PARK CITY COUNCIL STUDY SESSION MINUTES
SUMMIT COUNTY, UTAH
APRIL 26, 2012

Present: **Mayor Pro Tem Cindy Matsumoto; Council members Andy Beerman; Alex Butwinski; Dick Peek; and Liza Simpson**

Diane Foster, Interim Assistant City Manager; Mark Harrington, City Attorney; Tom Bakaly, City Manager; Nate Rockwood, Budget and Grants Analyst; Jon Weidenhamer, Economic Development Manager

Absent: **Mayor Dana Williams**

Capital projects financing. Diane Foster explained that the purpose of study sessions is discussion and there is no public input because of the focus on the dialog between Council and staff. As the Council holds these sessions and assesses them, it will become apparent what works and what doesn't work. She clarified that if members have questions on a subject prior to the study session, they will be answered in the session itself but if the question is not relevant to the discussion, staff will contact the Council member. Alex Butwinski felt that the reply should be sent to all members and Ms. Foster noted that it will, but email discussions are discouraged.

Andy Beerman asked if polling is okay. Ms. Foster replied that polling is discouraged during study sessions and in those instances, the item probably needs to be scheduled as a work session item. Dick Peek interjected that a study session is a publicly noticed meeting, it is a public hearing, but Council is not taking public input. It was explained that study sessions are publicly noticed meetings but are not public hearings. Mr. Beerman stated that members will have to make a decision if a topic advances to work session and a straw poll is probably the best way to accomplish this.

Mark Harrington advised that study sessions are what members make them and staff is suggesting a format based on comments made during Visioning. They are not intended for making decisions and are truly educational in the sense of in-depth discussion about alternatives. The advice of the facilitator was to make them different from regular decision-making formats. Polling and opportunities for input can be allowed by members but ad hoc decisions that someone can use politically to undermine the goal of study sessions should be avoided. He encouraged agreeing on ground rules which will be fluid and Tom Bakaly emphasized the learning component. Alex Butwinski stated that the City Attorney's comments are included in the staff report and he encouraged members to follow his recommendation as a starting point for conducting study sessions.

Nate Rockwood explained that this session is a follow-up from Visioning and the preview of capital projects about a month ago. The focus will be on available revenues to fund capital projects but not details of the projects themselves. He referred to the interactive digital model which illustrates different funding options which has been updated to reflect the current budget or the City Manager's Recommended Budget so results will be different from the Visioning exercise. Projects listed in the staff report are not funded in the recommended budget.

He referred to unfunded projects including Main Street improvements, OTIS, open space and endowment, storm drains, recreation and Quinns Phase 3. The City's current revenue mix is sales tax, property tax and fees and is healthy now but over time with property tax not having an inflationary component, will slowly migrate where sales tax becomes the most prominent revenue source.

Mr. Rockwood explained that the City has a local option sales, resort sales and mass transit sales tax. The local option is set at the maximum rate and subject to the state's equalization formula where the resort cities sales tax is not subject to redistribution. The local option can actually be reduced and the City receives about 65% of sales tax revenues. Tom Bakaly interjected that because Park City is low population and high sales, we lose on the local option but resort sales tax is all point of sale. Nate Rockwood stated that the resort cities sales tax is set at 1.1% and could be raised by ½ cent to 1.6% by popular vote which would generate an additional $3 million annually. Historically, 25% of the resort cities sales tax revenue is allocated to the transit fund and 75% to the General Fund. Most communities charge the 1.1% but a few have charged the additional ½ cent.

Tom Bakaly explained the formula for qualifying as a resort town which considers the ratio of bed base and permanent population. Moab and Brian Head might charge the full amount. The mass transit tax can be raised by popular vote if the allocation from the resort cities sales tax is adjusted. Liza Simpson understood that raising the transit tax to the maximum would bring in $1.5 million in 2014 as compared to $1.7 million to the Transit Fund in resort cities sales tax. The Transit Fund will be reviewed during the budget process.

In response to a comment from Alex Butwinski, Nate Rockwood explained that the Transit Fund balance reflects federal funding but if the City lost federal funding, the transit system could still operate the same as it does now. If resort cities sales tax revenue and grant funding are lost, the transit tax would definitely need to be raised. Mr. Butwinski suggested that the allocation be dropped to 20% instead of 25% and Tom Bakaly indicated that this was done during the recession for one year. Ms. Simpson asked the same question and Mr. Rockwood reiterated that if revenues remain intact but the City received no federal funding, the City would still have enough capital to replace the buses and do some capital asset replacement. Federal money is a huge bonus to the Transit Fund but awards fluctuate a lot.

Dick Peek advised that Huntington, Green River, Moab, Brian Head, Ivins City, Alta and Springdale charge the full 1.6% resort cities sales tax. With regard to the resort cities sales tax, Cindy Matsumoto asked if it is cheaper to purchase an apple, for example in the County and Mr. Rockwood replied that it may be similar because of Summit

County's mass transit tax rate. Andy Beerman asked the process for increasing the resort cities sales tax and Mr. Rockwood explained that the Council must adopt a resolution supporting the tax increase and then the public votes to approve in a General Election. In response to a comment from Ms. Matsumoto, Tom Bakaly noted he is uncertain if the local option sales tax can be reduced and added that the restaurant tax is 1% and when added to the sales tax base at 7.45%, totals 8.45% and adding the transient room tax at 3%, is 10.45%. The 3% goes to the County and about 90% of that amount is allocated to the Chamber/Bureau for marketing which is good for the economy. Nate Rockwood pointed out that the majority of the resort cities sales tax is raised in the winter season.

Ms. Matsumoto asked if staff can decipher what portions come from residents and tourists. He explained that arriving at a percentage would involve making many assumptions. Ms. Matsumoto stated that from the information provided, it is easy to see that 71% of property taxes are raised by non-primary residents. Mr. Rockwood replied that making assumptions on types of use may result in some rough estimates for resort cities sales tax. Ms. Simpson believed that time of year may reveal trends. He stated that breakdown by industry type shows retail and lodging as the highest and the increase in sales tax revenues for lodging is primarily due to the new hotels in Deer Valley.

He displayed a chart illustrating sales tax revenue generated by geographic zone. Andy Beerman asked why the *rest of City* category is so high and Mr. Rockwood explained that it is sort of a catch-all, receiving indirect point of sale revenue which may be adjusted as the state adjusts its method for distributing indirect sales.

He reported that currently the City does not collect transient room tax and it is possible to charge up to 1% which could be achieved through a Council vote. It is estimated that the full TRT would bring in about $1.2 million in 2014 which could be allocated to the General Fund for capital or operating. The TRT can be tied directly to visitor nights and Summit County currently charges 3% which is assessed in Park City. In response to a question from Ms. Matsumoto, Mr. Rockwood stated that staff will explore what Colorado charges. Mr. Beerman believed that surrounding areas impose the same or a higher tax on lodging.

Ms. Simpson felt that an increase is palatable if it is tied to specific tourism improvements and Tom Bakaly discussed the opposition from the lodging community in 1999. A precedent has been set with regard to restaurant tax to fund projects that benefit tourism. It is helpful to match tax revenues with a particular use that benefits from the tax. Mr. Beerman stated that the lodging community would have to see a direct benefit from a TRT increase or there will be a lot of opposition. Mr. Harrington pointed out that when booking on-line, it is typical to see the inclusive price without the tax broken out. Andy Beerman felt that customers are not overly concerned about sales tax but lodging operators are business people who are leery about collecting taxes if they don't know where they are going. This is a bigger issue, in his mind, than the actual increase. Ms. Simpson understood that the tax rate is more of an issue when negotiating with group bookings rather than individuals. Tom Bakaly pointed out that lodging is opposed to being the only segment carrying the burden. A ½% increase in resort cities sales tax would be charged to everyone and raises close to $3 million while an increase of 1% in the TRT brings in $1.2 million.

Cindy Matsumoto commented that increasing property taxes by 6% only raises an additional $500,000 and Tom Bakaly added that it would cost the average resident taxpayer $32 a year and is really less of an impact to citizens. Property taxes are not well liked because they are defined while paying sales tax is less noticeable.

Bret Howser indicated that the average household in the U.S. pays about $20,000 in taxable sales a year and a ½% increase represents about $100. Mr. Beerman pointed out that sales tax is optional while property tax is mandatory. Mr. Bakaly acknowledged that it is easier to raise sales tax than property taxes but sales tax revenues are much more volatile than property tax revenue. Ms. Simpson believed that what Council learned in 2009 about a proposed property tax increase is that people want to know where the additional tax revenue is going. Citizens understand the need for specific projects and there is no inflationary component associated with property taxes.

Cindy Matsumoto pointed out that a $32 increase in property taxes on a permanent residence is not bad but businesses pay the majority of the tax because there is no exemption for commercial properties. Rents on buildings will increase to cover the increase and any tax increase affects businesses to a greater degree than primary residences. Ms. Simpson agreed and suggested that collective impacts be considered so that one sector is not unfairly affected. Andy Beerman stated that if property taxes are raised the increase should be associated with OTIS, storm drains, etc. A TRT increase should address enhancements to related businesses or the bed base and sales tax relates to hotels, restaurants and retail. Types of taxes should be tied to related projects in a sensible manner assuming the Council wants to raise taxes and there are appropriate projects.

Nate Rockwood stated that the breakdown for property tax revenue is 15.4% for primary residence, 13.4% for commercial, and 71% for residential non-primary. Discussion ensued on how much higher taxes are in the Eastern U.S. and property taxes assessed in Colorado. Ms. Simpson believed that most residents understand the enormous benefit of second home owner tax rates and before considering raising property tax, the impacts on the 71% need to be ascertained specifically as they relate to real estate sales. Cindy Matsumoto emphasized that a sales tax increase raises more money. Lisa Simpson continued that an increase in TRT should be examined regarding its effect on occupancy and tolerance levels for taxes. Ms. Foster interjected that someone purchasing a $1.6 million second home is probably not concerned about property taxes. Ms. Matsumoto expressed that the commercial sector seems to take the hit on any type of tax. Andy Beerman felt the downfall with property taxes is little gain for the pain.

Nate Rockwood pointed out that revenue bonds are intended to be issued for projects and discussed using general obligation bonds to acquire open space. In response to a question from Dick Peek, conduit bonding was explained as a way to assist outside organizations fund projects. Ms. Matsumoto felt that a project should be defined as a want or a need and the new estimate for OTIS is $9 to $10 million. Nate Rockwood clarified that water revenues would cover associated water improvements for OTIS.

Tom Bakaly explained that members can look at existing budgeted projects and lower them as a priority and use some of that funding for new projects, prioritize new projects, or look at new revenue sources. Staff believes the City Council will have to do all three of these things as part of the budget process.

Nate Rockwood presented the model, programmed with projects and revenue streams, and illustrated scenarios for open space, downtown projects, storm drains and OTIS totaling about $42 million using sales revenue bonds and a GO Bond for open space. The City would be asking voters for a ¼% increase in the resort cities sales tax and a $10 million General Obligation Bond and not as much debt would have to be issued because there would be additional cash. OTIS would involve three phases of bonding over nine years and downtown projects represent two phases of bonding over six years. The time frames seem to be realistic. He isolated the $10 million storm drain project and displayed funding options. A number of scenarios were illustrated on request and the point was made that the City will face financial problems by 2019 if nothing is done in the interim.

Discussion ensued on growth in sales tax and Nate Rockwood advised that the annual increase averages about 4% a year. Mr. Bakaly pointed out that a sales tax bond is not rated as high as a GO Bond because it can vary and revenue is guaranteed from property tax. Liza Simpson felt more comfortable taking a conservative approach with anticipating sales tax revenue growth.

Bret Howser added that he reviewed the revenue mix analysis conducted three years ago and the composite revenue stream in the General Fund in an average recession was expected to dip about 9%. The plan would probably be to use reserves as a buffer but the City is limited by state law on the amount of reserves.

Liza Simpson recalled that high sales tax revenues have been allocated to capital projects in the past consistent with state law and some of the proposed projects could be funded this way. The City Manager stated that the resort cities sales tax is mainly going to operations and if voters approved an increase, he asked members if they are inclined to budget all of it to capital or operations. Ms. Simpson believed Council would have to review the City's on-going operations and maintenance program. Mr. Bakaly clarified that the premise for the resort tax is that resort towns have a disproportionate cost of being a resort town; for example, Park City has more police than cities with a population of 7,000. A good argument can be made that the tax could be used for sidewalk improvements because there are more people using them at a greater rate because of tourism. Most cities use the TRT and resort cities sales tax for operations. He urged members to be careful when budgeting new revenues for new projects based on existing conditions. Funding conflicts will occur in 2019 without doing any projects.

Andy Beerman indicated that he struggles with dedicating TRT or resort cities sales tax to OTIS because it is neighborhood infrastructure and he doesn't feel there is a direct connection. Liza Simpson agreed. He felt open space monitoring and the endowment should be linked to open space acquisition. Mr. Bakaly noted that some think that paying cash rather than issuing debt is the best approach but it burdens today's taxpayer while subsequent citizens won't share in that cost. Bonding spreads out the impact and is more equitable to the future taxpayer. Dick Peek felt this is a good argument for a property tax increase. Mr. Simpson discussed aligning taxes with projects which can be argued a number of ways. She felt street projects fall under property taxes. Ms. Matsumoto pointed out a tie to sales tax revenue and OTIS projects because Old Town is a tourist attraction and not just a neighborhood. Ms. Simpson felt that Main Street improvements, however, seem like a perfect paring with the resort cities sales tax and Ms. Matsumoto agreed.

Tom Bakaly explained that capital projects will be reviewed on May 17, 2012 and hammering out priorities will be the focus. Alex Butwinski felt that an hour and a half is adequate for study sessions and scheduling the study sessions before or after the regular session should be a function of the agenda on that date. It the day is too busy, a study session shouldn't be scheduled at all. Dick Peek felt that 2 p.m. is probably the earliest time to convene and Cindy Matsumoto stated that she did not want them scheduled after the regular meeting unless the regular meeting is brief.

Prepared by Janet M. Scott, City Recorder

PARK CITY COUNCIL WORK SESSION MINUTES
SUMMIT COUNTY, UTAH
APRIL 26, 2012

Present: **Mayor Pro Tem Cindy Matsumoto; Council members Andy Beerman; Alex Butwinski; Dick Peek; and Liza Simpson**

Tom Bakaly, City Manager; Mark Harrington, City Attorney; Kent Cashel, Transportation Manager; Matt Twombly, Project Manager; Jon Weidenhamer, Economic Development Manager; Bret Howser, Budget Manager; and Phyllis Robinson, Public Affairs Manager

Absent: **Mayor Dana Williams**

1. Council questions/comments. Liza Simpson stated that she attended the interagency task force meeting and planning updates were presented by Park City, Summit County and Wasatch County. There are many approved unbuilt projects and increased interest and activity in the Jordanelle. Andy Beerman reported on the Recycle Utah meeting. Summit County has a tentative agreement with Allied for recycling services and is likely to move forward. Glass and a number of other materials will not be collected because of automated bins and Recycle Utah is somewhat concerned because they may be flooded with materials with low value. The large metal building in Bonanza Park was donated by Mark Fischer to Recycle Utah who found a contractor to recycle the whole building. Mr. Beerman also attended a BOSAC meeting where the City's input on collaborating on purchases was recommended.

Alex Butwinski stated he attended a Ski Utah meeting where updates on the Salt Lake City Airport expansion and Ski Link were presented. He felt the Planning Commission meeting was excellent as members were very thoughtful in expressing their positions on the Quinns Junction Annexation.

Cindy Matsumoto stated that she attended the Chamber/Bureau retreat. There was discussion about the film studio and Main Street improvements. She spoke about the Wintzers commissioning University of Utah students on a planning project.

Tom Bakaly explained that Utah Transit Authority is conducting a Mountain Transportation Study including the consideration of a potential rail connection to Park City which may relate to the Olympics. The consultant asked if Park City would like to be represented in the stakeholders' group. Liza Simpson expressed her interest in transportation but cannot attend the first meeting and Andy Beerman was nominated as a liaison. Kent Cashel reported that there are three more meetings once a month which are three to four hours long. The study is not mode specific but more about transportation challenges and the Wasatch Front has been drawn into the study area. Mr. Beerman indicated that he will provide a full update to the City Council. Liza Simpson agreed to serve as an alternate.

2. Quarterly goals – 1st quarter. Tom Bakaly expressed that the table is a work in progress because of the 2030 strategic plan and there have been some changes after Visioning with desired outcomes. Cindy Matsumoto felt there should be more under citizen engagement than the library and Alex Butwinski questioned why a comprehensive plan is there if it hasn't been funded. Bret Howser explained that the language can be edited. Tom Bakaly spoke about bringing the library expansion project back to the Council. Phyllis Robinson pointed out that Goal #7 is open and responsible government and has more information on citizen engagement. It was felt that the Library should be included in preservation of Park City character. Mr. Butwinski expressed that there is overlap and maybe there is a way to cross-reference goals. Bret Howser believed goals will be adjusted once the 2030 Strategic Plan is available.

Ms. Simpson asked if Historic Site Inventories will be discussed at a joint meeting with the Historic Preservation Board. Mr. Bakaly indicated that nominations will be discussed on May 17th and the HPB has not discussed this at all. Thomas Eddington stated that this can be scheduled at the next HPB meeting the first week in May with those minutes available for the City Council work session.

Jon Weidenhamer clarified for the benefit of Alex Butwinski that stabilizing the historic retaining wall is slated for next summer. With regard to a form-based code for Bonanza-Park, Andy Beerman believed there is confusion among property owners about the scope of the overlay and its effect. There needs to be more discussions to get everyone on board, especially the Wintzers. Tom Eddington advised that a number of meetings are arranged with all of the stakeholders, including the Wintzers next Monday as a follow-up to meetings held three weeks ago. Mr. Beerman pointed out that he has also received concerns about the potential height of buildings. Tom Bakaly anticipated adoption in July.

Paring action and outcome items was discussed. Liza Simpson asked if there is interest in visiting the Millcreek Community Center and if so, a field trip should be scheduled. In response to a question from Alex Butwinski, Kent Cashel explained that the $2 million funding from UDOT for SR248 will not expire. For the benefit of Ms. Simpson, Mark Harrington stated that the County is still working on the leash law and will provide Park City a copy when it is ready.

Andy Beerman asked if it would be appropriate to identify a potential open space bond under the open space and natural environment goal. It seems like a major item and Ms. Matsumoto agreed. It was decided that it could fall under two goals and could be cross-referenced.

With regard to trails and parking, Mr. Butwinski asked if the Iron Canyon cul-de-sac has been revisited. He felt the residents basically have a private street that the public is paying for. Matt Twombly explained that there is public parking on the road to the first driveway and Andy Beerman felt the parking is adequate for trail users. Members were not interested in rehashing the situation.

Prepared by Janet M. Scott, City Recorder

PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
APRIL 26, 2012

I ROLL CALL

Mayor Pro Tem Cindy Matsumoto called the regular meeting of the City Council to order at approximately 6 p.m. at the Marsac Municipal Building on Thursday, April 26, 2012. Members in attendance were Andy Beerman, Alex Butwinski, Cindy Matsumoto, Dick Peek, and Liza Simpson. Mayor Dana Williams was absent and excused. Staff present was Tom Bakaly, City Manager; Tommy Youngblood, Special Events Coordinator; Mat Evans, Planner; Kirsten Whetstone, Planner, Francisco Astorga, Planner; Kent Cashel, Transportation Manager; and Mark Harrington, City Attorney.

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

None.

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

None.

IV WORK SESSION AND REGULAR MEETING MINUTES OF MEETING OF APRIL 5, 2012

Liza Simpson indicated that she relayed a minor correction to the City Recorder, "I move approve the work session and regular meeting minutes of April 5th". Dick Peek seconded. Motion unanimously carried.

VI NEW BUSINESS

1. Consideration of an Ordinance approving the 80 Daly Avenue plat amendment located at 80 Daly Avenue, Park City, Utah – The Mayor Pro Tem opened the public hearing; there was no public comment. Alex Butwinski, "I move we continue the Ordinance approving the 80 Daly Avenue plat amendment located at 80 Daly Avenue, Park City to May 24th". Andy Beerman seconded. Motion unanimously carried.

2. Consideration of a Master Festival License, as conditioned, for the Utah High School Cycling League to be held on Saturday, September 8, 2012 at Round Valley Trail System, Quinn's Sports Complex Parking Lots and Richardson Flats Parking Lot – Tommy Youngblood described the event which has been reviewed by several City departments. Staff recommends approval. Dick Peek pointed out a grammatical error in the conditions of approval. In response to a question from Cindy Matsumoto, Mr. Youngblood explained that this is the first event in Utah but it is held in six states. Mr. Youngblood described the shuttle and parking plan.

The Mayor Pro Tem opened the public hearing; there was no input. The public hearing was closed. The new trail event policy was addressed as it relates to potential damage and repairs.

Liza Simpson, "I move to approve a Master Festival License for Utah High School Cycling League on Saturday, September 8, 2012 according to the findings of fact, conclusions of law and conditions of approval in the staff report. Alex Butwinski seconded. Motion unanimously carried.

3. Consideration of an Ordinance approving the 269 Daly Avenue plat amendment, located at 269 Daly Avenue, Park City, Utah – Mat Evans explained that the applicant is requesting to combine two metes and bounds parcels into one lot. The property is considered a landmark site and the purpose of the combination is to construct an addition at the rear of the home. The applicant has proposed to limit the gross floor area of the buildable site to 2,000 square feet and a building line on the rear of the lot 93 feet from the frontage to discourage development on the side of the parcel. The Planning Commission unanimously forwarded a positive recommendation. He explained the meaning of gross floor area and the location of the 93 foot line. Architect Rick Otto described the back wall and drainage. The Mayor Pro Tem opened the public hearing; with no comments, it was closed.

Cindy Matsumoto felt the Planning Commission did a great job by making some suggestions and the applicant agreed to them. Andy Beerman, "I move that we approve the plat amendment for 269 Daly Avenue, based on the findings of fact, conclusions of law, and conditions of approval". Dick Peek seconded. Motion unanimously carried.

4. Consideration of an Ordinance approving the 12 Oak Court plat amendment combining Lots 35 and 36 of the Amended Evergreen Subdivision Plat, Park City, Utah – Kirsten Whetstone explained that the plat amendment is to remove a common lot line to create one lot of record for an existing house and proposed addition to the rear. The Planning Commission forwarded a positive recommendation. The HOA received notice of the vacation of the ski easement.

Dick Peek commented on the rarity of lot combinations in Deer Valley and asked about the combination affecting density in the Deer Valley Master Plan. Ms. Whetstone believed density cannot be transferred after the property has been platted and Mr. Peek asked if this would be an appropriate condition to add. Mark Harrington affirmed. The Mayor Pro Tem opened the public hearing; there were no comments from the audience and the public hearing was closed.

Dick Peek, "I move that we approve the 12 Oak Court plat amendment combining Lots 35 and 36 of the Amended Evergreen Subdivision Plat based on the findings of fact, conclusions of law and conditions of approval as amended with an additional Condition No. 9 reflecting that the density unit is gone". Liza Simpson seconded. Motion unanimously carried.

5. Consideration of renewals of leases and new leases of City property/right-of-way for outdoor dining, in a form approved by the City Attorney, for:

(a) Ciseros, 306 Main Street
(b) Bistro 412, 412 Main Street
(c) 501 on Main, 501 Main Street
(d) Main Street Pizza & Noodle, 530 Main Street
(e) Bandits Grill & Bar, 440 Main Street
(f) Bangkok Thai on Main, 605 Main Street
(g) The Eating Establishment, 317 Main Street
(h) Shabu, 442 Main Street
(i) Flanagan's, 436 Main Street (deck removed during Arts Festival) – Francisco Astorga explained that 2012 is the third year of the outdoor dining deck pilot program. The same nine restaurants issued licenses last year have applied this year to place the same deck.

There are no design changes from last year but the fees have been amended. The Mayor Pro Tem invited public input.

Kevin Valeka, Shabu, complained that the May 1 to October 30 lease term is not appropriate. It is still snowing in early May and all of the decks were down by October 15 last year. One month's fee should be taken off the lease because it is too cold to dine outside. Cindy Matsumoto understood that he wanted the term to be May 15 to October 15. Mr. Valeka stated that he has talked to Flanagan's and Bandits. The City Attorney recommended that the parking fee be prorated based on occupancy not to exceed one month.

Liza Simpson believed that appropriate notice should be provided to everyone who is leasing. Mr. Valeka interrupted to complain about having to serve lunch and dinner seven days a week. Ms. Simpson continued to express that she is not comfortable changing the actual dates of the lease without having notified everyone involved. She felt the City Attorney's suggestion is okay because the charges relate to when the space is occupied up to a month of forgiveness.

Shane Barber, Bandits, felt that pilot programs often need to be adjusted and the opportunity to amend the lease term is a good move.

Francisco Astorga advised that the City knows when the decks are installed because they are inspected. However, the fee is charged before the decks are installed and disassembly is not something tracked if it occurs before November. Ms. Simpson suggested charging the full fee and then reimbursing owners at the end of the lease, if needed.

Andy Beerman warned about tinkering with dates because no one knows what the weather will do and restaurants can choose when to be open, for the full period or for two months. He believed the City was trying to come up with a neutral parking budget to accommodate the other days that the street wanted for locals days which is reflected with a small increase. He felt the request represents a savings of only $75 or $80 per deck on average and owners are already paying a deeply discounted fee or 20% of the parking fee. Mr. Beerman expressed concerns about adjusting the fee at all at this point as the Council tried to achieve a good balance to maximize the restaurant's flexibility but still minimize the charge, and he thought the compromise was acceptable to everyone.

Alex Butwinski agreed with Mr. Beerman and is not inclined to make an adjustment for such a small amount of money. Francisco Astorga noted that in 2010, all fees were waived for three decks. In 2011, $300 per parking space was charged and this year based on an analysis on the parking program, an increase to $550 per space was approved. This represents 19% of the potential revenue or 49% of the actual revenue based on the two year average. Mark Harrington interjected that a fee for a month averages to about $91 to $130 per deck.

Kevin Valeka argued that outdoor dining is limited to July and August and again complained about having to meet the lunch requirement seven days a week. He hoped that fees will not be raised again.

Dick Peek pointed out that the item has been noticed and should be continued if leases are modified. Alex Butwinski felt that it is likely that rates will go up in the future. Cindy Matsumoto agreed that it would be difficult to be open seven days a week at the beginning of May and is inclined to agree with Ms. Simpson and charge restaurants for prorated occupancy.

Andy Beerman asked if this modification will adversely affect the Parking Fund. Kent Cashel believed that if the fee is charged from the date the deck occupies the space, he doesn't have a concern. Mark Harrington pointed out that Paragraph 2 of the lease document would need to be amended relating to prorating from date of occupancy not to exceed a month. Kevin Valeka stated that this modification addresses his concerns.

Alex Butwinski asked if the item should be continued so that lessees are notified. Mr. Harrington explained that people have the option of not taking the benefit of the amendment. The leases can be approved with a modification at this meeting. Dick Peek pointed out another provision that could be clearer with regard to the term of the lease in Paragraph 4.

Liza Simpson, "I move that we approve the renewal of and new leases of City property right-of-way on Main Street, as amended by the City Attorney to reflect that the decks do not have to be up for the full six month period, that they can be up for less time, and pay no less than five months' worth of rent, with the language changes referenced for Paragraphs 2 and 4". Alex Butwinski seconded. Motion unanimously carried.

VII ADJOURNMENT

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

MEMORANDUM OF CLOSED SESSION

The City Council met in closed session at approximately 4:30 p.m. Members in attendance were Andy Beerman, Alex Butwinski, Cindy Matsumoto, Dick Peek, and Liza Simpson. Mayor Dana Williams was absent and excused. Staff present was Tom Bakaly, City Manager; Diane Foster, Interim Assistant City Manager; Jonathan Weidenhamer, Economic Development Manager; Bret Howser, Budget Manager; and Mark Harrington, City Attorney. Liza Simpson, "I move to close the meeting to discuss property and litigation". Andy Beerman seconded. Motion carried unanimously. The meeting opened at approximately 5:15 p.m. Andy Beerman, "I move to open the meeting". Alex Butwinski seconded. Motion unanimously carried.

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, City Recorder

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