renovated shed and Farm trail. Written quotations were solicited from three contractors. The contractors had approximately 10 days to review the plans. One of the contractors, at the last minute, did not submit a quote due to their inability to provide bonds if they were selected. D.R.D. Paving L.L.C. was the lowest quote at $20,750.00 and Thiede Construction Corporation at $29,700.00.

Upon execution of the Agreement as approved by the City Attorney's Office, the contractor will complete the project within 10 to 14 days. On Saturday, July 10, 2004 the City is holding two events at the Farm: The Historical Register Celebration Day at the McPolin/Osguthorpe Farm and the Hoedown and Pig Roast at the McPolin/Osguthorpe Farm. Staff intends to have the ADA access to the farmhouse completed prior to the events on the tenth of July. The trail-head parking CUP was approved by the Planning Commission and is presently being reviewed by UDOT.

Department Review:
City Manager, Economic Development and Capital Projects, and Special Events and Facilities departments have reviewed and all comments have been incorporated into the report.

Alternatives:

Approve the Request:
Award the construction contract on a form approved by the City Attorneys Office to D.R.D. Paving L.L.C., in the amount of Twenty Thousand Seven Hundred Fifty Dollars ($20,750.00).

Deny the Request:
The farmhouse would remain in its current state and not be accessible to the public.

Do Nothing:
Delaying a decision would jeopardize the desired completion prior to the July 10, 2004 events.

Significant Impacts:
Staff had budgeted $40,000 out of the Farm Phase II Capital Improvement Account for the ADA access, walkways and stairs project. Remaining funds will be used to assist with other Farm projects, such as the trail-head parking.

Consequences of not taking the recommended action:
Currently there is no public access to the farmhouse and without the ADA access, walkway and stairs, the farmhouse cannot be used to display historic and period furnishings or open the interior to the public.

Recommendation:
Staff recommends that Council award the construction contract on a form approved by the City Attorneys Office to D.R.D. Paving L.L.C., in the amount of Twenty Thousand Seven Hundred Fifty Dollars ($20,750.00).

Budget, Debt, and Grants

City Council Staff Report

Author: Gary Hill
Subject: Bond Parameters Resolution – General Obligation Bonds, 2004 Series for Park Improvements an Ice Facility and Open Space
Date: June 17, 2004
Type of Item: Legislative

Summary Recommendations: The City Council should:

Consider and approve the Parameters Resolutions (delivered to Council under separate cover) relating to the issuance of General Obligation Bonds, Series 2004. These Bonds will be used to finance (1) Park Improvements and an Ice Facility, and (2) Open Space.

Description:
Topic:

Consideration and adoption of a resolution that does the following: 1) Authorizes the issuance of General Obligation (GO) Bonds, Series 2004: 2) Sets maximum parameters relating to the issuance size, length to maturity, interest rates, and discount of the bonds: 3) Authorizes the publication of a Notice of Bonds to be Issued: 4) Authorizes the preparation and distribution of documents pertaining to the issuance of the bonds.

Background:

On November 6, 2001 and November 5, 2002 Park City held Bond Elections where voters approved General Obligation Bonds for the creation of an Ice Rink and Park Improvements ($4 million) and Open Space ($10 million). Last year the City issued $5 million in Open Space bonds. At this time it is in the best interest of the City to issue the remaining $5 million in Open Space bonds and the entire $4 million in Ice/Parks bonds (for a total bond issuance of $9 million). The proceeds from these bonds will be used to purchase open space as well as fund improvements for neighborhood parks, the Quinn's recreation complex, City Park, and the regional ice facility.

Analysis:

The parameters resolution that Council is being asked to adopt will enable staff to start the process of issuing General Obligation Debt on behalf of the City. The resolution establishes broad parameters within which Staff, Bond Counsel, and the Financial Advisor can structure the debt. The resolution grants preliminary authorization to issue the GO bonds. Before bonds are issued, the City Council needs to formally approve the "Final Bond Resolution." Staff will return to Council with the "Final Bond Resolution" on July 22, 2004. The Parameters resolution gives advance notice that the City intends to issue these bonds and starts an appeals period. The resolution also authorizes the preparation and distribution of the Preliminary Official Statement (POS). The POS is the document that investors, the bond rating agencies, and the bond insurance companies use to evaluate the credit worthiness of the bonds. Staff is finalizing the POS and plans to distribute it in early July.

The resolution also sets the following general parameters for the Bond issue:

1) Size: The resolution sets the maximum amount of the bonds at $9,000,000.

2) Length to Maturity: The maximum length to maturity cannot exceed 15 years as approved by the voters. The 15 year limit begins from the point of issuance for each series. This means that this series will mature in 15 years.

3) Interest Rates of the Bond Coupons: The resolution states that no single coupon of the bond issue can exceed 6.5 percent. When the bonds are sold, they will be structured in such a way that different maturities will have different interest rates. This parameter means that the coupon with the longest maturity will not have an interest rate greater than 6.5 percent. This is a conservative parameters amount increased from last year's bond issuance to reflect current interest rates. Staff anticipates that the interest rate will be closer to 4.5%

4) Maximum Discount: In addition, the resolution sets the maximum amount of discount for which the bonds can be sold. The 2 percent parameter is again conservative, and the discount rate should be less than that amount at around 1.5%.

5) Financing Team: The City is using Zions Bank as the Financial Advisor and Chapman Cutler as Bond Counsel for this issuance. In March, 2003, the City conducted a competitive RFP process for the selection of Financial Advisors and Bond Counsel. Fees for all of these services are based on industry standards, which are typically driven off of the value of the issuance and the scope of work provided.

6) Bond Rating: The City currently has an Aa-3 or an AA- rating from Standard & Poor's, Moody's, and Fitch. These ratings were reaffirmed prior to last year's bond issuance. Given the City's commitment to fiscal management, the City should receive that same rating if the budget is adopted as amended and recommended.

7) Notice of Bonds: The Notice of Bonds to be issued will be published in the Park Record and will inform the public of the proposed bond sale. Furthermore, it establishes a 30-day protest period in which any person may file a legal challenge to

the issuance of the proposed bonds. After the 30-day protest period has run, no more legal challenges are allowed. It essentially establishes a short statute of limitations with respect to this bond issue.

Department Review:

Budget and Debt, City Manager, Legal, and Finance.

Alternatives:

Approve the Request:

Adopting the Parameters Resolutions will allow the City to proceed with the bond issue, authorize the Finance Team contracts, and identify an Underwriter and competitively sell the bonds.

Deny the Request:

A Parameters Resolution is not required to issue bonds, but is generally recommended to reduce the City's legal exposure. Staff will need direction from the City Council as to how they would like to proceed if the Parameters Resolution is not approved.

Continue the Item:

Continuing the item would mean that the Parameter resolution would not be before the City Council again until July 1 and the 30-day contest period would go from that time. This would postpone the sale of bonds (which is currently scheduled for July 22, 2004) until August. The City can only issue $10,000,000 per calendar year of bank-qualified debt. This means that certain institutions, like banks and others can buy the bonds and thus the interest rate is lower. This issuance anticipates that we will not issue more than $10 million in this calendar year. If the City decides to issue more than $10 million in debt in 2004, a higher interest rate will be applied on this issuance.

Do Nothing:

This would have the same impact as continuing the item.

Significant Impacts:

Adoption of this resolution will allow the City to proceed with the issuance of the bonds in a timely and efficient manner. Swift completion of the bond issuance is needed to take advantage of favorable interest rates.

Consequences of not taking the recommended action:

Not adopting the resolution will impact the City=s ability to fund upcoming projects. Although Council can adopt a Final Resolution authorizing the issuance of this debt without a parameters resolution, Bond Counsel and Staff do not recommend this action.

Recommendation:

Approve the Parameters Resolutions (delivered to Council under separate cover) relating to the issuance of General Obligation Bonds, Series 2004 for Park Improvements an Ice Facility and Open Space; and authorize staff to enter contracts with the Finance Team.

Note: The bond resolution can be obtained at the City Recorder's Office during regular business hours (615-5007).

City Council Staff Report

Budget, Debt, & Grants

Author: Tom Bakaly, Gary Hill
Subject: FY 2004 Adjusted Budget, FY 2005 Tentative Budget
Date: June 17, 2004
Type of Item: Legislative

Topic:
Final adoption of the FY 2004 Adjusted Budget and the FY 2005 Budget

Background: The background for the budget was presented in staff reports to Council on May 6th, 13th, 20th, 27th, and June 3rd. Please refer to those reports for more information. In summary, the topics discussed were as follows:

a. May 6th – Budget Overview
   Review of Policies and Procedures

- May 13th- CIP Overview
  Downtown CIP Projects
  Water Fund and Rate Increase

- May 20th- Recreation Complex CIPs
  City Park CIPs
  Miscellaneous CIPs
  Council Compensation

- May 27th- Departmental Operating Requests
  Future Funding Issues
  Budget and Personnel Policies and Procedures

- June 3rd- Resort Community Sales Tax Amendments
  Adoption of the Council Compensation Ordinance
  Budget Wrap-up
  Adoption of the Tentative Budget

This report will highlight changes from the Tentative Budget and address any outstanding issues. Any additional changes, questions, or budget issues should be resolved on June 17th for inclusion in final budget.

Analysis:

On June 17th, staff will address the following topics with City Council:

(1) Additional changes to the Tentative Budget adopted on June 3, 2004:
    A- Top Soil Assistance Program (separate Staff Report)
    B- 5 year CIP balance and future funding
    C- Contingency Fund and Police Personnel
    D- GO Bond issuance
    E- RDA Mitigation Payment
    F- Budget Options Sheet (Approved and Unapproved)

(2) Telecommunications Tax Ordinance
(3) Water Rates and Impact Fees

In addition, Council will be asked to do the following:

(1) Hold a public hearing and adopt the 2004 Revised Budget and the FY 2005 Budget for Park City. The resolution will also authorize the Budget, Debt, and Grants Manager to compute the City's Certified Property Tax rate for 2004 at a "No Tax Increase Rate" and file it with the County;

(2) Hold a public hearing and adopt the FY 2004 Revised Budget and the FY 2005 Budget for Park City Redevelopment Agency;

(3) Hold a public hearing and adopt the FY 2004 Revised Budget and the FY 2005 Budget for the Park City Municipal Building Authority (MBA);

(4) Adopt an ordinance amending the City's Municipal Code as it relates to the Telecommunications Tax imposed by Park City;

(5) Adopt a resolution entering into an interlocal agreement with the Tax Commission for the collection of the telecommunications tax;

(6) Adopt a resolution amending the City's Fee Resolution to update water fees as discussed on May 13th; and

(7) Adopt an ordinance amending the City's Water Impact Fee schedule to include an incentive for water conservation.

Additional Changes to the Tentative Budget
In order to present a balanced budget, several changes have been made since the adoption of the tentative budget on June 3rd. Found below is a summary of the major changes and technical adjustments.

Top Soil Assistance Program On May 27th, staff presented information regarding the City's soil ordinance district. Council indicated a desire to create a program to encourage compliance with the ordinance by helping provide topsoil for affected households. Included in the Council Packet is a staff report by Jeff Schoenbacher outlining the proposed Top Soil Assistance Program (TSAP).

The program will require $32,000 in FY 2005 and $15,000 in FY 2006 for reimbursement to individuals complying with the TSAP and the soils ordinance. These funds would come from the 5-Year CIP and be placed in a separate CIP account. The budget presented for final adoption on June 17th includes this adjustment.

Please see the attached staff report for a detailed discussion of the TSAP.

5-Year CIP Each year the City is required by State law to transfer any General Fund revenue in excess of 18% of the budget to the CIP. This year the City will transfer $3 million from the General Fund to the 5-Year CIP. This is approximately $1.5 million more than shown in the Tentative Budget because we had not received the latest revenue figures at that time. This transfer will bring the 5-Year CIP adjusted budget total to approximately $8.7 million. However, $3.6 million will be appropriated on July 1 to other projects (i.e. – Marsac Renovation, Finance Software, etc.). This will leave a balance of $5.1 million as of July 1, 2004 in the 5-year CIP.

Park City currently has a bond rating of AA- from Standard & Poor's, Moody's, and Fitch (Aa-3) bond rating agencies. This is very high by resort community standards and has allowed the City to use bond revenue as a viable funding mechanism due to lower interest rates. A major reason the City has this bond rating is because the City has $5 million in the 5-Year CIP.

As the City has now pledged a significant portion of 5-Year CIP revenues to other projects, it is important to weigh the impact of future requests for funding from that source. Staff recommends that any future requests that would require a reduction in the 5-Year CIP balance be very carefully considered.

Contingency Fund Historically, most departments have had a gap between budgeted personnel costs and actual expenditures due to positions that are unfilled or underfilled (paid at a rate less than budgeted). This gap is referred to as a "vacancy factor." Each year departmental personnel budgets are reduced by 7% to remove this vacancy factor. In its place, and in order to guard against budget shortfall due to vacancy factor, the City annually appropriates a personnel contingency amount of approx. $325,000.

The final budget includes a transfer of $55,000 from the contingency fund to the Public Safety department to offset budget overages due to the vacancy factor and the New Star strike.

General Obligation Bond Issuance As discussed in previous budget meetings, the City anticipates issuing General Obligation (G.O) Bonds this July to make park improvements, construct a regional ice facility, and purchase open space. The

Tentative Budget indicated that the City would issue $9.25 million ($4 million for Parks/Ice and $5.25 million for open space), of which approx. $4.25 million would be available for future open space purchases.

Because the City issued $5 million in open space bonds last year, the actual amount to be issued this year is $9 million. This change will not have an impact on budgeted expenditures as there will still be $4.25 available for new open space purchases and $4 million for Parks/Ice. The final budget to be adopted on June 17th already includes this adjustment.

Also included in this week's Council Packet is a staff report requesting that Council consider and approve a Parameters Resolution in preparation of the GO bond issuance. This report will be discussed in greater detail on June 17th.

RDA Mitigation Payment Each year the City pays a mitigation payment from both RDA project areas (Main Street and Lower Park Avenue) to the Park City School District. As property value has increased in the RDAs, the City's payment to the School District has also increased. The Final Budget includes an adjustment to reflect this change.

Budget Option Sheet Included with this staff report is a detailed sheet of all budget options requested by departments (Attachment D). The sheet includes options that were recommended by the City Manager and those that were not recommended for inclusion in the City Manger's Recommended Budget.

Telecommunications Tax Ordinance

This past legislative session the telecommunications industry in cooperation with the Utah League of Cities and Towns (ULCT) overhauled the State's local telecommunications tax legislation. The new law creates a single 4% Municipal Telecommunications Tax which replaces the current telephone business license tax and the municipal cell phone tax. The City currently imposes a 6% combined franchise fee/tax rate on telephone services, but does not impose the cell phone tax. In essence, this is a lowering of the tax rate, but a broadening of the tax base to include cell phones. Please see the attached memorandum from the ULCT that explains the change in greater detail.

Also attached to this staff report is an ordinance amending the City's municipal code to repeal the former fee/tax and establish the new telecommunications tax, and a resolution approving an interlocal agreement with the Tax Commission to collect and remit this tax. The legislation will go into effect on July 1, 2004

Water Rate and Impact Fees

Staff presented an overview of the Water Fund and discussed a potential rate increase on May 13, 2004. The following items address the issues discussed with Council at that time.

Water Fee Increase - As discussed in the Council meeting of May 13, 2004, staff is recommending a 20% across the board increase in water rates to fund water system regulatory improvement projects over the next five years and to ensure that debt ratios are met. The attached fee resolution shows these changes.

Extension of Water Conservation Rates - Staff is also requesting a change in language in the Fee Resolution, paragraphs 2.4.2 (2.3.2 re-numbered) and 2.4.3 (2.3.3 re-numbered), and in the Municipal Code, Title 13, paragraph 13-1-2 to ensure Water Conservation Rates are in effect all of May through mid September of each year.

Cleanup of Title 13 language - Other minor changes are being requested to correct obsolete references to "development" and "connection" fees in the Fee Resolution, paragraphs 2.1 and 2.2 and in the Water Code, paragraph 13-1-1 (Q). Deletion of paragraph 2.2 of the Fee Resolution then requires re-numbering of all subsequent paragraphs.

Rebate for Drip Irrigation, Building Code, Title 11 - Public Works Staff is presenting an option to Council for consideration to provide up to a 50% rebate of outdoor impact fees for approved drip irrigation and drought tolerant landscaping installed in new construction. If the Mayor and Council believe this is something that staff should pursue, staff proposes additional language as presented in the Building Code, paragraph 11-13-7 (G).

After review of this option, Park City Legal staff indicated a preference to offer incentives for drip irrigation through reduced monthly consumption rates as opposed to the up-front impact fee rebates. The argument is made that if a homeowner installs drip irrigation and drought tolerant landscaping and receives the rebate but later replaces the drip irrigation and drought tolerant landscaping with spray irrigation and Kentucky Blue Grass, the City has no recourse for withdrawing the incentive after the fact. Water staff subsequently investigated other Utah and Nevada Cities to see if any water systems are offering consumption fee reductions for drip irrigation and drought tolerant landscaping. There were none found.

By adopting the attached ordinance, Council would approve the impact fee rebate.

Department Review:
Budget, City Manager, Legal, Finance, Public Works

Alternatives:

Council should provide direction about outstanding budget issues and do the following:
(1) Hold a public hearing and adopt the 2004 Revised Budget and the FY 2005 Budget for Park City. The resolution will also authorize the Budget, Debt, and Grants Manager

to compute the City's Certified Property Tax rate for 2004 at a "No Tax Increase Rate" and file it with the County;

(2) Hold a public hearing and adopt the FY 2004 Revised Budget and the FY 2005 Budget for Park City Redevelopment Agency;

(3) Hold a public hearing and adopt the FY 2004 Revised Budget and the FY 2005 Budget for the Park City Municipal Building Authority (MBA);

(4) Adopt an ordinance amending the City's Municipal Code as it relates to the Telecommunications Tax imposed by Park City;

(5) Adopt a resolution entering into an interlocal agreement with the Tax Commission for the collection of the telecommunications tax;

(6) Adopt a resolution amending the City's Fee Resolution to update water fees as discussed on May 13th; and

(7) Adopt an ordinance amending the City's Water Impact Fee schedule to include an incentive for water conservation.

Continue the Item: State law requires that the budget be adopted by June 22 each year. Any additional changes, questions, or budget issues should be addressed by Council on June 17th for inclusion in the final budget.

Council could choose to continue the discussion on the water impact fee rebate until another time as the adoption of the ordinance will not affect the budget adoption.

SIGNIFICANT IMPACTS: The City's budget must be balanced. Staff recommends that Council provide policy direction on budget issues. Any unresolved issues should be addressed so that the Final Budget can be adopted on June 17, 2004.

RECOMMENDATION: The City Council should follow the budget presentation schedule described above and adopt the ordinances and resolutions as recommended.

ATTACHMENTS:

A – Resolution Adopting the Revised Budget for FY 2004 and the Budget for FY 2005 for Park City Municipal Corporation with accompanying attachments:
(1) Resources and Requirements – All Funds Combined
(2) Resources and Requirements - All Funds Combined (operating)
(3) Expenditure Summary by Fund and Unit
(4) Expenditure Summary by Fund and Major Object (for FY 2004 and FY 2005)

B – Resolution Adopting the Revised Budget for FY 2004 and the Budget for FY 2005 for Park City Redevelopment Agency

C – Resolution Adopting the Revised Budget for FY 2004 and the Budget for FY 2005 for Park City Municipal Building Authority

D – Budget Option Sheet

E – Ordinance Amending Park City's Municipal Code to establish the new Telecommunications Tax

F – Resolution Approving an Interlocal Agreement Between Park City Municipal Corporation and the Utah State Tax Commission

G – Bulletin from the Utah League of Cities and Towns regarding the Telecommunications Tax

H – Fee Resolution and Attachment

I – Ordinance amending the Water Code, including an incentive for water conservation.

EXHIBIT A
Resolution No.

A RESOLUTION ADOPTING A REVISED BUDGET FOR FY 2003-04 AND A BUDGET FOR 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 13, May 20, June 3, and June 17, 2004 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 6, 2004 and with changes as summarized in the Attachments to this resolution is hereby adopted as the Revised 2003-04 Operating Budget for Park City Municipal Corporation and its related agencies.

SECTION 2. BUDGET ADOPTED. The budget as outlined in the City Manager's Recommended budget presented on May 6, 2004 and with changes as summarized in the Attachments to this resolution is hereby adopted as the budget for FY 2004-05 for Park City Municipal Corporation and its related agencies.

SECTION 3. CERTIFIED PROPERTY TAX RATE. The City's Budget, Debt and Grants Manager is authorized to compute and file the City's Certified Property Tax rate for FY 2004-05 at a "no tax increase rate". This resolution hereby adopts the Certified Property Tax rate for FY 2004-05. The Budget, Debt, and Grants Manager is also authorized to compute the City's Certified Property Tax rate for the issuance of General Obligation Bonds as approved by voters in November of 2001 and 2002.

SECTION 4. EFFECTIVE DATE. This Resolution shall take effect June 17, 2004 for the FY 2003-04 revised budget and July 1, 2004 for the FY 2004-05 budget.

PASSED AND ADOPTED this 17th day of June, 2004.

Budget Summary

Resources & Requirements - All Funds Combined

Description	Current Year (FY2004)				Budget (FY2005)			
	Original	Adjusted	Change	% Change from CY	Original	Adjusted	Change	% Change from CY
RESOURCES								
Sales Tax	8,375,000	8,375,000	0	0.0%	8,375,000	8,375,000	0	0.0%
Planning Building & Engineering Fees	3,212,515	3,589,965	377,450	11.7%	3,862,456	3,437,456	(425,000)	7.0%
Charges for Services	4,001,232	3,846,822	(154,410)	-3.9%	3,591,232	4,291,232	700,000	7.2%
Intergovernmental Revenue	902,000	1,032,156	130,156	14.4%	432,000	4,214,500	3,782,500	367.2%
Franchise Tax	1,583,375	1,625,375	42,000	2.7%	1,583,375	1,583,375	0	0.0%
Property Taxes	10,926,909	11,236,909	310,000	2.8%	10,926,909	10,926,909	0	0.0%
Bond Proceeds	10,062,000	7,323,503	(2,738,497)	-27.2%	5,062,000	19,871,167	14,809,167	97.5%
Other	4,473,055	4,544,590	71,535	1.6%	4,567,055	5,359,905	792,850	19.8%
Sub-Total	43,536,086	41,574,320	(1,961,766)	-4.5%	38,400,027	58,059,544	19,659,517	33.4%
Interfund Transactions	11,274,175	14,054,357	2,780,182	24.7%	6,288,216	6,323,216	35,000	-43.9%
Beginning Balance	23,673,589	50,182,144	26,508,555	112.0%	26,559,000	22,497,729	(4,061,271)	-5.0%
Total	$ 78,483,850	$ 105,810,821	$ 27,326,971	34.8%	$ 71,247,243	$ 86,880,489	$ 15,633,246	10.7%
REQUIREMENTS								
Executive	5,763,184	5,790,406	27,222	0.5%	5,956,772	5,876,364	(80,408)	2.0%
Police	2,794,313	2,855,029	60,716	2.2%	2,887,393	2,869,054	(18,339)	2.7%
Public Works	9,010,123	9,207,791	197,668	2.2%	9,943,283	9,453,433	(489,850)	4.9%
Library & Recreation	2,747,991	2,649,665	(98,326)	-3.6%	2,834,416	2,549,874	(284,542)	-7.2%
Non-Departmental	1,648,932	1,917,232	268,300	16.3%	1,698,932	1,923,932	225,000	16.7%
Grants	364,418	364,418	0	0.0%	314,418	364,418	50,000	0.0%
Contingency	575,000	520,000	(55,000)	-9.6%	575,000	575,000	0	0.0%
Debt Service	6,157,285	6,576,285	419,000	6.8%	5,219,885	5,663,885	444,000	-8.0%
Debt Origination Fees	0	67,000	67,000		0	0	0	
Sub-Total	29,061,246	29,947,826	886,580	3.1%	29,430,099	29,275,960	(154,139)	0.7%
Capital Improvements	11,589,432	39,743,823	28,154,391	242.9%	6,144,590	27,371,901	21,227,311	136.2%
Interfund Transactions	11,274,175	14,054,357	2,780,182	24.7%	6,288,216	6,323,216	35,000	-43.9%
Ending Balance	26,559,000	22,064,815	(4,494,185)	-16.9%	29,384,337	23,909,411	(5,474,926)	-10.0%
Total	$ 78,483,853	$ 105,810,821	$ 27,326,968	34.8%	$ 71,247,242	$ 86,880,488	$ 15,633,246	10.7%
REQUIREMENTS								
Personnel	13,521,923	13,561,224	39,301	0.3%	13,753,801	13,743,583	(10,218)	1.6%
Materials, Supplies & Services	8,807,038	9,290,317	483,279	5.5%	8,918,038	9,293,492	375,454	5.5%
Contingency	575,000	520,000	(55,000)	-9.6%	575,000	575,000	0	0.0%
Sub-Total	22,903,961	23,371,541	467,580	2.0%	23,246,839	23,612,075	365,236	3.1%
Capital Improvements	10,671,048	39,098,951	28,427,903	266.4%	6,144,590	26,663,801	20,519,211	149.9%
Operations Capital Equipment	918,384	644,872	(273,512)	-29.8%	963,384	708,100	(255,284)	-22.9%
Debt Service	6,157,285	6,576,285	419,000	6.8%	5,219,885	5,663,885	444,000	-8.0%
Sub-Total	17,746,717	46,320,108	28,573,391	161.0%	12,327,859	33,035,786	20,707,927	86.2%
Interfund Transactions	11,274,175	14,054,357	2,780,182	24.7%	6,288,216	6,323,216	35,000	-43.9%
Ending Balance	26,559,000	22,064,815	(4,494,185)	-16.9%	29,384,337	23,909,411	(5,474,926)	-10.0%
Total	$ 78,483,853	$ 105,810,821	$ 27,326,968	34.8%	$ 71,247,251	$ 86,880,488	$ 15,633,237	10.7%

Attachment A

Budget Summary

Resources & Requirements - All Funds Combined

Description	2001 Actual	2002 Actual	2003 Actual	2004 Adjusted	2005 Budget	Change - 2004 to 2005 Increase (reduction)	%
RESOURCES							
Sales Tax	8,306,179	9,032,014	8,343,874	8,375,000	8,375,000	0	0%
Planning Building & Engineering Fees	2,787,099	1,754,604	2,437,924	3,589,965	3,437,456	(152,509)	-4%
Charges for Services	3,089,468	3,792,633	3,809,242	3,846,822	4,291,232	444,410	12%
Intergovernmental Revenue	5,784,447	2,022,518	1,906,597	1,032,156	4,214,500	3,182,344	308%
Franchise Tax	1,480,821	1,641,647	1,702,577	1,625,375	1,583,375	(42,000)	-3%
Property Taxes	9,426,209	10,240,704	10,229,887	11,236,909	10,926,909	(310,000)	-3%
Fees/Other	8,934,201	8,257,945	7,927,167	4,690,963	5,421,905	730,942	16%
Total	$ 39,808,424	$ 36,742,065	$ 36,357,268	$ 34,397,190	$ 38,250,377	$ 3,853,187	11%
REQUIREMENTS (by function)							
Community Development	2,046,583	1,964,716	2,008,825	0	0	0	
Public Works	5,624,828	6,887,506	6,595,417	9,594,216	9,915,458	321,242	3%
Police	2,339,278	2,422,521	2,360,301	2,931,901	2,938,554	6,653	0%
Library & Recreation	4,887,970	5,539,477	5,170,256	2,705,765	2,600,974	(104,791)	-4%
Administrative Services	1,791,910	1,921,085	1,777,183	0	0	0	
Executive	1,712,306	1,925,204	1,717,614	5,915,881	6,001,839	85,958	1%
Non-Departmental	1,200,110	1,557,171	1,553,528	1,917,232	1,923,932	6,700	0%
Grants	251,827	303,631	344,385	364,418	364,418	0	0%
Contingency	0	0	298,426	520,000	575,000	55,000	11%
Operations Capital Spending	1,315,295	1,623,927	227,311	Incl	Incl		
Debt Expense	79,542	53,500	0	67,000	0	(67,000)	-100%
Total	$ 21,249,649	$ 24,198,738	$ 22,053,246	$ 24,016,413	$ 24,320,175	$ 303,762	1%
REQUIREMENTS (by type)							
Personnel	12,825,663	13,812,300	13,220,378	13,561,224	13,743,583	182,359	1%
Materials, Supplies & Services	7,699,088	9,252,884	7,855,397	9,290,317	9,293,492	3,175	0%
Contingency	0	0	298,426	520,000	575,000	55,000	11%
Operations Capital Spending	724,898	1,133,554	679,048	644,872	708,100	63,228	10%
Total	$ 21,249,649	$ 24,198,738	$ 22,053,249	$ 24,016,413	$ 24,320,175	$ 303,762	1%
EXCESS (deficiency) OF RESOURCES OVER REQUIREMENTS	$ 18,558,775	$ 12,543,327	$ 14,304,019	$ 10,380,777	$ 13,930,202	$ 3,549,425	34%
OTHER FINANCING SOURCES (uses)							
Bond Proceeds	5,915,000	3,380,000	0	7,177,130	19,809,167	12,632,037	176%
Debt Service	(4,217,663)	(8,546,675)	(8,490,187)	(6,576,285)	(5,663,885)	912,400	-14%
Interfund Transfers In	13,393,418	21,416,581	11,906,096	14,054,357	6,323,216	(7,731,141)	-55%
Interfund Transfers Out	(13,393,418)	(21,416,581)	(11,906,096)	(14,054,357)	(6,323,216)	7,731,141	-55%
CIPProjects	9,359,196	11,894,943	6,321,935	39,098,951	26,663,801	(12,435,150)	-32%
EXCESS (deficiency) OF RESOURCES OVER REQUIREMENTS AND OTHER SOURCES (uses)	$ 29,615,308	$ 19,271,595	$ 12,135,767	$ 50,080,573	$ 54,739,285	$ 4,658,712	-9%
BEGINNING BALANCE	$ 44,722,702	$ 55,614,005	$ 51,092,711	$ 50,182,144	$ 22,497,729	$ 27,684,415	55%
ENDING BALANCE	$ 55,616,632	$ 51,092,713	$ 50,584,608	$ 22,064,815	$ 23,909,411	$ 1,844,596	8%

Budget Summary

Expenditure Summary by Fund and Unit

Expenditures	Current Year (FY2004)	Budget (FY2005)
Park City Municipal Corp		
11 General Fund	21,520,635	19,603,166
21 Police Special Revenue Fund	15,372	0
31 Capital Improvement Fund	32,513,823	18,792,898
38 Equip. Replacement Fund	2,759,888	416,415
51 Water Fund	7,660,561	10,930,898
54 Recreation Fund	269,647	(1)
55 Golf Course Fund	1,396,876	1,413,553
57 Transportation & Parking Fund	9,237,498	8,892,303
62 Fleet Services Fund	1,295,111	1,269,547
63 Equip. Replacement Fund	0	0
64 Self Insurance Fund	3,437,700	3,284,628
71 Debt Service Fund	7,301,093	1,886,702
Park City Redevelopment Agency		
33 Redevelopment Agency Lower Prk	5,816,011	4,229,078
34 Redevelopment Agency Main ST	2,484,223	7,303,526
72 RDA Main Street Debt Service	934,216	1,167,130
76 RDA Lower Pk Ave Debt Service	2,074,800	2,072,515
Municipal Building Authority		
35 Building Authority	1,683,946	256,462
73 MBA Debt Service Fund	5,350,028	5,310,313
Housing Authority		
36 Park City Housing Authority	59,393	51,355
TOTAL	$ 105,810,821	$ 86,880,488
Interfund Transfer	(14,054,357)	(6,323,216)
Ending Balance	(22,064,815)	(23,909,411)
Operating Total	$ 69,691,649	$ 56,647,861

Attachment A

Budget Summary

Expenditure Summary by Fund and Major Object FY

Expenditures	Operating Budget: Personnel	Operating Budget: Mat, Suppls, Services	Capital	Debt Service	Contingency	Sub-Total	Interfund Transfer	Ending Balance	Total
Park City Municipal Corp									
11 General Fund	10,028,752	4,450,383	373,375	0	520,000	15,372,510	4,813,528	1,334,597	21,520,635
21 Police Special Revenue Fund	0	0	15,372	0	0	15,372	0	0	15,372
31 Capital Improvement Fund	0	0	25,240,768	0	0	25,240,768	0	7,273,055	32,513,823
38 Equipment Replacement	0	0	2,643,473	0	0	2,643,473	0	116,415	2,759,888
51 Water Fund	799,127	1,298,325	3,515,030	797,000	0	6,409,482	1,105,298	145,781	7,660,561
54 Recreation Fund	0	0	0	0	0	0	269,647	0	269,647
55 Golf Course Fund	574,676	390,112	176,311	8,700	0	1,149,799	242,607	4,470	1,396,876
57 Transportation & Parking Fund	1,711,902	628,010	3,197,642	0	0	5,537,554	1,517,277	2,182,667	9,237,498
62 Fleet Services Fund	446,767	678,797	5,000	0	0	1,130,564	0	164,547	1,295,111
63 Equipment Replacement	0	0	0	0	0	0	0	0	0
64 Self Insurance Fund	0	674,390	0	0	0	674,390	0	2,763,310	3,437,700
71 Debt Service Fund	0	67,000	0	2,308,300	0	2,375,300	4,751,000	174,793	7,301,093
Park City Municipal Corp Total	$ 13,561,224	$ 8,187,017	$ 35,166,971	$ 3,114,000	$ 520,000	$ 60,549,212	$ 12,699,357	$ 14,159,635	$ 87,408,204
Park City Redevelopment Agency									
33 Redevelopment Agency Lower Prk	0	689,000	2,022,933	0	0	2,711,933	675,000	2,429,078	5,816,011
34 Redevelopment Agency Main ST	0	414,300	1,086,397	0	0	1,500,697	680,000	303,526	2,484,223
72 RDA Main Street Debt Service	0	0	0	910,000	0	910,000	0	24,216	934,216
76 RDA Lower Pk Ave Debt Service	0	0	0	642,285	0	642,285	0	1,432,515	2,074,800
Park City Redevelopment Agency Total	$ -	$ 1,103,300	$ 3,109,330	$ 1,552,285	$ -	$ 5,764,915	$ 1,355,000	$ 4,189,335	$ 11,309,250
Municipal Building Authority									
35 Building Authority	0	0	1,459,484	0	0	1,459,484	0	224,462	1,683,946
73 MBA Debt Service Fund	0	0	0	1,910,000	0	1,910,000	0	3,440,028	5,350,028
Municipal Building Authority Total	$ -	$ -	$ 1,459,484	$ 1,910,000	$ -	$ 3,369,484	$ -	$ 3,664,490	$ 7,033,974
Housing Authority									
36 Park City Housing Authority	0	0	8,038	0	0	8,038	0	51,355	59,393
Housing Authority Total	$ -	$ -	$ 8,038	$ -	$ -	$ 8,038	$ -	$ 51,355	$ 59,393
TOTAL	$ [illegible]	$ [illegible]	$ [illegible]	$ [illegible]	$ [illegible]	$ [illegible]	$ [illegible]	$ [illegible]	$ [illegible]

Budget Summary

Expenditure Summary by Fund and Major Object (FY 2005)

Expenditures	Operating Budget		Capital	Debt Service	Contingency	Sub-Total	Interfund Transfer	Ending Balance	Total
	Personnel	Mat, Suppls, Services							
Park City Municipal Corp									
11 General Fund	10,239,067	4,395,983	376,375	-	575,000	15,586,425	1,862,538	2,154,203	19,603,166
21 Police Special Revenue Fund	0	0	0	0	0	0	0	0	0
31 Capital Improvement Fund	0	0	11,869,957	0	0	11,869,957	0	6,922,941	18,792,898
38 Equip. Replacement Fund	0	0	300,000	0	0	300,000	0	116,415	416,415
51 Water Fund	814,073	1,498,200	5,259,960	798,000	0	8,370,233	1,208,117	1,352,548	10,930,898
54 Recreation Fund	(1)	0	0	0	0	(1)	0	0	(1)
55 Golf Course Fund	501,776	383,112	286,884	7,000	0	1,178,772	191,165	43,616	1,413,553
57 Transportation & Parking Fund	1,734,936	553,010	3,241,725	0	0	5,529,671	1,651,396	1,711,236	8,892,303
62 Fleet Services Fund	453,732	678,797	5,000	0	0	1,137,529	0	132,018	1,269,547
63 Equip. Replacement Fund	0	0	0	0	0	0	0	0	0
64 Self Insurance Fund	0	674,390	0	0	0	674,390	0	2,610,238	3,284,628
71 Debt Service Fund	0	0	0	1,393,000	0	1,393,000	0	493,702	1,886,702
Park City Municipal Corp Total	$ 13,743,583	$ 8,183,492	$ 21,339,901	$ 2,198,000	$ 575,000	$ 46,039,976	$ 4,913,216	$ 15,536,917	$ 66,490,109
Park City Redevelopment Agency									
33 Redevelopment Agency Lower Prk	0	695000	400000	0	0	1095000	670000	2464078	4,229,078
34 Redevelopment Agency Main ST	0	415000	5600000	0	0	6015000	740000	548526	7,303,526
72 RDA Main Street Debt Service	0	0	0	913000	0	913000	0	254130	1,167,130
76 RDA Lower Pk Ave Debt Service	0	0	0	641885	0	641885	0	1430630	2,072,515
Park City Redevelopment Agency Total	$ -	$ 1,110,000	$ 6,000,000	$ 1,554,885	$ -	$ 8,664,885	$ 1,410,000	$ 4,697,364	$ 14,772,249
Municipal Building Authority									
35 Building Authority	0	0	32,000	0	0	32,000	0	224,462	256,462
73 MBA Debt Service Fund	0	0	0	1,911,000	0	1,911,000	0	3,399,313	5,310,313
Municipal Building Authority Total	$ -	$ -	$ 32,000	$ 1,911,000	$ -	$ 1,943,000	$ -	$ 3,623,775	$ 5,566,775
Housing Authority									
36 Park City Housing Authority	0	0	0	0	0	0	0	51,355	51,355
Housing Authority Total	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ 51,355	$ 51,355
TOTAL	**$ 13,743,583**	**$ 9,293,492**	**$ 27,371,901**	**$ 5,663,885**	**$ 575,000**	**$ 56,647,861**	**$ 6,323,216**	**$ 23,909,411**	**$ 86,880,488**

EXHIBIT B
Resolution No.

A RESOLUTION ADOPTING THE FY 2003-04 ADJUSTED BUDGET AND THE FY 2004-05 BUDGET FOR PARK CITY REDEVELOPMENT AGENCIES

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

WHEREAS, a public hearing was held on May 13, May 20, June 3, and June 17, 2004 at the City Council's regularly scheduled meetings, complying with State law;

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

SECTION 1. FY 2004 ADJUSTED BUDGET ADOPTED. The following budget is hereby adopted as the FY2003-2004 Redevelopment Agency Adjusted Budget for Park City, Utah.

	Main Street	Park Avenue
Main Street Debt Service	$934,216	
Main Street CIP	$2,484,223	
Lower Park Ave Debt Service		$2,074,800
Lower Park Avenue CIP		$5,816,011
Subtotal	$3,418,439	$7,890,811
LESS:		
Interfund Transactions	$(650,000)	$(645,000)
Special Revenues		
Beginning balance	$(1,468,439)	$(5,135,811)
NET RDA TAX INCREMENT	$1,300,000	$2,110,000

SECTION 2. FY 2005 BUDGET ADOPTED. The following budget is hereby adopted as the FY2004-2005 Redevelopment Agency Budget for Park City, Utah.

	Main Street	Park Avenue
Main Street Debt Service	$1,167,130	
Main Street CIP	$7,303,526	
Lower Park Ave Debt Service		$2,072,515
Lower Park Avenue CIP		$4,229,078
Subtotal	$8,470,656	$6,301,593
LESS:		
Interfund Transactions	$(710,000)	$(640,000)
Special Revenues	$(5,700,000)	

Beginning balance	$(760,656)	$(3,861,593)
NET RDA TAX INCREMENT	$1,300,000	$1,800,000

SECTION 3. EFFECTIVE DATE. This Resolution shall take effect on July 1, 2004.

PASSED AND ADOPTED the 17th day of June, 2004.

EXHIBIT C
Resolution No.

A RESOLUTION ADOPTING THE FY 2003-04 ADJUSTED BUDGET AND THE FY 2004-05 BUDGET FOR THE PARK CITY MUNICIPAL BUILDING AUTHORITY

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

WHEREAS, public hearings were held on May 13, May 20, June 3, and June 17, 2004 on the municipal budget and its related agencies at the City Council's regularly scheduled meetings;

NOW, THEREFORE, BE IT RESOLVED by the Municipal Building Authority of Park City, Utah that:

SECTION 1. FY 2004 ADJUSTED BUDGET ADOPTED. The following budget is hereby adopted as the FY 2003-2004 Municipal Building Authority Adjusted Budget for Park City, Utah:

Debt Service Fund	$5,350,028
Capital Improvement Program	$1,683,946
Subtotal	$7,033,974
Less Ending Balance	$(3,664,490)
TOTAL	$3,369,484

SECTION 2. FY 2005 BUDGET ADOPTED. The following budget is hereby adopted as the FY 2004-2005 Municipal Building Authority Budget for Park City, Utah:

Debt Service Fund	$5,310,313
Capital Improvement Program	$256,462
Subtotal	$5,566,775
Less Ending Balance	(3,623,774)
TOTAL	$1,943,000

SECTION 2. EFFECTIVE DATE. This resolution shall take effect on July 1, 2004.

PASSED AND ADOPTED this 17th day of June, 2004.

Options - Operating Budgets

Department		Budget Option			2003 Budget (original)	2003 Budget (adj)	2004 (plan)
Summary							
Executive		Approved			5,915,999	5,938,236	6,025,322
		Not Approved					72,298
Administrative Services		Approved					
Community Development		Approved					
Library & Recreation		Approved			2,867,684	2,766,358	2,659,917
		Not Approved					17,985
Police		Approved			2,923,478	3,032,986	3,035,071
		Not Approved					94,307
Public Works		Approved			12,355,087	12,247,136	12,653,705
		Not Approved				30,304	42,168
Total of Approved vs. Not Approved Operating Requests					**$24,062,248**	**$24,015,020**	**$24,600,773**
Department Detail							
Executive							
40011	City Council	Approved	BADJ	Base Gl Adjustments			
			SADJ	Same Level Adjustmen		9,000	3,000
			COMP	Council Compensation			14,222
		Approved Total				9,000	17,222
40021	City Manager	Approved	BADJ	Base Gl Adjustments			
		Approved Total					
		Not Approved	AAST	Admin. Assistants			5,848
		Not Approved Total					5,848
40028	Special Events & Facilities	Approved	BADJ	Base Adjustments			
			BASE	Base			
			SADJ	Same Level Adjust			5,800
			ANSI	Contract Analyst I			45,773

Options - Operating Budgets

Department			Budget Option		2003 Budget (original)	2003 Budget (adj)	2004 (plan)
			MITP	Movies In The Park			3,000
			NAME	Rename Gis Position		66,018	
		Approved Total				66,018	54,573
		Not Approved	ANII	Analyst Ii			53,571
		Not Approved Total					53,571
40031	Legal	Approved	SADJ	Same Level Adjust		12,178	12,455
		Approved Total				12,178	12,455
40033	Capital Projects & Econ. Dev.	Approved	BADJ	Base Level Adjust			
			BASE	Base	180,978	180,978	183,693
			SADJ	Same Level Adjust		2,744	2,744
			PLAN	Econ Dev Planner			35,669
		Approved Total			180,978	183,722	222,106
40034	Budget, Debt & Grants	Approved	BADJ	Base Level Adjust			
		Approved Total			295,720	295,720	299,212
40035	Public Affairs	Approved	BADJ	Base Level Adjust			
			BASE	Base	190,333	190,333	191,793
			RCLS	Reclasses			9,147
			AAST	Move Pos T Payplan			-9,220
		Approved Total			190,333	190,333	191,720
40062	Human Resources	Approved	BASE	Base	357,436	357,436	360,326
		Approved Total			357,436	357,436	360,326
40072	Finance	Approved	BADJ	Base Level Adjust			
			BASE	Base	540,819	540,819	547,211
			TRAN	Fy 04 05 Interfund T		-2,770	-3,100
			AC3	Account Clerk Iii			17,171
		Approved Total			540,819	538,049	561,282
40082	Technical & Customer Services	Approved	BASE	Base	943,949	943,949	953,379
			TRAN	Fy 04 05 Interfund T		190	
			NAME	Rename Gis Position		-66,018	

Options - Operating Budgets

Department		Budget Option			2003 Budget (original)	2003 Budget (adj)	2004 (plan)
			ITRG	It Reorganization			-72,413
		Approved Total			943,949	878,121	880,966
		Not Approved	OCLL	After Hours On Call			7,440
		Not Approved Total					7,440
40313	Engineering	Approved	TRAN	Fy 04 05 Interfund T		-630	-630
		Approved Total				-630	-630
		Not Approved	AAST	Admin Sec To Asst.			5,439
		Not Approved Total					5,439
40342	Planning Dept.	Approved	BADJ	Base Level Adjust			
			PLAN	Realign Planners			-22,286
		Approved Total					-22,286
40352	Building Dept.	Approved	BASE	Base Level	1,146,990	1,146,990	1,162,187
			TRAN	Fy 04 05 Interfund T		1,525	1,300
		Approved Total			1,146,990	1,148,515	1,163,487
Executive Total					**$3,656,225**	**$3,678,462**	**$3,812,731**
Library & Recreation							
40092	City Recreation	Approved	BASE	Base Level	1,291,985	1,291,985	1,293,740
			TRAN	Fy 04 05 Interfund T		-1,700	-2,792
			GDIR	Golf Manager			22,847
			NODR	Remove Dir. Position		-86,393	-87,850
			UTIL	Trnsf Gas Electric			-115,000
		Approved Total			1,291,985	1,203,892	1,111,945
		Not Approved	ANS2	Admin Sec To Anlst2			-534
			RDIR	Rec Services Manager			5,815
			POOL	Lap Pool			6,414
		Not Approved Total					11,695
40093	Tennis	Approved	BADJ	Base Adjustments			
		Approved Total					

Options - Operating Budgets

Department		Budget Option			2003 Budget (original)	2003 Budget (adj)	2004 (plan)
40551	Library	Approved	BADJ	Base Adjustments			
			BASE	Base	558,941	558,941	564,831
			SADJ	Same Level Adjust		3,980	5,230
			LBT	Lib. Board Training			1,000
			PRKR	Park Record Digitize			2,000
		Approved Total			558,941	562,921	573,061
		Not Approved	LDIR	Library Director			6,290
		Not Approved Total					6,290
40571	Golf Pro Shop	Approved	BASE	Base	639,754	639,754	653,007
			SADJ	Same Level Adjust		37,700	36,000
			ANS2	Admin Sec To Anlst2			-13,905
			GDIR	Golf Course Manager			-22,849
			REVS	Rev & Exp Reduction		-54,913	-54,913
		Approved Total			639,754	622,541	597,340
Library & Recreation Total					**$2,490,680**	**$2,389,354**	**$2,300,331**
Police							
40221	Police	Approved	TRAN	Fy 04 05 Interfund T		33,420	28,852
			VAC	Vac Factor Request		55,000	
			SGT2	Senior Po To Sgt.			6,772
			ATV	Atv Response Equip.			17,850
		Approved Total				88,420	53,474
		Not Approved	SGT1	Police Sergeant			74,307
		Not Approved Total					74,307
40223	State Liquor Enforcement	Approved	DISP	Addtl. Dispatcher			-1,000
		Approved Total					-1,000
40231	Communication Center	Approved	DISP	Addtl. Dispatcher			21,818
			ONCL	On Call Program		5,716	5,716
		Approved Total				5,716	27,534

Options - Operating Budgets

Department		Budget Option			2003 Budget (original)	2003 Budget (adj)	2004 (plan)
		Not Approved	EQUP	Equipment Replacment			20,000
		Not Approved Total					20,000
41001	Police Special Revenue Fund	Approved	SPRF	Budget Pol. Sp Rev F		15,372	
		Approved Total				15,372	
Police Total						**$109,508**	**$174,315**
Public Works							
40091	Bldg Maint Adm	Approved	BADJ	Base Gl Adjustments			
			SADJ	Same Level Adjust		1,500	7,000
			TRAN	Fy 04 05 Interfund T		-4,785	-5,130
			SUPL	Sports Fields Hs		2,500	5,000
			SKY	Blue Sky Program		4,200	8,400
			UTIL	Trnsfer Gas Electric			115,000
		Approved Total				3,415	130,270
40412	Parks & Cemetery	Approved	BADJ	Base Gl Adjustments			
			TRAN	Fy 04 05 Interfund T		550	
			TCSB	Triple Crown Sftball		15,950	18,000
			OLEG	Olympic Legacy Prgm.			7,000
		Approved Total				16,500	25,000
		Not Approved	WEED	Noxius Weed Control		9,800	9,800
		Not Approved Total				9,800	9,800
40421	Street Maintenance	Approved	TRAN	Fy 04 05 Interfund T		-22,300	-26,000
		Approved Total				-22,300	-26,000
40451	Water Operations	Approved	BADJ	Base Gl Adjustments			
			TRAN	Fy 04 05 Interfund T		-9,000	-10,000
			RATE	Reduce Budget		-346,025	-444,441
			WATR	2 Wwiv From O5 To 04		10,816	
			WW3	Water Worker 2 To 3			3,399
			ASMT	Water Assessment Adj		112,000	200,000
		Approved Total				-232,209	-251,042

Attachment D

Options - Operating Budgets

Department		Budget Option			2003 Budget (original)	2003 Budget (adj)	2004 (plan)
		Not Approved	WWIV	Water Ops			11,864
		Not Approved Total					11,864
40471	Fleet Services Dept	Approved	ISFA	Isf Adjust Fleet Fun		54,100	54,100
		Approved Total				54,100	54,100
		Not Approved	STRN	Spec. Events Fuel		20,504	20,504
		Not Approved Total				20,504	20,504
40481	Transportation Oper	Approved	SADJ	Same Level Adjust		23,859	24,197
			TRAN	Fy 04 05 Interfund T		30,500	30,500
			RTRN	Regional Transit		9,454	9,454
		Approved Total				149,027	150,367
40486	Bond Debt 1996	Approved	TRAN	Fy 04 05 Interfund T		-30,000	-20,000
		Approved Total				-30,000	-20,000
40564	Golf Maintenance	Approved	BADJ	Base Gl Adjustments			
			TRAN	Fy 04 05 Interfund T		5,000	2,000
			REVS	Reduce Golf Exp		-10,000	-72,267
			INST	Insect Control		10,000	10,000
			EQPT	Move Equip To Cip		-51,484	-58,884
		Approved Total				-46,484	-119,151
Public Works Total						**($77,647)**	**($14,288)**

EXHIBIT E
ORDINANCE NO.

AN ORDINANCE ESTABLISHING A TAX ON THE GROSS RECEIPTS OF TELECOMMUNICATIONS SERVICE PROVIDERS; SETTING THE RATE FOR SUCH TAX; AND ESTABLISHING THE EFFECTIVE DATE OF THE TAX

WHEREAS, Park City Municipal Corporation (Park City), pursuant to Utah Code Sections 10-1-401 et seq. may levy a tax on the gross receipts of telecommunication service providers; and

WHEREAS, Park City has determined that the need for such a tax as a source of general fund revenue; and

WHEREAS, Park City has previously raised general fund revenue from taxes or fees from certain telecommunication providers under the authority of Utah Code Sections 10-1-203 or 11-26-1 et seq. and now wishes to repeal those taxes.

NOW THEREFORE BE IT ORDAINED by the legislative body of Park City as follows:

SECTION 1. AMENDMENT. Title 4, Chapters 10 and 14 of the Municipal Code of Park City are hereby amended as follows:

CHAPTER 10 - FRANCHISED UTILITIES AND CABLE TELEVISION OPERATORS

4-10- 1. BUSINESS LICENSE REQUIRED.

All franchised utilities and cable television operators must obtain from the City a license to do business within the City. It shall be unlawful for a franchised utility or cable television operator to conduct business in Park City without a license. The City shall not charge a business license fee, but the fees for the franchise license amount below and any franchise fee imposed by virtue of a franchise agreement must be timely paid to receive a business license.

4-10- 2. FRANCHISE LICENSE.

There is hereby imposed on all franchised utilities, except "energy suppliers" taxed pursuant to Chapter 13 of this Title, telecommunications providers taxed pursuant to Chapter 14A of this Title, and cable television operators who conduct business within the City a franchise license. The franchise license shall be three and one-half percent (3.5%) of the gross revenue of the franchised utility or cable television operator derived from the sale of its service or product within Park City's corporate limits. For purposes of this Chapter, gross revenue shall include all revenue generated from the sale of the franchisee's product or service. The franchise fee imposed by other ordinances as a consideration for granting the franchises shall be excluded from the gross revenue.

4-10- 3. EXCLUSIONS.

This franchise license fee shall not apply to "energy suppliers" taxed pursuant to Section 4-13, telecommunications providers taxed pursuant to Chapter 14A of this Title, or revenue derived from the sale of household appliances by a franchisee, service of appliances, or to the sale or rental of telephone switching equipment not included in "exchange access service".

4-10- 4. **PAYMENT OF FEE.**

The fee is payable in monthly installments which shall be due on or before the 15th day of the month following the billing cycle of the utility or cable television operator. The fee shall be paid on the basis of the preceding month's actual collections. A service charge of one and a half percent (12 %) per month of the total amount due may be imposed on late payments.

4-10- 6. PENALTY.

The operation of a franchised utility or cable television business within Park City without paying the required fees hall be a Class "B" misdemeanor punishable by a fine of not more than one thousand dollars ($1,000.00) for each day of each violation and imprisonment of the corporate officials responsible for the violation for not more than six months in the County jail for each day of each violation. These criminal penalties are in addition to, and not in lieu of a civil action to recover the license fee due, or a civil action to terminate the franchise. Each connection to the utility or cable television system through which service is provided by the franchisee is hereby deemed a separate transaction or sale, and each such sale, while unlicensed, shall constitute a separate violation.**[CHAPTERS 11-13 OMITTED]**

CHAPTER 14 - TELECOMMUNICATIONS AND RIGHTS-OF-WAY

4- 14-1. SCOPE OF ORDINANCE.

This ordinance shall provide the basic local scheme for providers of telecommunications services and systems that require the use of the rights-of-way, including providers of both the system and service, those providers of the system only, and those providers who do not build the system but who only provide services. This ordinance shall apply to all future providers and to all providers in the City prior to the effective date of this ordinance, whether operating with or without a franchise as set forth in Section 4-14-12(B). This ordinance shall not apply to cable television operators otherwise regulated by a franchise granted by the City, nor personal wireless service facilities. Providers excused by other law that prohibits the City from requiring a franchise shall not be required to obtain a franchise, but all of the requirements imposed by this ordinance through the exercise of the City's police power and not preempted by other law shall be applicable.

4-14-2. DEFINED TERMS.

(A) **APPLICATION**. The process by which a provider submits a request and indicates a desire to be granted a franchise to utilize the rights-of-way of all, or a part, of the City. An application includes all written documentation, verbal statements and representations, in whatever form or forum, made by a provider to the City concerning: the construction of a telecommunications system over, under, on or through the rights-of-way; the telecommunications services proposed to be provided in the City by a provider; and any other matter pertaining to a proposed system or service.

(B) **CITY**. Park City, Utah.

(C) **COMPLETION DATE**. The date that a provider begins providing services to customers in the City.

(D) **CONSTRUCTION COSTS**. All costs of constructing a system, including make ready costs, other than engineering fees, attorneys or accountants fees, or other consulting fees.

(E) **CONTROL OR CONTROLLING INTEREST**. Actual working control in whatever manner exercised, including, without limitation, working control through ownership, management, debt instruments or negative control, as the case may be, of the system or of a provider. A rebuttable presumption of the existence of control or a controlling interest shall arise from the beneficial ownership, directly or indirectly, by any person, or group of persons acting in concert, of more than twenty-five percent (25%) of any provider, which person or group of persons is hereinafter referred to as "controlling person". "Control" or "controlling interest" as used herein may be held simultaneously by more than one person or group of persons.

(F) **FCC**. The Federal Communications Commission, or any successor thereto.

(G) **FRANCHISE**. The rights and obligation extended by the City to a provider to own, lease, construct, maintain, use or operate a system in the rights-of-way within the boundaries of the City. Any such authorization, in whatever form granted, shall not mean or include:

(1) any other permit or authorization required for the privilege of transacting and carrying on a business within the City required by the ordinances and laws of the City;

(2) any other permit, agreement or authorization required in connection with operations on rights-of-way or public property including, without limitation,

permits and agreements for placing devices on or in poles, conduits or other structures, whether owned by the City or a private entity, or for excavating or performing other work in or along the rights-of-way.

(H) **FRANCHISE AGREEMENT**. A contract entered into in accordance with the provisions of this ordinance between the City and a franchisee that sets forth, subject to this ordinance, the terms and conditions under which a franchise will be exercised.

(J) **INFRASTRUCTURE PROVIDER**. A person providing to another, for the purpose of providing telecommunication services to customers, all or part of the necessary system, which uses the rights-of-way.

(K) **OPEN VIDEO SERVICE**. Any video programming services provided to any Person through the use of rights-of-way, by a provider that is certified by the FCC to operate an open video system pursuant to sections 651, *et seq.*, of the Telecommunications Act, to be codified at 47 U.S.C. Title VI, Part V, regardless of the system used.

(L) **OPEN VIDEO SYSTEM**. The system of cables, wires, lines, towers, wave guides, optic fiber, microwave, laser beams, and any associated converters, equipment, or facilities designed and constructed for the purpose of producing, receiving, amplifying or distributing open video services to or from subscribers or locations within the City.

(M) **OPERATOR**. Any person who provides Service over a telecommunications system and directly or through one or more persons owns a controlling interest in such system, or who otherwise controls or is responsible for the operation of such a system.

(N) **ORDINANCE** or **TELECOMMUNICATIONS ORDINANCE**. This telecommunications ordinance concerning the granting of franchises in and by the City for the construction, ownership, operation, use or maintenance of a telecommunications system.

(O) **PERSON**. Includes any individual, corporation, partnership, association, joint stock company, trust, or any other legal entity, but not the City.

(P) **PERSONAL WIRELESS SERVICES FACILITIES** . Has the same meaning as provided in Section 704 of the Act (47 U.S.C. 332(c)(7)(c)), which includes what is commonly known as cellular and PCS Services that do not install any system or portion of a system in the rights-of-way.

(Q) **PROVIDER**. An operator, infrastructure provider, resaler, or system lessee.

(R) **PSC**. The Public Service Commission, or any successor thereto.

(S) **RESALER**. Any person that provides local exchange service over a system for which a separate charge is made, where that person does not own or lease the underlying system used for the transmission.

(T) **RIGHTS-OF-WAY**. The surface of and the space above and below any public street, sidewalk, alley, or other public way of any type whatsoever, now or hereafter existing, and owned by or otherwise dedicated to the City.

(U) **SIGNAL**. Any transmission or reception of electronic, electrical, light or laser or radio frequency energy or optical information in either analog or digital format.

(V) **SYSTEM OR TELECOMMUNICATIONS SYSTEM**. All conduits, manholes, poles, antennas, transceivers, amplifiers and all other electronic devices, equipment, wire and appurtenances owned, leased, or used by a provider, located in the rights-of-way and utilized in the provision of services, including fully digital or analog, voice, data and video imaging and other enhanced telecommunications services. telecommunications system or systems also includes an open video system.

(W) **SYSTEM LESSEE**. Any person that leases a system or a specific portion of a system to provide services.

(X) **TELECOMMUNICATIONS**. The transmission, between or among points specified by the user, of information of the user's choosing, *e.g.*, data, video, and voice, without change in the form or content of the information sent and received.

(Y) **TELECOMMUNICATIONS SERVICES OR SERVICES**. Any telecommunications services provided by a provider within the City that the provider is authorized to provide under federal, state and local law, and any equipment and/or facilities required for and integrated with the services provided within the City, except that these terms do not include "cable service" as defined in the Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992, 47 U.S.C. Section 521, *et seq.*, and the Telecommunications Act of 1996. Telecommunications system or systems also includes an open video system.

(Z) **WIRE**. Fiber optic telecommunications cable, wire, coaxial cable, or other transmission medium that may be used in lieu thereof for similar purposes.

4-14-3. FRANCHISE REQUIRED.

(A) **NON-EXCLUSIVE FRANCHISE**. The City is empowered and authorized to issue non-exclusive franchises governing the installation, construction, and maintenance of systems in the City's rights-of-way, in accordance with the provisions of this ordinance. The franchise is granted through a franchise agreement entered into between the City and provider.

(B) **EVERY PROVIDER MUST OBTAIN**. Except to the extent preempted by federal or state law, as ultimately interpreted by a court of competent jurisdiction, including any appeals, every provider must obtain a franchise prior to constructing a telecommunications system or providing telecommunications services using the rights-of-way, and every provider must obtain a franchise before constructing an open video system or providing open video services via an open video system. Any open video system or service shall be subject to the customer service and consumer protection provisions applicable to the cable TV companies to the extent the City is not preempted or permitted as ultimately interpreted by a court of competent jurisdiction, including any appeals. The fact that particular telecommunications systems may be used for multiple purposes does not obviate the need to obtain a franchise for other purposes. By way of illustration and not limitation, a cable operator of a cable system must obtain a cable franchise, and, should it intend to provide telecommunications services over the same system, must also obtain a telecommunications franchise.

(C) **NATURE OF GRANT**. A Franchise shall not convey title, equitable or legal, in the rights-of-way. A franchise is only the right to occupy rights-of-way on a non-exclusive basis for the limited purposes and for the limited period stated in the franchise; the right may not be subdivided, assigned, or subleased. A franchise does not excuse a provider from obtaining appropriate access or pole attachment agreements before collocating its system on the property of others, including the City=s property. The franchise agreement may impose additional limitations upon the provider, such as location of utilities. This section shall not be construed to prohibit a provider from leasing conduit to another provider, so long as the lessee has obtained a franchise from the City.

(D) **CURRENT PROVIDERS**. Except to the extent exempted by federal or state law, any provider acting without a franchise on the effective date of this ordinance shall request issuance of a franchise from the City within ninety (90) days of the effective date of this ordinance. If such request is made, the provider may continue providing service during the course of negotiations. If a timely request is not made, or if negotiations cease and a franchise is not granted, the provider shall comply with the provisions of section 4-14- 9(D).

(E) **NATURE OF FRANCHISE**. The franchise granted by the City under the provisions of this ordinance shall be a nonexclusive franchise providing the right and consent to install, repair, maintain, remove and replace its system on, over and under the rights-of-way in order to provide services, unless otherwise specified by the franchise agreement.

(F) **REGULATORY APPROVAL NEEDED**. Before offering or providing any services pursuant to the Franchise, a provider shall obtain any and all regulatory approvals, permits, authorizations or licenses for the offering or provision of such services from the appropriate federal, state and local authorities, if required, and shall submit to the City upon the written request of the City evidence of all such approvals, permits, authorizations or licenses.

(G) **TERM**. No franchise issued pursuant to this ordinance shall have a term of less than five (5) years or greater than fifteen (15) years. Each franchise shall be granted in a nondiscriminatory manner.

4-14-4. COMPENSATION AND OTHER PAYMENTS.

(A) **TELECOMMUNICATIONS TAX**. As provided for in Chapter 14A of this Title.

(B) **APPLICATION FEE**. In order to offset the cost to the City to review an application for a franchise and in addition to all other fees, permits or charges, a provider shall pay to the City, at the time of application, $500 as a non-refundable application fee.

(C) **EXCAVATION PERMITS**. The provider shall also pay fees required for an excavation permit as provided in the City=s Fee Resolution or applicable code.

(D) **FUTURE COSTS**. A provider shall pay to the City or to third parties, at the direction of the City, an amount equal to the reasonable costs and reasonable expenses that the City incurs for the services of third parties, including but not limited to attorneys and other consultants, in connection with any renewal or provider-initiated renegotiation, or amendment of this ordinance or a franchise, provided, however, that the parties shall agree upon a reasonable financial cap at the outset of negotiations. In the event the parties are unable to agree, either party may submit the issue to binding arbitration in accordance with the rules and procedures of the American Arbitration Association.

(E) **CONTINUING OBLIGATION AND HOLDOVER**. In the event a provider continues to operate all or any part of the system after the term of the franchise, such operator shall continue to comply with all applicable provisions of this ordinance and the franchise, including, without limitation, all compensation and other payment provisions throughout the period of such continued operation, provided that any such continued operation shall in no way be construed as a renewal or other extension of the franchise, nor as a limitation on the remedies, if any, available to the City as a result of such continued operation after the term, including, but not limited to, damages and restitution.

(F) **COSTS OF PUBLICATION**. A provider shall assume any publication costs associated with its franchise that may be required by law.

4-14- 5. FRANCHISE APPLICATIONS.

(A) **<u>FRANCHISE APPLICATION</u>**. To obtain a franchise to construct, own, maintain or provide services through any system within the City, to obtain a renewal of a franchise granted pursuant to this ordinance, or to obtain the City approval of a transfer of a franchise, as provided in Section 4-14-7(A)(2), granted pursuant to this ordinance, an application must be filed with City. The application form may be changed by the City Manager so long as such changes request information that is consistent with this ordinance.

(B) **<u>APPLICATION CRITERIA</u>**. In making a determination as to an application filed pursuant to this ordinance, the City may, but shall not be limited to, request the following from the provider:

(1) A copy of the order from the PSC granting a Certificate of Convenience and Necessity.

(2) Certification of the provider's financial ability to compensate the City for provider's intrusion, maintenance and use of the rights-of-way during the franchise term proposed by the provider;

(3) Provider=s agreement to comply with the requirements of Section 4-14-6 of this ordinance.

(C) **<u>FRANCHISE DETERMINATION</u>**. The City, in its discretion, shall determine the award of any franchise on the basis of these and other considerations relevant to the use of the rights-of-way, without competitive bidding.

4-14-6. CONSTRUCTION AND TECHNICAL REQUIREMENTS.

(A) **<u>GENERAL REQUIREMENT</u>**. No provider shall receive a franchise unless it agrees to comply with each of the terms set forth in this section governing construction and technical requirements for its system, in addition to any other reasonable requirements or procedures specified by the City or the franchise, including requirements regarding locating and sharing in the cost of locating portions of the system with other systems or with City utilities. A provider shall obtain an excavation permit before commencing any work in the rights-of-way.

(B) **<u>QUALITY</u>**. All work involved in the construction, maintenance, repair, upgrade and removal of the system shall be performed in a safe, thorough and reliable manner using materials of good and durable quality, and in accordance with the City=s design standards, construction specifications, and latest edition standard drawings. If, at any time, it is determined by the FCC or any other agency granted authority by federal law or the FCC to make such determination, that any part of the system, including, without limitation, any means used to distribute signals over or within the system, is harmful to the public health, safety or welfare, or quality of service or reliability, then a provider shall, at its own cost and expense, promptly correct all such conditions.

(C) **LICENSES AND PERMITS**. A provider shall have the sole responsibility for diligently obtaining, at its own cost and expense, all permits, licenses or other forms of approval or authorization necessary to construct, maintain, upgrade or repair the system, including but not limited to any necessary approvals from persons and/or the City to use private property, easements, poles and conduits. A provider shall obtain any required permit, license, approval or authorization, including but not limited to excavation permits, pole attachment agreements, etc., prior to the commencement of the activity for which the permit, license, approval or authorization is required.

(D) **RELOCATION OF THE SYSTEM**.

(1) **NEW GRADES OR LINES**. If the grades or lines of any rights-of-way are changed at any time in a manner affecting the system, then a provider shall comply with the requirements of the excavation ordinance or other applicable City regulation.

(2) **THE CITY AUTHORITY TO MOVE SYSTEM IN CASE OF AN EMERGENCY**. The City may, at any time, in case of fire, disaster or other emergency, as determined by the City in its reasonable discretion, cut or move any parts of the system and appurtenances on, over or under the rights-of-way of the City, in which event the City shall not be liable therefore to a provider.

The City shall notify a provider in writing prior to, if practicable, but in any event as soon as possible and in no case later than the next business day following any action taken under this section. Notice shall be given as provided in Section 11.4.

(3) **A PROVIDER REQUIRED TO TEMPORARILY MOVE SYSTEM FOR THIRD PARTY**. A provider shall, upon prior reasonable written notice by the City or any person holding a permit to move any structure, and within the time that is reasonable under the circumstances, temporarily move any part of its system to permit the moving of said structure. A provider may impose a reasonable charge on any person other than the City for any such movement of its systems.

(4) **RIGHTS-OF-WAY CHANGE - OBLIGATION TO MOVE SYSTEM**. When the City is changing a rights-of-way and makes a written request, a provider is required to move or remove its system from the rights-of-way, without cost to the City, to the extent provided in the excavation ordinance. This obligation does not apply to systems originally located on private property pursuant to a private easement, which property was later incorporated into the rights-of-way, if that private easement grants a superior vested right. This obligation exists whether or not the provider has obtained an excavation permit.

(5) **PROTECT STRUCTURES**. In connection with the construction, maintenance, repair, upgrade or removal of the system, a provider shall, at its own cost and expense, protect any and all existing structures belonging to the

City and any historically significant structure or building, as designated by the Historic District Commission. A provider shall obtain the prior written consent of the City to alter any water main, power facility, sewerage or drainage system, or any other municipal structure on, over or under the rights-of-way of the City required because of the presence of the system. Any such alteration shall be made by the City or its designee on a reimbursable basis. A provider agrees that it shall be liable for the costs incurred by the City to replace or repair and restore to its prior condition in a manner as may be reasonably specified by the City, any municipal structure or any other rights-of-way of the City involved in the construction, maintenance, repair, upgrade or removal of the system that may become disturbed or damaged as a result of any work thereon by or on behalf of a provider pursuant to the franchise.

(6) **NO OBSTRUCTION**. In connection with the construction, maintenance, upgrade, repair or removal of the system, a provider shall not unreasonably obstruct the rights-of-way of fixed guide way systems, railways, passenger travel, or other traffic to, from or within the City without the prior consent of the appropriate authorities.

(7) **SAFETY PRECAUTIONS**. A provider shall, at its own cost and expense, undertake all necessary and appropriate efforts to prevent accidents at its work sites, including the placing and maintenance of proper guards, fences, barricades, security personnel and suitable and sufficient lighting, and such other requirements prescribed by OSHA and Utah OSHA. A provider shall comply with all applicable federal, state and local requirements including but not limited to the National Electric Safety Code.

(8) **REPAIR**. After written reasonable notice to the provider, unless, in the sole determination of the City, an imminent danger exists, any rights-of-way within the City which are disturbed or damaged during the construction, maintenance or reconstruction by a provider of its system may be repaired by the City at the provider's expense, to a condition as good as that prevailing before such work was commenced. Upon doing so, the City shall submit to such a provider an itemized statement of the cost for repairing and restoring the rights-of-ways intruded upon.

The provider shall, within thirty (30) days after receipt of the statement, pay to the City the entire amount thereof.

(9) **SYSTEM MAINTENANCE**. A provider shall:

(a) Install and maintain all parts of its system in a non-dangerous condition throughout the entire period of its franchise.

(b) Install and maintain its system in accordance with standard prudent engineering practices and shall conform, when applicable, with the

National Electrical Safety Code and all applicable other federal, state and local laws or regulations.

(c) At all reasonable times, permit examination by any duly authorized representative of the City of the system and its effect on the rights-of-way.

(10) **TRIMMING OF TREES**. A provider shall have the authority to trim trees, in accordance with all applicable utility restrictions, ordinance and easement restrictions, upon and hanging over rights-of-way so as to prevent the branches of such trees from coming in contact with its system. See Title 14.

4-14- 7. FRANCHISE AND LICENSE NON-TRANSFERRABLE.

(A) <u>NOTIFICATION OF SALE</u>.

(1) **NOTIFICATION AND ELECTION**. When a provider is the subject of a sale, transfer, lease, assignment, sublease or disposed of, in whole or in part, either by forced or involuntary sale, or by ordinary sale, consolidation or otherwise, such that it or its successor entity is obligated to inform or seek the approval of the PSC, the provider or its successor entity shall promptly notify the City of the nature of the transaction. The notification shall include either:

(a) the successor entity=s certification that the successor entity unequivocally agrees to all of the terms of the original provider=s franchise agreement, or

(b) the successor entity=s application in compliance with Section 4-14-5 of this ordinance.

(2) **TRANSFER OF FRANCHISE**. Upon receipt of a notification and certification in accordance with Section 4-14-7(A)(1)(a), the City designee, as provided in Section 4-14-9(A)(1), shall send notice affirming the transfer of the franchise to the successor entity. If the City has good cause to believe that the successor entity may not comply with this ordinance or the franchise agreement, it may require an application for the transfer. The application shall comply with Section 4-14-5.

(3) **IF PSC APPROVAL NO LONGER REQUIRED**. If the PSC no longer exists, or if its regulations or state law no longer require approval of transactions described in Section 4-14-7(A), and the City has good cause to believe that the successor entity may not comply with this ordinance or the franchise agreement, it may require an application. The application shall comply with Section 4-14-5.

(B) <u>EVENTS OF SALE</u>. The following events shall be deemed to be a sale, assignment or other transfer of the franchise requiring compliance with Section 7.1:

(1) the sale, assignment or other transfer of all or a majority of a provider's assets to another person;

(2) the sale, assignment or other transfer of capital stock or partnership, membership or other equity interests in a provider by one (1) or more of its existing shareholders, partners, members or other equity owners so as to create a new controlling interest in a provider;

(3) the issuance of additional capital stock or partnership, membership or other equity interest by a Provider so as to create a new controlling interest in such a provider; or

(4) the entry by a provider into an agreement with respect to the management or operation of such provider or its system.

4-14-8. OVERSIGHT AND REGULATION.

(A) **INSURANCE, INDEMNITY, AND SECURITY**. Prior to the execution of a franchise, a provider will deposit with the City an irrevocable, unconditional letter of credit as required by the terms of the franchise, and shall obtain and provide proof of the insurance coverage required by the Franchise. A provider shall also indemnify the City as set forth in the franchise.

(B) **OVERSIGHT**. The City shall have the right to oversee, regulate and inspect periodically the construction, maintenance, and upgrade of the system, and any part thereof, in accordance with the provisions of the franchise and applicable law. A provider shall establish and maintain managerial and operational records, standards, procedures and controls to enable a provider to prove, in reasonable detail, to the satisfaction of the City at all times throughout the term, that a provider is in compliance with the franchise. A provider shall retain such records for not less than the applicable statute of limitations.

(C) **MAINTAIN RECORDS**. A provider shall at all times maintain:

(1) On file with the City, a full and complete set of plans, records and "as-built" hard copy maps and, to the extent the maps are placed in an electronic format, they shall be made in electronic format compatible with the City's existing GIS system, of all existing and proposed installations and the types of equipment and systems installed or constructed in the rights-of-way, properly identified and described as to the types of equipment and facility by appropriate symbols and marks which shall include annotations of all rights-of-ways where work will be undertaken.

As used herein, Aas-built@ maps includes file construction prints. Maps shall be drawn to scale. "As-built" maps, including the compatible electronic format, as provided above, shall be submitted within thirty (30) days of completion of work or within thirty (30) days after completion of modification and repairs.

As- built maps are not required of the provider who is the incumbent local exchange carrier for the existing system to the extent they do not exist.

(2) Throughout the term of the franchise, a provider shall maintain complete and accurate books of account and records of the business, ownership, and operations of a provider with respect to the system in a manner that allows the City at all times to determine whether a provider is in compliance with the franchise. Should the City reasonably determine that the records are not being maintained in such a manner, a provider shall alter the manner in which the books and/or records are maintained so that a provider comes into compliance with this section. All financial books and records which are maintained in accordance with the regulations of the FCC and any governmental entity that regulates utilities in the State of Utah, and generally accepted accounting principles shall be deemed to be acceptable under this section.

(D) **CONFIDENTIALITY**. If the information required to be submitted is proprietary in nature or must be kept confidential by federal, state or local law, upon proper request by a provider, such information shall be classified as a Protected record within the meaning of the Utah Government Records Access and Management Act (AGRAMA@), making it available only to those who must have access to perform their duties on behalf of the City, provided that a provider notifies the City of, and clearly labels the information which a provider deems to be confidential, proprietary information. Such notification and labeling shall be the sole responsibility of the provider.

(E) **PROVIDER=S EXPENSE**. All reports and records required under this ordinance shall be furnished at the sole expense of a provider, except as otherwise provided in this ordinance or a franchise.

(F) **RIGHT OF INSPECTION**. For the purpose of verifying the correct amount of the franchise fee, the books and records of the provider pertaining thereto shall be open to inspection or audit by duly authorized representatives of the City at all reasonable times, upon giving reasonable notice of the intention to inspect or audit the books and records, provided that the City shall not audit the books and records of the provider more often than annually. The provider agrees to reimburse the City the reasonable costs of an audit if the audit discloses that the provider has paid ninety-five percent (95%) or less of the compensation due the City for the period of such audit. In the event the accounting rendered to the City by the provider herein is found to be incorrect, then payment shall be made on the corrected amount within thirty (30) calendar days of written notice, it being agreed that the City may accept any amount offered by the provider, but the acceptance thereof by the City shall not be deemed a settlement of such item if the amount is in dispute or is later found to be incorrect.

4-14- 9. RIGHTS OF CITY.

(A) <u>**ENFORCEMENT AND REMEDIES**</u>.

(1) **ENFORCEMENT - CITY DESIGNEE.** The City is responsible for enforcing and administering this ordinance, and the City or its designee, as appointed by the City Manager, is authorized to give any notice required by law or under any franchise agreement.

(2) **ENFORCEMENT PROVISION**. Any franchise granted pursuant to this ordinance shall contain appropriate provisions for enforcement, compensation, and protection of the public, consistent with the other provisions of this ordinance, including, but not limited to, defining events of default, procedures for accessing the bond/security fund, and rights of termination or revocation.

(B) <u>**FORCE MAJEURE**</u>. In the event a provider's performance of any of the terms, conditions or obligations required by this ordinance or a franchise is prevented by a cause or event not within a provider's control, such inability to perform shall be deemed excused and no penalties or sanctions shall be imposed as a result thereof. For the purpose of this section, causes or events not within the control of a provider shall include, without limitation, acts of God, strikes, sabotage, riots or civil disturbances, failure or loss of utilities, explosions, acts of public enemies, and natural disasters such as floods, earthquakes, landslides, and fires.

(C) <u>**EXTENDED OPERATION AND CONTINUITY OF SERVICES**</u>.

(1) **CONTINUATION AFTER EXPIRATION.** Upon either expiration or revocation of a franchise granted pursuant to this ordinance, the City shall have discretion to permit a provider to continue to operate its system or provide services for an extended
period of time not to exceed six (6) months from the date of such expiration or revocation. A provider shall continue to operate its system under the terms and conditions of this ordinance and the franchise granted pursuant to this ordinance.

(2) **CONTINUATION BY INCUMBENT LOCAL EXCHANGE CARRIER**. If the provider is the incumbent local exchange carrier, it shall be permitted to continue to operate its system and provide services without regard to revocation or expiration, but shall be obligated to negotiate a renewal in good faith.

(D) <u>**REMOVAL OR ABANDONMENT OF FRANCHISE PROPERTY**</u>.

(1) **ABANDONED SYSTEM.**
In the event that:

(a) the use of any portion of the system is discontinued for a continuous period of twelve (12) months, and thirty (30) days after no response to written notice from the City to the last known address of provider;

(b) any system has been installed in the rights-of-way without complying with the requirements of this ordinance or franchise; or

(c) the provisions of Section 3-5 are applicable and no franchise is granted, a provider, except the provider who is an incumbent local exchange carrier, shall be deemed to have abandoned such system.

(2) **REMOVAL OF ABANDONED SYSTEM**. The City, upon such terms as it may impose, may give a provider written permission to abandon, without removing, any system, or portion thereof, directly constructed, operated or maintained under a franchise. Unless such permission is granted or unless otherwise provided in this ordinance, a provider shall remove within a reasonable time the abandoned system and shall restore, using prudent construction standards, any affected rights-of-way to their former state at the time such system was installed, so as not to impair their usefulness.

The City shall have the right to inspect and approve the condition of the rights-of-way cables, wires, attachments and poles prior to and after removal. The liability, indemnity and insurance provisions of this ordinance and any security fund provided in a franchise shall continue in full force and effect during the period of removal and until full compliance by a provider with the terms and conditions of this section.

(3) **TRANSFER OF ABANDONED SYSTEM TO CITY**. Upon abandonment of any system in place, a provider, if required by the City, shall submit to the City a written instrument, satisfactory in form to the City, transferring to the City the ownership of the abandoned system.

(4) **REMOVAL OF ABOVE-GROUND SYSTEM**. At the expiration of the term for which a franchise is granted, or upon its revocation or earlier expiration, as provided for by this ordinance, in any such case without renewal, extension or transfer, the City shall have the right to require a provider to remove, at its expense, all above-ground portions of a system from the rights-of-way within a reasonable period of time, which shall not be less than one hundred eighty (180) days.

If the provider is the incumbent local exchange carrier, it shall not be required to remove its system, but shall negotiate a renewal in good faith, unless otherwise provided for in the franchise agreement.

(5) **LEAVING UNDERGROUND SYSTEM**. Notwithstanding anything to the contrary set forth in this ordinance, a provider may abandon any underground system in place so long as it does not materially interfere with the use of the

rights-of-way or with the use thereof by any public utility, cable operator or other person, unless otherwise provided for in the franchise agreement.

4-14-10. OBLIGATION TO NOTIFY.

(A) **PUBLICIZING WORK**. Before entering onto any private property, a provider shall make a good faith attempt to contact the property owners in advance, and describe the work to be performed. Nothing herein authorizes the provider to trespass.

4-14-11. GENERAL PROVISIONS.

(A) **CONFLICTS**. In the event of a conflict between any provision of this ordinance and a franchise entered pursuant to it, the provisions of this ordinance in effect at the time the franchise is entered into shall control.

(B) **SEVERABILITY**. If any provision of this ordinance is held by any federal, state or local court of competent jurisdiction, to be invalid as conflicting with any federal or state statute, or is ordered by a court to be modified in any way in order to conform to the requirements of any such law and all appellate remedies with regard to the validity of the ordinance provisions in question are exhausted, such provision shall be considered a separate, distinct, and independent part of this ordinance, and such holding shall not affect the validity and enforceability of all other provisions hereof. In the event that such law is subsequently repealed, rescinded, amended or otherwise changed, so that the provision which had been held invalid or modified is no longer in conflict with such law the provision in question shall return to full force and effect and shall again be binding on the City and the provider, provided that the City shall give the provider thirty (30) days, or a longer period of time as may be reasonably required for a provider to comply with such a rejuvenated provision, written notice of the change before requiring compliance with such provision.

(C) **NEW DEVELOPMENTS**. It shall be the policy of the City to liberally amend this ordinance, upon Application of a provider, when necessary to enable the provider to take advantage of any developments in the field of telecommunications which will afford the provider an opportunity to more effectively, efficiently, or economically serve itself or the public.

(D) **NOTICES**. All notices from a provider to the City required under this ordinance or pursuant to a franchise granted pursuant to this ordinance shall be directed to the officer as designated by the City Manager. A provider shall provide in any application for a franchise the identity, address and phone number to receive notices from the City. A provider shall immediately notify the City of any change in its name, address, or telephone number.

(E) **EXERCISE OF POLICE POWER**. To the full extent permitted by applicable law either now or in the future, the City reserves the right to adopt or issue such rules, regulations, orders, or other directives that it finds necessary or appropriate in the lawful exercise of its police powers.

4-14-12. FEDERAL, STATE AND CITY JURISDICTION.

(A) **CONSTRUCTION**. This ordinance shall be construed in a manner consistent with all applicable federal and state statutes.

(B) **ORDINANCE APPLICABILITY**. This ordinance shall apply to all franchises granted or renewed after the effective date of this ordinance. This ordinance shall further apply, to the extent permitted by applicable federal or state law to all existing franchises granted prior to the effective date of this ordinance and to a provider providing services, without a franchise, prior to the effective date of this ordinance.

(C) **OTHER APPLICABLE ORDINANCES**. A provider's rights are subject to the police powers of the City to adopt and enforce ordinances necessary to the health, safety and welfare of the public. A provider shall comply with all applicable general laws and ordinances enacted by the City pursuant to its police powers. In particular, all providers shall comply with the City zoning and other land use requirements.

(D) **CITY FAILURE TO ENFORCE**. A provider shall not be relieved of its obligation to comply with any of the provisions of this ordinance or any franchise granted pursuant to this ordinance by reason of any failure of the City to enforce prompt compliance.

(E) **CONSTRUED ACCORDING TO UTAH LAW**. This ordinance and any franchise granted pursuant to this ordinance shall be construed and enforced in accordance with the substantive laws of the State of Utah.

SECTION 2. AMENDMENT. Title 4 of the Municipal Code of Park City is hereby amended by adding Chapter 14A, Telecommunications Tax, as follows:

CHAPTER 14A – TELECOMMUNICATIONS TAX

4-14A-1. DEFINITIONS.

As used in this Chapter:

(1) "Commission" means the State Tax Commission.

(2) (a) Subject to Subsections (2) (b) and (c), "customer" means the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract.

(b) For purposes of this ordinance, "customer" means:

(i) the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract; or

(ii) if the end user is not the person described in Subsection (2) (b) (i), the end user of telecommunications service.

(c) "Customer" does not include a reseller:

(i) of telecommunications service; or

(ii) for mobile telecommunications service, of a serving carrier under an agreement to serve the customer outside the telecommunications provider's licensed service area.

(3) (a) "End user" means the person who uses a telecommunications service.

(b) For purposes of telecommunications service provided to a person who is not an individual, "end user" means the individual who uses the telecommunications service on behalf of the person who is provided the telecommunications service.

(4) "Gross Receipts attributed to the municipality" means those gross receipts from a transaction for telecommunications services that is located within the municipality for the purposes of sales and use taxes under Utah Code Title 59, Chapter 12, Sales and Use Tax Act and determined in accordance with Utah Code section 59-12-207.

(5) "Gross receipts from telecommunications service" means the revenue that a telecommunications provider receives for telecommunications service rendered except for amounts collected or paid as:

(a) a tax, fee, or charge:

(i) imposed by a governmental entity;

(ii) separately identified as a tax, fee, or charge in the transaction with the customer for the telecommunications service; and

(iii) imposed only on a telecommunications provider;

(b) sales and use taxes collected by the telecommunications provider from a customer under Title 59, Chapter 12, Sales and Use Tax Act; or

(c) interest, a fee, or a charge that is charged by a telecommunications provider on a customer for failure to pay for telecommunications service when payment is due.

(6) "Mobile telecommunications service" is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(7) "Municipality" means Park City Municipal Corporation.

(8) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(9) Notwithstanding where a call is billed or paid, "service address" means:

(a) if the location described in this Subsection (9) (a) is known, the location of the telecommunications equipment:

(i) to which a call is charged; and

(ii) from which the call originates or terminates;

(b) if the location described in Subsection (9) (a) is not known but the location described in this Subsection (9) (b) is known, the location of the origination point of the signal of the telecommunications service first identified by:

(i) the telecommunications system of the telecommunications provider; or

(ii) if the system used to transport the signal is not a system of the telecommunications provider, information received by the telecommunications provider from its service provider; or

(c) if the locations described in Subsection (9) (a) or (b) are not known, the location of a customer's place of primary use.

(10) (a) Subject to Subsections (10) (b) and (10) (c), "telecommunications provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; or

(ii) engages in an activity described in Subsection (10) (a) (i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection (10) (a) is a telecommunications provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or manages.

(c) "Telecommunications provider" does not include an aggregator as defined in Utah Code Section 54-8b-2.

(11) "Telecommunications service" means:

(a) telephone service, as defined in Utah Code Section 59-12-102, other than mobile telecommunications service, that originates and terminates within the boundaries of this state; and

(b) mobile telecommunications service, as defined in Utah Code Section 59-12-102:

(i) that originates and terminates within the boundaries of one state; and

(ii) only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

4-14A-2. LEVY OF TAX.

There is hereby levied a municipal telecommunications license tax on the gross receipts from telecommunications service attributed to Par City.

4-14A-3. RATE

The rate of the tax levy shall be 4 % of the telecommunication provider's gross receipts from telecommunications service that are attributed to the municipality. If the location of a transaction is determined to be other than this municipality then the rate imposed on the gross receipts for telecommunications services shall be determined pursuant to the provisions of Utah Code Section 10-1-407.

4-14A-4. RATE LIMITATIN AND EXEMPTION THEREFROM.

This rate of this levy shall not exceed 4% of the telecommunication provider's gross receipts from telecommunication service attributed to Park City unless a higher rate is approved by a majority vote of the voters in Park City that vote in:

(a) a municipal general election;
(b) a regular general election; or
(c) a local special election.

4-14A-5. EFFECTIVE DATE OF TAX LEVY.

This tax shall be levied beginning July 1, 2004.

4-14A-6. CHANGES IN RATE OR REPEAL OF TAX.

This ordinance is subject to the requirements of Utah Code Section 10-1-403. If the tax rate is changed or the tax is repealed, then the appropriate notice shall be given as provided in Utah Code Section 10-1-403.

4-14A-7. INTERLOCAL AGREEMENT FOR COLLECTION OF THE TAX.

On or before the effective date of the ordinance, the Park City shall enter into the uniform interlocal agreement with the Commission as described in Utah Code Section 10-1-405 for the collection, enforcement, and administration of this municipal telecommunications license tax;

4-14A-8. PROCEDURES FOR TAXES ERRONEOUSLY RECOVERED FROM CUSTOMERS.

Pursuant to the provisions of Utah Code Section 10-1-408, a customer may not bring a cause of action against a telecommunications provider on the basis that the telecommunications provider erroneously recovered from the customer the municipal telecommunication license tax except as provided in Utah Code Section 10-1-408.

4-14A-9. REPEAL OF INCONSISTENT TAXES AND FEES.

Any tax or fee previously enacted by Park City under authority of Utah Code Section 10-1-203 or Utah Code Title 11, Chapter 26, Local Taxation of Utilities Limitation is hereby repealed.

Nothing in this ordinance shall be interpreted to repeal any municipal ordinance or fee which provides that the municipality may recover from a telecommunications provider the management costs of the <u>municipality</u> caused by the activities of the telecommunications provider in the rights-of-way of the municipality, if the fee is imposed in accordance with Utah Code Section 72-7-102 and is not related to the municipality's loss of use of a highway as a result of the activities of the telecommunications provider in a right of way, or increased deterioration of a highway as a result of the activities of the telecommunications provider in a right-of -way nor does this ordinance limit Park City's right to charge fees or taxes on persons that are not subject to the municipal telecommunications license tax under this ordinance and locate telecommunications facilities, as defined in Utah Code Section 72-7-108, in this municipality.

SECTION 3. EFFECTIVE DATE. This ordinance shall take effect upon publication.

Passed and dated this 17th day of June, 2004.

Resolution No. _-04

RESOLUTION OF THE GOVERNING BODY OF PARK CITY, UTAH APPROVING A UNIFORM INTERLOCAL AGREEMENT WITH THE UTAH STATE TAX COMMISSION FOR THE COLLECTION OF TELECOMMUNICATIONS TAXES AUTHORIZED BY UTAH CODE SECTIONS 10-1-401, ET SEQ.

WHEREAS, Park City Municipal Corporation (Park City), pursuant to Utah Code Sections 10-1-401 et seq. may levy a tax on the gross receipts of telecommunication providers; and

WHEREAS, Park City has determined there is a need for such a tax as a source of general fund revenue; and

WHEREAS, pursuant to Utah Code Section 10-1-404, Park City is required to execute a uniform interlocal agreement with the Utah State Tax Commission for the collection of the telecommunications tax; and

WHEREAS, Utah Code Title 11, Chapter 13, Interlocal Cooperation Act, authorizes the state and political subdivisions to enter into agreements with one another to permit local governmental units to make the most efficient use of their powers, and to provide the benefit of economy of scale; and

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

SECTION 1. ADOPTION. The City Council hereby approves the execution of the attached uniform interlocal agreement between Park City Municipal Corporation and the Utah State Tax Commission for the collection of the telecommunications tax authorized by Utah Code Annotated Sections 10-1-401, et seq., in a form to be approved by the legal department.

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

PASSED and ADOPTED this 17th day of June, 2004.

EXHIBIT F

A UNIFORM INTERLOCAL AGREEMENT BETWEEN THE UTAH STATE TAX COMMISSION AND PARK CITY MUNICIPAL CORPORATION THAT HAS IMPOSED THE MUNICIPAL TELECOMMUNICATIONS LICENSE TAX

This Uniform Interlocal Cooperation Agreement (hereinafter "Uniform Agreement") is made by and between the Utah State Tax Commission (hereinafter "Commission") and Park City Municipal Corporation (hereinafter "Park City").

WHEREAS, Utah Code Section 10-1-404 requires Park City to enter into a Uniform Agreement with the Commission on or before the effective date of the Park City's ordinance imposing the municipal telecommunications license tax; and

WHEREAS, Utah Code Title 11, Chapter 13, Interlocal Cooperation Act, authorizes the state and political subdivisions to enter into agreements with one another to permit local governmental units to make the most efficient use of their powers, and to provide the benefit of economy of scale; and

WHEREAS, the purpose of the Agreement is to ensure that the Municipal Telecommunications License Tax is appropriately imposed and collected.

NOW THEREFORE, Commission and Park City do hereby agree as follows:

1. Park City has adopted an ordinance to impose the municipal telecommunications license tax under Title 10, Chapter 1, Part 4, at a rate of 4%.

2. Commission shall transmit monies collected under the Municipal Telecommunications License Tax monthly by electronic funds transfer to Park City.

3. Commission shall conduct audits of the Municipal Telecommunications License tax with the same frequency and diligence as it does with the state sales and use tax.

4. Commission shall charge Park City for the Commission's services in an amount sufficient to reimburse Commission for Commission's costs of administering, collecting, and enforcing the municipal telecommunications license tax. Commission's charge to Park City may not exceed an amount equal to 1.5% of the municipal telecommunications license tax imposed by Park City's ordinance.

5. Commission shall collect, enforce, and administer the Municipal Telecommunications License Tax pursuant to the same procedures used in

the administration, collection, and enforcement of the state sales and use tax as provided in Utah Code Section 10-1-405(1)(a).

6. The duration of this Agreement shall not exceed 50 years and shall be automatically terminated if the Municipal Telecommunications License Tax is no longer in existence.

This Agreement shall take effect July 1, 2004.

SPECIAL BULLETIN

MUNICIPAL TELECOMMUNICATIONS TAX

There have been a number of questions regarding the Municipal Telecommunications Tax that is scheduled to take effect on July 1, 2004. This bulletin answers some of these questions. In addition to this web posting, an individual letter will be sent to each community. This letter will contain the model ordinance and the interlocal agreement.

What Is The Municipal Telecommunications Tax?

This tax will supercede the current telecommunications franchise tax and the municipal cell phone tax. It will be based upon a similar but expanded tax base. The expansion includes a number of telecommunications charges that are currently subject to sales tax but not part of the existing franchise tax base. It is important to note that both land line and cell phones will be part of this new base. In other words, if a community has previously chosen to impose the 6% franchise tax but not the cell phone tax that option will not possible. It is all or nothing. **The option of retaining the existing tax does not exist – if a community wishes to impose a tax on telecommunications after June 30, 2004, the new tax is the only option.**

What Will Be The Tax Rate?

A municipality may impose a tax of up to 4%.

What Will Be The Revenue Impact?

Simply put we do not know the exact impact for each community. Prior to the recently completed legislative session the Tax Commission attempted to obtain preliminary information from both companies and cities about the potential revenue impact. Unfortunately, we simply did not have enough responses to provide a more precise estimate than the preliminary number we employed in 2003 as part of the original bill. Those preliminary numbers showed that a 4% figure should roughly translate to the same revenue as the current 6% rate cap.

Communities should be aware that the new tax rate will involve shifts in which consumers pay the tax. In most cases there will be a decrease in land line taxes and an increase in cell phone taxes.

What Do Communities Need To Do? When Do They Need To Do It?

Any community wishing to impose the new tax will need to adopt a new ordinance prior to July 1, 2004. That ordinance will need to adopt the new tax and repeal the current municipal tax – including the $1/month cell phone tax. We have prepared a suggested ordinance that communities can utilize. Bear in mind that the statutory language is very explicit in terms of definitions and administration so there really is not much room for individual adjustments.

In addition, as part of this process each community will need to sign an Interlocal Agreement with the Utah State Tax Commission. The agreement deals with the administration of the new tax. This agreement is being adopted by the Commission through the rulemaking process. Responsibility for the new tax's administration, including collection, auditing and remittance to municipalities, will now be with the Utah State Tax Commission.

Time Frames

The law specifies that for initial implementation the Commission is to be notified at least 75 days before July 1, 2004 that a city intends to impose the tax. The Tax Commission would usually require this notification to be the adoption of the new ordinance. However, since there was a need to wait until the legislative session was completed – there was the possibility that a new rate cap would be adopted – completion of the ordinance process 75 days in advance is not realistic. The purpose of the initial notification period was to allow the Commission sufficient time to gear up to administer the tax and to notify companies of their responsibilities.

A list of those communities that are currently imposing the franchise tax, the $1/month cell phone tax or both has been transmitted to the Commission. The Commission has agreed to consider this notification as satisfying the notice requirements of the statute. The Commission is assuming that all of the communities on this initial list will impose a tax rate of 4% - the maximum allowed under the statute. Therefore the initial notification requirement for existing communities who wish to go to the tax cap of 4% has been satisfied.

We recognize, however, that there are some communities who are not currently imposing the franchise or the cell phone tax but intend to do so beginning July 1, 2004. Those communities will need to notify the Utah State Tax Commission of this intent prior 5:00 P.M. May 7, 2004. In addition, any community that chooses a tax rate other than 4% will also need to notify the Commission prior to the May 7th deadline.

This notification need only be a short letter on municipal letter head that states the following:

> ***"It is the intent of ________ City to impose the municipal telecommunications tax. The tax rate will be ____ %. "***

The notification letter should be addressed to:

Scott Stevens
Tax Administration
Utah State Tax Commission
210 North 1950 West
Salt Lake City, UT 84134-6200

The notification could also be faxed to the Commission at (801) 297-3899. Please send a copy of this notice letter to the Utah League of Cities and Towns. Again, if your city is currently imposing a franchise tax on telecommunications and with the new tax intends to use a tax rate of 4%, there is no need to send this initial notification letter to the Commission.

This notification does not mean that the new ordinance needs to be adopted by May 7th. However, the Commission must assume that there will be no changes with the decision to impose the new tax and the tax rate.

Filings with the Tax Commission

Regardless of whether there is a need to file a separate notification letter, each community imposing the new tax will need to provide the Tax Commission with a copy of its adopted ordinance and the signed interlocal agreement prior to July 1, 2004.

Final Comments

The Utah State Tax Commission has been very accommodating in working with us to facilitate the initial implementation of this tax. We all recognize that there is a great deal of investment in making this process work effectively. Nonetheless, there will undoubtedly be some glitches. In the end, however, this new tax should provide for a more consistent and vibrant tax source and address the legitimate administrative issues raised by the telecommunications companies.

EXHIBIT H
Resolution No.

RESOLUTION AMENDING SECTION 2, WATER FEES AND SECTION 8, RECREATION SERVICES FEES, OUTLINED IN EXHIBIT A OF FEE RESOLUTION NO. 5-04 AND REPEALING RESOLUTION NO. 5-04 IN ITS ENTIRETY

WHEREAS it is necessary to update the fee resolution to reflect the current costs of conducting business and performing services; and

WHEREAS, legally noticed public hearings were held before the Park City Council on May 13 and June 17, 2004 to receive public comments on increasing water rates; and

WHEREAS, the department name and title "Leisure Services" and "Leisure Services Director", have been changed to "Recreation Services" and "Recreation Services Manager", respectively, and it is appropriate to amend all references in Section 8 of Exhibit A of the Fee Resolution to reflect the name changes;

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

SECTION 1. FEE SCHEDULE AMENDMENTS. Amendments to Section 2 and Section 8 are hereby adopted as outlined in Exhibit A, and Resolution No. 5-04 is hereby repealed in its entirety.

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

PASSED AND ADOPTED this 17th day of June, 2004.

EXCERPTS FROM EXHIBIT A

PARK CITY FEE SCHEDULE
(REVISED JUNE 17, 2004)

SECTION 2. WATER FEES

2.1 Water ~~Development~~ Impact Fees. Water ~~Development~~ Impact Fees are ~~now~~ located in the Park City Municipal Code, Title 11, Section 13.

~~2.2 Water Connection Fees/Fire Standby Fees Water Connection and Fire Standby Fees are now located in the Park City Municipal Code, Title 11, Section 13.~~

2.2~~3~~ Water Meter Fees

Meter Size	Fee
3/4	$225
1	$315
1.5	$505
2	$655
3	$935
4	$1,545
6	$3,140
8	$4,780

2.3~~4~~ MONTHLY WATER METERED SERVICES FEE SCHEDULE:

2.3~~4~~.1 Base Rates

Individually Metered Residential (single-family, condo, townhouse)

Meter size	Monthly Base/Demand Charge
5/8 x 3/4"	$~~10.80~~12.96
1"	$~~14.58~~17.50
1½ "	$~~17.28~~20.74

Other than Individually metered Residential

Meter Size	Monthly Base/Demand Charge
3/4"	$~~14.04~~16.85
1	$~~23.76~~28.51
1 ½"	$~~50.76~~60.91
2"	$~~105.84~~127.00
3"	$~~275.40~~330.48
4"	$~~500.04~~600.05
6"	$~~942.84~~1,131.41
8"	$~~1623.24~~1,947.89
Construction Meter	$~~62.64~~75.17
Indigent Rate*	$2.00

*Indigent Rate includes 10,000 gallons. Water consumption greater than 10,000 gallons is charged per the normal block structure presented in paragraph 2.4.3.

2.34.2 Water Consumption Rates All water billed year-round for water delivered through each meter serving commercial customers ~~all year and all~~and water billed between November 1 and May 31 of each year for water delivered thru each meter serving all other customers shall be charged at the rate of $~~1.89~~2.27 per thousand gallons.

2.34.3 Water Conservation Rates
All water billed between June 1 and October 30 of each year for water delivered through each meter serving single family residential, multi-family residential and landscape irrigation customers ~~per month between June 1 and September 30 of each year~~ shall be billed at the following rates:

Type	**Block 1 $~~1.35~~1.62/k-gal**	**Block 2 $~~2.16~~2.59/k-gal**	**Block 3 $~~3.51~~4.21/k-gal**	**Block 4 $~~5.40~~6.48/k-gal**
Single Family/Condo 3/4" to 1.5"	0-5,000 Gal	5,001- 30,000 Gal	30,001 -80,000 Gal	Over 80,000 Gal
Multi-Family 3/4" 1" 1.5" 2" 3" 4" 6"	0-10,000 Gal 0-17,000 Gal 0-30,000 Gal 0-48,000 Gal 0-96,000 Gal	10,001-36,000 Gal 17,001-57,000 Gal 30,001-100,000 Gal 48,001-160,000 Gal 96,001-320,000 Gal	36,001-80,000 Gal 57,001-120,000 Gal 100,001-200,000 Gal 160,001-320,000 Gal 320,001-640,000 Gal	Over 80,000 Gal Over 120,000 Gal Over 200,000 Gal Over 320,000 Gal Over 640,000 Gal Over 1,000,000

	0-150,000 Gal 0-180,000 Gal	150,001-500,000 Gal 180,001-600,000 Gal	500,001-1,000,000 Gal 600,001-1,200,000 Gal	Gal Over 1,200,000 Gal
Irrigation 3/4" 1" 1.5" 2" 3" 4" 6"		0-56,000 Gal 0-90,000 Gal 0-185,000 Gal 0-300,000 Gal 0-600,000 Gal 0-935,000 Gal 0-1,865,000 Gal	Over 56,000 Gal Over 90,000 Gal Over 185,000 Gal Over 300,000 Gal Over 600,000 Gal Over 935,000 Gal Over 1,865,000 Gal	

Construction water will be charged at the rate of $~~2.48~~2.98 per 1000 gallons.

2.4~~5~~ Water Violation Penalties

$ 50.00	first violation
100.00	second violation
200.00	third violation
400.00	fourth violation
500.00	for the fifth violation and for each subsequent violation within that calendar year.

2.5~~6~~ Water Service Reinstatement Fee

$100 fee for meter shut off because of non-payment of account.

2.6~~7~~ Water Service Call Fee $50 fee per service call

2.7~~8~~ Water Meter Testing Fee $50

SECTION 8. ~~LEISURE~~ RECREATION SERVICES AND FACILITY RENTAL FEES

8.1 Purpose and Philosophy ~~Leisure~~ Recreation Services Administration, the Parks Department, Miners Hospital Community Center and the Library are supported primarily by tax dollars through the City's General Fund. The Recreation Department, Racquet Club and Golf Course have been established as enterprise funds and should be primarily supported by revenues other than taxes. This policy applies to Recreation/Racquet Club and Golf Course Enterprise funds.

The purpose of this section is to establish a level of operations and maintenance cost recovery for programs, activities and facilities, and direction for establishing fees and charges for the use of and/or participation in the programs, activities and facilities offered by the Recreation Department, Racquet Club and Golf Course, Library, and Miners Hospital Community Center.

It is the intent of the City to offer its ~~Leisure~~ Recreation Services programs, activities and facilities to the entire community. To help offset the cost of providing these services, and since the primary beneficiaries of these services are users, it is appropriate to charge fees that are adequate to fund operation of the facility in line with other like programs.

8.2 Cost Recovery It is the intent of the City to recover roughly 80% of the operations and maintenance expenses incurred by the Recreation Department and the Racquet Club and 100% of the operations and maintenance expenses incurred by the Golf Course through sources of revenue other than taxes. The City's cost recovery plan is described in detail in the City's budget document. User fees should not be considered the only source for accomplishing this objective. Revenues may also include:

A. Increases in program participation.
B. Fees charged for non-recreational use of facilities (conventions/special events)
C. Rental income
D. New programs or activities
E. Private sponsorship of programs or activities
F. Public agency grants or contributions.

8.3 Establishing User Fees. Fees shall be set at a level which ensures program quality and meets the objectives of the City Council.

8.3.1 Resident Discount Those people whose primary residence is within the City limits; are currently paying property tax within Park City; or are holding a valid Park City business license and leasing or renting office space within Park City are entitled to obtain a recreation card. In most circumstances those who qualify for a recreation card will pay lower fees. Those who don't qualify for a recreation card may, for an annual fee, participate in select programs or activities at the resident discount rate for Racquet Club and recreation programs only. Those who reside outside the city limits but within the boundaries of the Park City School District may purchase a County Card that entitles the holder to use the Racquet Club and participate in city recreation programs at the same rate as recreation card holders.

8.3.2 Recreation Program Fees The Recreation Department, the Racquet Club and the Golf Course offer a variety of organized programs and activities. Due to the fluctuations in the number of participants and frequent changes in circumstances, program fees are established on a program-by-program basis by dividing the number of projected participants by the estimated program costs. Fees are then published in the ~~Leisure~~ Recreation Services quarterly brochure. In most cases, fees will be kept commensurate with fees charged by others providing like service.

8.3.3 Fees for Non-Recreational Activities at the Racquet Club Facility The fees charged for non-recreational or special event use will be competitive with the marketplace providing the fees cover a minimum of: a) the costs involved in the production of the event; and b) recovery of lost revenue.

The Racquet Club facility is principally for recreation. Non-recreation activities usually will be charged up to fifty percent (50%) more than the minimum. No fee waivers for non-recreational or special event use will be permitted. However, the City Council may authorize the City to pay all or a portion of the fee in accordance with the master festival ordinance provisions.

8.3.4 Fee Increases Recommendations for fee increases may be made on an annual basis. The City will pursue frequent small increases as opposed to infrequent large ones. Staff will be required to provide an annual review and analysis of the financial posture of the Recreation Fund and Golf Course Fund along with justification for any recommended increase. When establishing fees, the City will consider rates charged by other public and private providers as well as the ability of the users to pay.

To establish and maintain the Council's objective of 80% cost recovery, the City Manager will have the authority to annually increase fees up to $.50 or 10%, whichever is greater. Any requested increase over that amount will require Council action.

Fee increases will take place only if they are necessary to achieve the City Council's objective and maintain program quality, and only with the authorization of the City Manager or the City Council.

8.3.5 Discounting Fees The ~~Leisure~~ Recreation Services ~~Director~~ Manager may, at his discretion, discount fees when:

1. Offering special promotions designed to increase use.
2. Trying to fill non-prime time.
3. Introducing new programs or activities.
4. Playing conditions are below standard due to weather or facility disrepair.

8.3.6 Fee Waivers The City intends that no resident under 18 years old or over age 65 be denied the use of any program, activity or facility for reasons of financial hardship. The ~~Leisure~~ Recreation Services ~~Director~~ Manager may, at his discretion, waive all or a portion of a fee, or may arrange offsetting volunteer work for anyone demonstrating an inability to pay for services.

Ordinance No.

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF PARK CITY, UT TITLE 11, SECTION 11-13-7, TO PROVIDE A REBATE OF IMPACT FEES FOR INSTALLATION OF DRIP IRRIGATION AND DROUGHT TOLERANT LANDSCAPING ON NEW CONSTRUCTION, AMEND TITLE 13, SECTION 13-1-2, TO AMEND THE DESIGNATED TIME PERIOD FOR WATER CONSERVATION RATES, AMEND SECTION 11-13-1 AND REPEAL SECTION 13-1-13 IN REGARD TO DEVELOPMENT, CONNECTION AND FIRE STANDBY FEES

WHEREAS, Utah is entering the sixth year of a severe drought cycle; and

WHEREAS, the raw water supplies of the City of Park City are at their lowest recorded level and are in immediate danger of not being fully replaced or renewed in the foreseeable future at the current usage by consumers; and

WHEREAS, water conservation is required for maintenance of a sustainable water supply to immediately preserve and protect the public health of the citizens of Park City and its water users; and

WHEREAS, the City would like to provide a rebate of impact fees as a reward for installation of water conservation landscaping measures on new construction; and

WHEREAS, the effective period for water conservation rates shall be increased by one month and run from May through September of each year; and

WHEREAS, Sections 11-13-1(Q) and 13-1-13 in regard to Development, Connection and Fire Standby Fees are amended to clarify the location of the connection fees and repeal the development and fire standby fees are no longer valid.

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

Section I. Amendment. The Municipal Code of Park City, Title11, Chapter 13, Sections 11-13-1(Q) and 11-13-7 are hereby amended as follows:

11-13-1 (Q) WATER ~~DEVELOPMENT~~ IMPACT FEE. The impact fee, calculated as an expression of new equivalent residential units (ERUs), to assess the impact of indoor development activity, and increased area of irrigated landscape, to assess the impact of outdoor development activity, imposed as a condition precedent to a building permit that is used to offset the proportionate impact of the development activity on the need for the acquisition and transfer of water rights and points of diversion and the planning, design, engineering, acquisition, financing and construction of physical sources to realize those water rights.

11-13-7 REFUNDS.

(G) A property owner is eligible to receive a rebate of up to 50% of the paid exterior water impact fee and, if approved, construction and landscape plans include installation of a drip irrigation system and drought tolerant landscaping in the area of disturbance. A completed application form, and irrigation plan must be submitted to the Planning Department for review and approval.

Section II. Amendment/Repeal. The Municipal Code of Park City, Title13, Chapter 1, Section 13-1-2 is hereby amended, and Section 13-1-13 is hereby repealed as follows:

13- 1- 2. WATER CONSERVATION RATES.

All water ~~delivered through~~billed between June 1 and October 30 of each year for water delivered through each meter serving individually metered residential, single family, condo, townhouse, and through each meter serving multi-family residential and landscape irrigation customers ~~between MayJune 1 and September 30 of each year~~ shall be billed at the rate established by resolution.

The water conservation rates established by said resolution are based on the City's cost of providing water service, which cost may change. The City Manager may provide administrative relief up to a twenty percent (20%) reduction in any water billing following application to and recommendation by the Public Works Director in cases of hardship or unusual circumstances.

~~13- 1-13. CONNECTION AND FIRE STANDBY FEES.~~

~~Connection and fire fees shall be as set by resolution.~~

Section III. Effective Date. This Ordinance shall become effective upon publication.