

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
APRIL 24, 1997**

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will hold its regularly scheduled meeting at the **Olympia Park Hotel and Conference Center, 1895 Sidewinder Drive**, Park City, Utah for the purposes and at the times as described below on Thursday, April 24, 1997.

A G E N D A

6:00 p.m.

I ROLL CALL

II PUBLIC HEARING

Flagstaff annexation, approximately 1,550 acres located at the southwestern corner of Summit County, within the Park City Annexation Declaration Boundary; and adoption of a revised annexation policy declaration

III ADJOURNMENT

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**PARK CITY COUNCIL SPECIAL MEETINGS
SUMMIT COUNTY, UTAH
APRIL 25, 1997 AND APRIL 28, 1997**

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah has tentatively scheduled **special work sessions on the Flagstaff annexation proposal**. There is a work session scheduled on **Friday, April 25, 1997 at 2 p.m.** and a work session scheduled on **Monday, April 28, 1997 at 9 a.m.** in the Marsac Municipal Building, 445 Marsac Avenue. **No formal action will be taken.** Call Jan Scott, 645-5007, if you have questions.

Posted: 4/21/97

PARK CITY SPECIAL WORK SESSION NOTES
SUMMIT COUNTY, UTAH
APRIL 28, 1997

Present: Mayor Brad Olch; Council members Hugh Daniels, Roger Harlan, Shauna Kerr; Chuck Klingenstein, and Paul Sincock

Toby Ross, City Manager; Jodi Hoffman, City Attorney; Nora Seltenrich, Special Projects Manager

Hank Rothwell, United Park City Mines (UPCM); Mary Bransford-Leader property owner; Bob Wells, Deer Valley Resort/Royal Street Land Company

Flagstaff Annexation. Nora Seltenrich reported that Toby Ross, Rick Lewis, Jodi Hoffman and she met with Hank Rothwell, Bob Wells and one of the other property owners and discussed the applicants' options given the City Council's direction. This would mean some number of units in Pods A and B, no development in Pod D and Bonanza Flats. UPCM could move forward by annexing a portion of Flagstaff that includes Pods A and B; the other land owners could drop out of the annexation and then would have to pursue any kind of approval separately. UPCM could request at a minimum a private road stub to either SR224 or its land so that Bonanza Flats could be accessed and would not agree to a protection strip or other means to prevent them from accessing its other holdings in Flagstaff and Bonanza. Ms. Seltenrich explained that UPCM is concerned that it can access its lands eventually on a year-round basis. She emphasized that UPCM is not willing to agree to a protection strip which would permanently block off any access. This may result in UPCM pursuing a density determination with Wasatch County for Bonanza Flats. Another option would be annexation of the entire 1,500 acres of Flagstaff with development in Pods A and B only with the understanding that they could have some development in Bonanza Flats. This could occur in Wasatch County with the agreement that Park City would not protest. Two hundred fifty to 400 units in Bonanza and still providing about 1,000 acres of open space and a buffer could be proposed. Mr. Rothwell is willing to enter into agreements with the Council as to how access can be limited to try to minimize infrastructure extension to other property owners. Ms. Seltenrich continued that a third option would be annexation of the whole Flagstaff 1,500 acres, development in Pods A and B only, and establishment of some kind of conservation easement program for the land in Pod D. This is something the property owners are willing to talk about; the issue is the time frame and Council may want to hold a closed session to discuss property acquisition. It was UPCM's position that the property owners may not adequately benefit from the conservation easement tax write-off. If UPCM is willing to bring Bonanza Flats to the table, the Council would probably look at increased densities in Pods A and B, but without addressing Pod D, this alternative is not acceptable to UPCM and the other property owners.

Toby Ross stated that it is important for the Council and the public to have an appreciation of the concerns of the applicant and the property owners. The City Manager advised that if Council wants to seriously pursue acquisition that it go forward to an action on final density.

Hank Rothwell expressed his appreciation to staff in meeting yesterday and devoting its personal and professional time to the project. Over the past three years the Planning Commission and staff have met with them to discuss options dozens of times and he believed the Commission was picking up on direction from the City Council to pursue a "moat" concept or buffer strip around Park City, exemplified by the acquisition of open space, i.e., Osguthorpe and Gillmor properties. He believed the Commission understood that a buffer was an integral part of the direction of the City Council. It has never been UPCM's desire to throw Bonanza into negotiations, but the Planning Commission was unwilling to dismiss Bonanza, because the impacts on Marsac could not be determined. Prior to that, however, there was a discussion regarding another option and Mr. Rothwell displayed a map. He explained that the concept involved "global" planning where UPCM will pave a public road to Pods A and B, not necessarily SR224. Guardsman Road will be left in its present alignment, because it is seasonal and from Pod B, a private access will be provided that is separate from Guardsmans and continue it into Bonanza Flats and back into Flagstaff with a bridge and/or tunnel so that there is not a four way intersection on Guardsman and the public doesn't have access to the private road. This project would be lift-based connected adjacent to McConkeys Bowl. This is a transportation lift for skiers but not a ski pod. In response to a question from Paul Sincok, Mr. Rothwell indicated that it is not proposed to change the access to Brighton at all by improving Guardsman in this scenario. Access to Midway would be seasonal in this concept although an interlocal agreement is anticipated between Park City and Wasatch County. He continued that there is some question in Wasatch County's mind about level of improvements to Guardsmans. Mr. Rothwell believed that winter access is not anticipated but Wasatch County expects an exaction that would help improve the road service on Guardsmans Road. For the benefit of Paul Sincok, Mr. Rothwell reiterated that the private road would provide year-round access to a Bonanza Flats property owner not to a Brighton Estates property owner. He explained that this is back on the table because this is the dialog that got them to the Planning Commission recommendation in front of Council. He understood from the discussion last Friday that the Council wants a "moat" of Pod D and in addition, a "moat" of Bonanza Flats and that is where the dialog for the applicants breaks down. The other critical factor is a misconception that adding more density units to Pods A and B will add more value to the applicant. He explained that there is a point of diminishing returns and adding stacked apartments into Pods A and B as opposed to a townhouse configuration doesn't add value for the land owners. Mr. Rothwell reiterated that additional density in Pods A and B doesn't compensate the applicants for the loss of both Pod D and Bonanza.

Mr. Harlan asked what mechanism would be employed to ensure that the private road is accessed only by Bonanza Flats property owners and not adjoining interests. Mr. Rothwell felt that a special improvement district could be created specific to the property, but when this was presented months ago, the concern was raised that the development is going to add impetus to the

other land owners to find a way to access it. Ms. Kerr felt that people will trespass onto the road and Ms. Seltenrich pointed out that there may be pressure to improve the state road. Ms. Seltenrich expressed that it may sound good in theory but there may be pressures in the future. In response to a question from Paul Sincock about infrastructure if Bonanza is developed in Wasatch County, Mr. Rothwell discussed the application with the Snyderville Basin Sewer Improvement District and Wasatch County's indication that they would not initially be required to solve Brighton Estate's sewage problem. Mr. Rothwell discussed water rights, the irrigation and culinary sources, and the sewage plan which were discussed with Planning Commission members in smaller task force groups without the benefit of the public who may not understand that this project is part of a much larger dialog. He believed there is probably a dialog that this be a much smaller annexation of Summit County properties that included Pods A and B and maybe C. Without Pod D, five or six of the property owners have no opportunity to develop and there should be a way for them to access Bonanza Flats and continue to have an economic opportunity in Wasatch County. Mr. Rothwell continued that there is no guarantee that they will obtain approval with the City from the County or development on the upper mountain from the County, but it is probably safe to say that Summit County probably wouldn't preclude their right to negotiate with Wasatch County. Mr. Sincock asked how Park City was precluding them from negotiating with Wasatch County. Mr. Rothwell responded by requesting a protection strip and a conservation easement with regard to Bonanza Flats. Mr. Rothwell explained that of the 1,500 acres, at least 80% of that would be forever open space and there is a strong woodlands buffer contiguous to Wasatch State Park. Mr. Rothwell indicated 300 acres would be developed, including a golf course. This would be multi-family clustered development with some single family development as well. In response to a question from Shauna Kerr regarding ski tunnels and bridges, Mr. Rothwell answered that the design has not been finalized with Deer Valley and he discussed the present proposal. Jodi Hoffman added that a task force of the Planning Commission saw this and came to a policy decision that in exchange for the density in Bonanza Flats that an approval associated with Pods A, B and D was preferable. Mr. Rothwell pointed out that numbers that exceed Brighton Estates' 440 lots has never been addressed. He discussed 100 acres of property in the Snake Creek area that is half owned by State Parks, and UPCM is actively negotiating with State Parks to partition the ground which is the dividing line between the Snake Creek and Bonanza Flats drainage. That is why they have been working very closely with Snake Creek Preservation and State Parks to trade out interest to consolidate their interest in Bonanza Flats. He described an additional piece of ground that probably will stay open because to develop it means extending utilities through Brighton Estates, which has never been acceptable to the City. He continued that as a Wasatch County application, it will probably be a County park or trail head for snowmobiling and other uses of interest to the County. Ms. Seltenrich explained that the Wasatch County staff will make a density determination which may yield more than the applicant has requested. Because the final traffic study has not been produced, Mr. Rothwell stated that UPCM has been reluctant to define numbers for Wasatch County.

Mr. Rothwell introduced Mary Bransford-Leader, one of the other property owners. Through illustration of a map he described the New Quincy-Lucky Bill, the Floor Family, Park City

Star Mining Company (Burns Family), Mayflower Partnership, and Bransford Family holdings. Mr. Rothwell estimated that about 250 acres of the 1,500 are owned by people other than UPCM. Mr. Rothwell indicated that Mayflower has leased some property to Deer Valley for its ski operation. He pointed out a piece of property jointly owned by UPCM and Mayflower and a Deer Valley property. Ms. Bransford-Leader explained that there are holdings like New Quincy that involve families. Mr. Rothwell explained that the reason he emphasized corporate membership is because the tax benefit for a conservation easement does not have the same advantages to individual shareholders that individual property owners might gain. Ms. Bransford-Leader expressed her appreciation for the time the Planning Commission and staff have spent on the project. Although Council has never met her before, she explained that the family has been involved in the project since the early 1990s working with UPCM so that a plan could be agreed upon with all of the property owners. Since that time there have been many changes and the property owners have followed it closely and have supported Mr. Rothwell entirely and he has been their voice in the hopes that it would be easier in dealing with one person. She was confident that Council would not want to deal with six separate annexation applications and she is approaching Council at this point because they are at the top of the mountain and not in Pods A and B. They saw D and E go by the wayside which cuts them out of the annexation proposal but they desire to reach a solution. She pointed out that by eliminating upper mountain development, the City is no longer looking at a 1,500 acres parcel. Ms. Bransford-Leader urged Council to work with them; they are all fourth and fifth generation families and collectively have paid over 400 years in property taxes. She emphasized that they are not in the business of providing free casual recreational use on their property, and their private property should be protected. Ms. Bransford-Leader reiterated that the property owners want to work with the City and Hank Rothwell has presented a solution. She added that conservation easements is a consideration but time is of the essence. Mr. Rothwell stated that there are about 100 lots of record on the upper mountain and there have been taxes paid on them. In Old Town a lot is part of the Snyders Addition Plat, but on the mountain, lots are identified as a mining claim. Ms. Bransford-Leader explained that almost all of the property owners lease their properties to Deer Valley in some form for ski runs and some property owners have indicated that they are unwilling to renew their leases.

Through illustration of a map, Bob Wells of Deer Valley explained that they have a variety of lease or easement situations where ski runs cross private property. The easements are perpetual with New Quincy and in Pod X there is an agreement worked out in connection with this process to cooperate but there is no present long-term right in that property. For the Bransford property, there is a lease on the portion of the Ontario ski run which terminated the end of this ski season. With respect to the Burns property, there is an agreement with Park City Star that provides for a property trade or purchase at the outcome of the annexation process. He discussed the lease with Mayflower which covers existing skiing and has a mechanism as Deer Valley expands.

Ms. Seltenrich stated that there is a way for conservation easements to work for corporations if there is a conservation buyer and the buyer obtains the tax benefits; often the buyer

wants a house. Mr. Rothwell added that they have been approached by realtors that have conservation buyers, but they're buyers who want "mega-trophy" homes. Mr. Sincock asked why the proposal wasn't clear that 16% of the 1,500 acres was owned by six other property owners. Mr. Rothwell indicated that he represents 3,000 shareholders and didn't need 16% undivided interest and a voting interest in this. Mr. Sincock asked if there is a way to compensate these owners for their land in addition to a conservation easement that might be purchased. Mr. Rothwell stated that he didn't know but it has been something that has been discussed. Wasatch County has been working for 17 years with Mayflower to redefine its plans and doing something with them in 17 months would be the fast track. Paul Sincock noted that 250 acres at five units per acre, equals 50 units, and if each unit is worth \$80,000 would total about \$4 million or \$16,000 per acre. Mary Bransford-Leader disagreed. Mr. Sincock asked if UPCM would be interested in purchasing that property. Council strongly urged Mr. Sincock not to put numbers on the table at this point. Jodi Hoffman suggested taking the expectations of property owners and somehow translate them into Bonanza Flats. Mr. Ross pointed out that Pod D doesn't uniformly affect those six properties. Mr. Rothwell stated that they were working on a Pod D solution which would bring entities into a limited liability corporation to deal with this issue but it can't be accomplished by Thursday. Jodi Hoffman added that it would be possible to arrive at an agreement regarding Pod D. Hank Rothwell commented that there may be some way to satisfy all five other property owners, but to the extent they can't, they would be looking at a UPCM solution and Pods A and B and Bonanza. The four or five other property owners on the upper mountain may have to look to the County as owners of record. Jodi Hoffman discussed a 2.5:1 trade from Pod D to Bonanza Flats. Ms. Kerr asked how the Council can be proposing a density transfer to Bonanza Flats when she made a commitment to the Wasatch County Commissioners that this would not be discussed without them. Mr. Ross felt that this would be capping the maximum density that could occur in Wasatch County. Ms. Kerr insisted that is not what Council told the County Commissioners. Chuck Klingenstein added that the Council committed to constant communication as well. Jodi Hoffman felt that this conversation is simply trying to understand the concept. Ms. Kerr responded that this looks like beginning negotiations and she didn't think Council should engage in those because "we could win this battle and lose the big war". The long term relationship with Wasatch County is important.

Mr. Sincock asked Mary Bransford-Leader what she would like to see there if there is no development in Pod D. She stated that they feel as if they have made concessions and Pod D is their solution. They previously had Pods C and E and their personal property has been cut down from 18 to nine residential building units, which is a substantial concession. Mr. Harlan asked if there was a back-up plan. Mary Bransford-Leader stated that it was never discussed. Chuck Klingenstein noted that property taxes have been paid on the property and asked what the taxable rate has been. He stated that in the 1985 Comprehensive Plan the City viewed this property as forest estate and the current General Plan reinforces that zoning. The County's planning has always been 1:40 and he doesn't see how the City or the County has ever created expectations for the hundreds of homes proposed in the area. He asked how they arrived at the value. Hank Rothwell answered that the areas are useable terrain. He added that the 1985 Comprehensive Plan also did not anticipate

a 1,500 acre open space commitment on the other side of the County line. He continued that as they refined that discussion with the Planning Commission, the Commission supported Pod D in exchange for the open space commitment as well as the inherent protection from third party property owners. The expectations of values probably came from the planning process during the three years of being involved and being told that the entire site should be annexed and up until Friday afternoon, there had never been a no Pod D dialog. Mary Bransford-Leader commented that as private property owners they have placed their faith in the Planning Commission and the staff and are in complete support of the plan presented to the Council. They feel that is the best solution and up until Friday, they were working from that assumption.

Ms. Kerr stated that she is sympathetic to the property owners, but the staff report in February was not supportive of Pod D and in fact the support for Pod D was when Bonanza entered into the proposal. She felt that any expectations are probably unrealistic, because throughout the process the upper area has always been suspect. Ms. Kerr stated that after listening to the alternatives, the best option may be for them to pull out and to apply with the County. Ms. Kerr added that there may be a limited partner opportunity with UPCM, but understands there are 3,000 shareholders of UPCM and six property owners with different interests and the likelihood of an satisfactory outcome is difficult. She did not feel like this Council is going to be able to arrive at a solution for them. Chuck Klingenstein added that the new General Plan does not have Pod D in it. Mr. Rothwell responded that to say that Pod D appeared with Bonanza is a bit of a stretch as it has been on the table, but he admitted that it has never been guaranteed. Nora Seltenrich clarified that staff had discussions with the property owners long before the staff recommendation, but what the staff could support was development in Pods A and B if Bonanza Flats was open space. She stated that the staff consistently opposed, especially the single family, in Pods D and E. The Planning Commission was not always as adamant about it. Paul Sincok emphasized that the underlying interests of the individual property owners is a money return or houses up there. A money return could compensate them at some level. Mary Bransford-Leader stressed her family wanted to build the chapel and there are other considerations other than just selling to developers.

The Mayor asked of the 100 proposed lots in Pod D, how many would fall under the ownership of UPCM; Mr. Rothwell indicated about one-third. In response to a question from Mr. Ross, Mr. Rothwell believed all of the properties are patented mining claims. The Mayor asked if there are other options. Nora Seltenrich suggested looking just at UPCM properties on the lower mountain in Pods A and B, but the only way Mr. Rothwell would agree to that is if there is a private access right guaranteed to his other lands both in Flagstaff and Bonanza. The other option is to consider this alternative either with or without the other property owners. The other options are not acceptable to UPCM, with the exception of conservation easements. Ms. Seltenrich added that Council could direct staff to prepare documents for an approval of the Flagstaff Annexation with development in Pods A and B only, the whole 1,500 acres, and UPCM doesn't have to negotiate and sign the agreement. Ms. Seltenrich added that if this proposal is taken to the County, there is documentation of Council's thinking on this project. The Mayor asked if it would be appropriate

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City Council Special Work Session

April 28, 1997

to convene in closed session. Ms. Kerr, "I move to close to discuss property acquisition". Paul Sincock seconded. Motion carried unanimously. Staff members attending the closed session included Toby Ross, City Manager; Jodi Hoffman, City Attorney; and Nora Seltenrich, Special Projects Manager. The closed session convened for approximately 30 minutes. Chuck Klingenstein, "I move to open the meeting". Paul Sincock seconded. Motion unanimously carried.

The Mayor advised the public that the Council has directed staff to negotiate with UPCM and the adjacent property owners to try to work out a purchase agreement that not only encompasses Pod D but also ultimately will determine what will transpire in Pods A and B. This will bring in for annexation the Flagstaff area as well as an agreement for open space in Bonanza Flats, with Wasatch County's agreement. The Council agreed to meet Tuesday, April 29 at 2 p.m.

Prepared by Janet M. Scott

