PARK CITY COUNCIL WORK SESSION NOTES
SUMMIT COUNTY, UT
DECEMBER 17, 2009

Present: **Mayor Dana Williams; Council members, Candace Erickson, Roger Harlan, Jim Hier, Joe Kernan, and Liza Simpson**

Tom Bakaly, City Manager; Mark Harrington, City Attorney, and Tyler Poulson, Sustainability Coordinator

1. Council questions/comments. Roger Harlan thanked staff for organizing the employee Christmas Party. He commented on the attributes of great leaders and humanitarians like Nelson Mandela and Mother Teresa and urged future council members to take the higher road, be genuine, and be true to themselves. Jim Hier stated that serving on the Council has been a significant and rewarding experience and commented on working with wonderful people. Liza Simpson also thanked the organizing committee for the City's Christmas Party. She spoke about attending the Planning Commission meeting where the Visioning Report was presented and suggestions made by members on some wording. Joe Kernan thanked Jim Hier for his work on CTAC and other contributions over the past six years and stated that he will miss Roger Harlan's kindness. Candace Erickson also commented on the success of the party. She spoke about Roger Harlan being her first mentor ten years ago when she joined the Council and his commitment to youth. She also enjoyed working with Jim Hier and will miss both of them. Mayor Williams reported that Evan Russack has resigned from the Planning Commission. He relayed that he will miss both Council members Roger Harlan and Jim Hier who should be proud to leave so many legacies to the community.

2. Municipal carbon reduction goal. Tyler Poulson explained that tonight the City's carbon reduction mitigation plan leading up to 2012 will be discussed. The change between 2007 and 2008 is a 7.9% increase mainly due to the Marsac Building migration and its impacts on building energy. The Water Department added a UV filtration system adding a significant electricity load to the system even though there was a net decrease in water usage by the community in 2008. The Streets Department used more vehicle fuel because of the demands of the huge 2008 snow year. As service levels increased in transit, so did fuel usage but ridership rose which represents a carbon offset.

Mr. Poulson clarified that the numbers reported for 2007 and 2008 for carbon emissions were quite a bit smaller and over the last couple of months staff reassessed the methodology and assumptions being used. The older reports reflect electricity emissions data based on electricity generated for the northwest region set by the EPA. It was ultimately decided to use Utah's electricity emissions factor which is over 100% larger which dramatically affects our numbers. He explained that staff tracks each building for energy and departments for fuel usage. The total change in cost for the two years is a $351,000 increase and $318,000 is attributed to vehicle fuel. An 18% increase in vehicle fuel prices were mostly related to diesel.

Staff used 2007 as a base line year because it was before the Marsac Building move and more representative of a normal year. It was also before the Johnson Control upgrades and 2007 was the initial year the carbon footprint was calculated. The base line year was forecasted to 2012 on a business as usual basis (BAU). Mr. Poulson relayed a number of demanding water projects coming on line and the vehicle forecast was based upon department interviews. Buildings, employee commutes, and solid waste generation are estimated to increase by 3%. He referred to a table listing the quantifiable carbon reduction items between 2007 and 2012 and pointed out action items already implemented, future projects, and additional actions that would help reach the 12% BAU goal recommended by staff. These additional items were suggested by individual departments based on what is feasible and what could be quantified. Mr. Poulson emphasized that the vehicle fuel section has changed since the last presentation and rather than providing line item details, the numbers are aggregated since they rely so heavily on behavior and unknown information, and are simply set at a 5% goal.

The implementation cost of the carbon reduction items is expected to be around $99,000 plus staff time before 2012, the annual amount of carbon savings will be just over 1,100 tons of CO^2, and the dollar savings from energy saving will be $136,000 per year. The net payback is nine months on these items. Mr. Poulson indicated that if Council directs staff to pursue a 12% carbon goal, these amounts will be budgeted as part of the upcoming budget process. He pointed out that since 2007; the carbon reduction plan represents a net reduction of 1,711 tons of carbon below where we would be based on BAU forecasts. The Utah greenhouse gas reduction goal is much more aggressive but more technology based than action driven. He again advised that staff is recommending the 12% below 2012 BAU forecast based on adoption of most of the items listed in Exhibit C in the staff report, and there is some flexibility in terms of future actions. Mr. Poulson stated that staff is trying to be as realistic and transparent about the forecasts as possible and emphasized the importance of sustainable progress.

Joe Kernan felt the 12% plan is a good step and believed developing technology is a key component to success and the timing of employing new technology is important in a changing industry. Mayor Williams agreed. Jim Hier reported that the Uniform Building Code Commission subcommittee will be meeting in January to evaluate the International Environmental Controls Code and he encouraged City participation.

Mr. Poulson continued to explain that staff is recommending Option B, outlined in the staff report, because there is value in setting a target now and budgeting for this effort. Ms. Simpson relayed her appreciation of approaching carbon reduction mitigation realistically and transparently. Members supported staff's recommendation.

Prepared by Janet M. Scott, City Recorder

PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
DECEMBER 17, 2009

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, December 17, 2009. Members in attendance were Dana Williams, Candace Erickson, Roger Harlan, Jim Hier, Joe Kernan, and Liza Simpson. Staff present was Tom Bakaly, City Manager; Mark Harrington, City Attorney; Bob Kollar, Joint-Venture Special Events Manager; Jon Weidenhamer, Economic Development Manager; Diane Foster, Sustainability Manager; and Todd Touchard, Project Manager.

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

Mayor Williams welcomed Michael Kovacs, the new Assistant City Manager.

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

<u>MCHT thanks to Roger Harlan</u> – Scott Loomis, Mountainlands Community Housing Trust, commended City Council members for devoting their time to the community and applauded Jim Hier's service over the years. He stated that Roger Harlan has been MCHT's liaison for the past four years which has been a privilege and he presented him a certificate of appreciation from the Board of Directors.

Alex Butwinski, Council-elect member, thanked Roger Harlan and Jim Hier for their combined 26 years of service to Park City. We're a better place because of them.

IV WORK SESSION NOTES AND MINUTES OF MEETING OF DECEMBER 3, 2009

Roger Harlan, "<u>I move approval of the work session notes and the minutes of the meeting of December 3, 2009</u>". Jim Hier seconded and Candace Erickson disclosed that she will not be voting as she was not in attendance. <u>Motion carried</u>.

Candace Erickson	Abstention
Roger Harlan	Aye
Jim Hier	Aye
Joe Kernan	Aye
Liza Simpson	Aye

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

Jim Hier pointed out that the CAFR is one of the most comprehensive financial documents produced by the City. Roger Harlan asked that Linda Tillson summarize the reciprocity borrowing plan which she did. Candace Erickson disclosed that her husband works for Stantec Consulting, but not in the water division. Jim Hier, "I move we approve Consent Agenda Items 1, 2 and 3". Roger Harlan seconded. Motion unanimously carried.

1. Consideration of acceptance of the City of Park City Comprehensive Annual Financial Report (CAFR) and Independent Auditor's Report for 2009 – See staff report.

2. Consideration of a Professional Service Agreement, in a form approved by the City Attorney, with Stantec Consulting Inc. for the construction engineering management and inspection of the Lower Silver Creek Raw Waterline Phase Project in an amount of $113,746 – See staff report.

3. Consideration of letter of intent for furthering reciprocity between Park City and Summit County Libraries – See staff report.

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

1. Consideration of Training Site Agreements between FIFA, US Soccer Association, and Park City for use of the Park City Sports Complex as on official training site as part of the US Bid Committee's proposal to host the 2018 or 2022 World Cup – Bob Kollar explained that FIFA is the international governmental body of soccer and owns the rights to host the World Cup, played every four years. FIFA is currently accepting bids to host the 2018 and 2022 World Cups and the United States is interested. As part of the process, US Soccer identified training sites and competition venues throughout the country to support the bid and needs commitments from those facilities. FIFA will announce who will be hosting the World Cup in one year and should the US be successful, they will form a local organizing committee which will negotiate with Park City again to enter into a training site use agreement, spelling out the areas of use, times, and other specifics. He explained that the agreement covers the worst case scenario with regard to improvements covered by the City, estimated at $515,000, some of which can be mitigated in the second step of entering into the use agreement. Monies have already been appropriated for some improvements and some items can be negotiated in good faith with the organizing committee.

Mr. Kollar believed that the effort has both quantitative and qualitative benefits. One of the goals of the Council was to promote Park City as a world-class, multi-season resort community and one of the ways to achieve this goal was to brand and market Park City as a high altitude training destination. Up to this point, Park City has had the US Men's and Women's National Soccer Teams train here as well as Real Salt Lake and others. He spoke about the training that took place in Park City for the All-Star Game where the community realized over $400,000 in revenues. The positive feedback from the teams like Everton was among the reasons Park City was contacted by US Soccer. Park City has a good reputation and being an official training site will bolster our reputation. Quantitatively, it drives a decent amount of revenue to the town in terms of food and lodging for the core delegation, friends, families and the media over 30 to 40 days conservatively estimated at $725,000.

Mr. Kollar acknowledged the costs attributed to the training site, including FIFA required improvements, but this is a two step process. Covered spectator seating, lighted field of play, security fencing, showers for the dressing rooms, etc. are items that can either be negotiated away or are already covered in appropriations. Tonight, the Council is considering the *cover* agreement while the latter use agreement spells out negotiated details. He didn't feel covered spectator seating will be required and felt that this is sort of a wish list for FIFA. Lighted field of play is certainly something that will have to be done but the project has been budgeted. Security fencing will have to be installed but can be addressed over the next nine years. He explained the current configuration of the dressing rooms and felt that they will be considered acceptable. The emergency power source and the field turf prep and additional labor will likely be the responsibility of the City.

Jon Weidenhamer explained that the approved budget for the fields is $2.2 million, including lights and improvements for the entire complex. If an item is not identified or funded already, staff does not believe the cost will be beyond $100,000 and could be addressed over nine years. Candace Erickson remarked on the number of demands made by FIFA and asked about other bidding cities. Bob Kollar explained that FIFA will select 18 competition venues and 64 training sites which will be narrowed down to 32 and it will make site visits next year. She pointed out that FIFA basically takes control for 40 days without concession and Mr. Kollar stated that this is very similar to dealing with the Olympic Committee. In the second step of the process in the use agreement negotiations, the exclusive use area will be narrowly defined and will be limited to the stadium field which will not affect local play and the rink can be used. Discussion ensued on staff maintaining the field. Mr. Kollar believed that Park City has a good chance because of its world class reputation. The Mayor invited public input; there was none.

Jim Hier, "<u>I move we authorize the City Manager to enter into the Training Site Agreements between FIFA, US Soccer Association, and Park City for use of the Park City Sports Complex, as outlined in the staff report</u>". Roger Harlan seconded. <u>Motion unanimously carried</u>.

2. <u>Consideration of a Conservation Easement and Memorandum of Understanding for the Clissold/Quarry Mountain Property with Summit Land Conservancy, in a form approved by the City Attorney</u> – Diane Foster explained that this is a joint action with Summit County who shares ownership with the City. The City can not prohibit hunting but a third party, Summit Land Conservancy, can and a memorandum of understanding

specifically describes its role. The temporary closure of trails to protect wildlife during calving was discussed and agreed upon by both BOSAC and COSAC and the City and the County would make the decision. If there is a question bout the validity of the temporary closure, an independent party could provide an opinion. Heinrich Deters added although this is a new concept for Park City, these are common land management practices in most resort communities. Diane Foster explained that a process for small scale renewable energy utilities are allowed like wind turbines and Matt Twombly spoke about receiving requests for hunting in Round Valley. The Mayor invited public input.

Linda Desimone, Quarry Mountain resident, stated that she voted for the open space bond issues for recreational reasons and has concerns about temporary closure of trails. The bond language didn't contemplate this but the wildlife issue has priority over recreation. Wildlife takes precedence over recreation in the document which could lead to wider restrictions. This is a change in direction from the intention of the open space bond and there is no documentation or evidence for the need to close a trail. The process for closing a trail is unclear and she urged Council to review the language and amend it.

Vince Desimone, 25 year Quarry Mountain resident, referred to voting for the open space bonds and recommended that before any trail closures occur that there be documented reasons given and the public have an opportunity to provide input. He asked what triggers will close and reopen trails. He alleged that the base line documentation contains many unsubstantiated statements and opinions which he does not believe are justified.

Cheryl Fox, Summit Lands Conservancy Executive Director, explained that the easement document permits trail closures, it doesn't mandate them. The easement is a collaborative effort between SLC, Summit County and Park City and the result of input from COSAC and BOSAC which are reflected in the document. Members from COSAC and BOSAC prioritized the conservation values as stated in the easement as follows, (1) open space and view shed, (2) wildlife habitat, and (3) trail uses. Ms. Fox spoke about wildlife documentation SLC has on file and if it is discovered through monitoring that the wildlife is disappearing, a study would be conducted to find the answer and the appropriate action taken, like temporarily closing a trail.

Jim Hier suggested holding a public hearing before closing a trail and Mark Harrington advised that there is nothing in the easement to preclude creating a policy. Cheryl Fox interjected that SLC is not the land owner and do not have the ability to close a trail; the City and County would have to jointly agree to close a trail. Jim Hier believed the easement should include clear language on a process for the City and the County. Roger Harlan brought up the potential for unreasonable delays because of scheduling conflicts when attempting to hold public hearings.

Cheryl Fox emphasized that the conservation easement protects public recreation also and just because it is the third priority does not mean it is unimportant. Recreation is still a protected use. She suggested that there be a memorandum of understanding between the County and the City as joint owners of the property and the Council agreed. Liza Simpson felt that if elk calving is observed, a trail may have to be closed but not all of them. Ms. Fox also brought up the possibility of a person being attacked by a calving female which is a safety factor to consider although this has not happened yet on Quarry Mountain and she hope it never does. Ms. Simpson explained that she would rather not involve elected officials about the closure and would rather have the City Manager, the County Manager and SLC decide on an action. It isn't to anyone's benefit to delay the issue and perhaps a process can be addressed in a MOU.

Joe Kernan felt that if some trails are closed others should be offered to offset the impact to trail users at all times. Ms. Fox explained the purpose of setting priorities. If it is the intent to keep trails open and available in all ways, shapes and forms regardless of the wildlife habitat, then the conservation easement needs to be rewritten. That is not the way it is currently drafted. Ms. Fox again emphasized that the easement merely permits a temporary trail closure. Matt Twombly directed members to the permitted uses outlined in the document. Ms. Fox explained that the road predates the conservation easement and provides uninterrupted access.

The Mayor felt that proceeding with a MOU will be adequate and does not recommend changing the language in the conservation easement. Because of growth and the construction of homes in Park Meadows and Quarry Mountain, the calving areas are limited and he agrees with Ms. Simpson that the process doesn't have to be complicated and lengthy.

Ms. Erickson believed that it makes more sense to continue the item to formulate a MOU and bring it back for a public hearing. Ms. Fox stated that SLC spoke with other residents in the neighborhood who were in favor of temporary trail closures to protect wildlife and both BOSAC and COSAC were strongly in favor of prioritizing wildlife habitat. SLC tried to garner a lot of points of view. Ms. Simpson agreed with Mr. Hier about moving forward with the conservation easement, especially in consideration that the conservation easement permits uses; expressed concerns can be addressed in the MOU. She asked that staff return with MOU language to be adopted at a meeting.

The Mayor requested a motion to approve with the caveat that the City, County and SLC agree on a MOU. Roger Harlan, "<u>I move that we approve a conservation easement and a memorandum of understanding for the Clissold/Quarry Mountain property with Summit Land Conservancy in a form approved by the City Attorney with the proposal that a MOU will be worked on and brought back to Council</u>". Jim Hier seconded. <u>Motion carried</u>.

Candace Erickson	Nay
Roger Harlan	Aye

Jim Hier	Aye
Joe Kernan	Aye
Liza Simpson	Aye

3. Consideration of an appeal of the recommendation for award of construction contract for the Lower Silver Creek Raw Waterline Project – appellants Silver Spur Construction – Assistant City Attorney Kerry Gaines explained that all bids were received on this project on November 20, 2009. The lowest bid was submitted by Silver Spur Construction but the Water Department made the determination that its bid was not in compliance with the request and selected the next lowest bidder, BD Bush Excavating. On December 2, 2009, Silver Spur Construction filed a timely appeal protesting its bid rejection and the matter is before Council tonight. Ms. Gaines advised that the City is not bound to accept the lowest bid and has the discretion to reject any bid that is deemed as not responsive to the request for bids. The question to be decided by Council is whether to uphold the Water Department's determination that Silver Spur's bid was incompliant. Council has the opportunity to deliberate and deliver a determination tonight. She advised that City policy requires that the decision be memorialized in writing and relayed the time limits for speaking which all parties have stipulated to.

Mark Poulsen, attorney for Silver Spur Construction, pointed out that the project was bid with two alternatives, open trench and boring the water line. His client is $40,000 cheaper which represents a savings, and is insured and bonded. He felt that the issue deals with cost and fairness. He pointed out that BD Bush bid the open trench portion at $15,000 which is nearly $400,000 lower than Silver Spur. BD Bush won't do an open trench and it is an irregularity in its bid although the City could force performance of the work. The work proposal missing from Silver Spur's bid is the issue but five of the ten bidders did not include it and it is not identified on the check list for the proposal. The work plan is trivial, especially in consideration of the second bidder's proposal for the open trench alternative. Silver Spur's bid is responsive and valid. He urged Council to save the City $40,000 by awarding the bid to Silver Spur or enforce the open trench requirement and save the City $400,000. He reiterated his arguments noting that there may be a protest if Silver Spur is awarded the bid, but it will not delay the project. The bid request was ambiguous.

Joe Kernan asked for clarification on the $400,000 issue which Mr. Poulsen again explained and insisted that BD Bush will not do an open trench even though they bid on it and that is not fair.

Project Manager Todd Touchard acknowledged that staff was impressed that BD Bush would do the trench work for $400,000 less which was confirmed in a meeting. He understood the disparity to be that BD Bush has a different supplier and can accomplish the water treatment work for the $15,000 price. He discussed the dramatic requirement at EPAs direction to remove 10,000 to 12,000 cubic yards of soil making it more expensive than drilling. Drilling was chosen for a number of reasons. Characterizing the work plan as trivial worries him because staff finds it extremely important and he had reason to believe that Silver Spur talked with other submitting contractors before the bids were opened. For the benefit of Joe Kernan, Mr. Touchard described hauling costs in the event the Richardsons Flats depository could not be used.

Mr. Poulsen insisted that his client is the lowest responsive bidder and reworking the numbers after the bids were opened is not appropriate. There is ambiguity in the bid process that calls into question the fairness of the process itself. If Silver Spur is not awarded the bid, he suggested rebidding the project again because it was not fair,

Candace Erickson emphasized that the City bid two alternatives one for open trench and one for boring because the scope of environmental remedies were unknown and the City does not have to accept the lowest bid. Mr. Kernan asked for clarification on BD Bush's de-watering approach.

Brian Bush pointed out that every city has its own specific sets of rules and if a bidder misses any detail or if the bid is late, the bid is rejected. There is nothing trivial about missing a detail. Silver Spur, by signature, acknowledged that the bid document was read. Kerry Gains interjected that proceedings should follow the agreed-upon format for the hearing, the question should be answered and Mr. Bush described the system. He doesn't know how the other bidders based their costs but this is a relatively cheap system to operate.

Choosing to proceed with an alternative was discussed and Todd Touchard noted that if drilling fails, excavation will have to occur.

Silver Spur Project Manager Bill War expressed that the bid request was ambiguous.

Liza Simpson stated that no argument changes the fact that the bid package was incomplete. Skipping over a section of the plan that deals with hazardous materials is not trivial in her constituents' or her mind. Candace Erickson agreed that the bid submittal feel short and Jim Hier found no valid reason to reject the recommendation made by staff and consulting engineers.

Joe Kernan, "<u>I move we deny the appeal by Silver Spur</u>". Liza Simpson seconded. <u>Motion unanimously carried.</u>

4. <u>Consideration of Construction Agreement, in a form approved by the City Attorney, with BD Bush Excavating for the construction of the Lower Silver Creek Raw Waterline for a lump sum amount of $1,943,821</u> – Jim Hier, "<u>I move we direct the City Manager to execute a construction agreement in a form approved by the City Attorney, with BD Bush Excavating for the construction of the Lower Siler Creek Raw Waterline for a lump sum amount of $1,943,821</u>". Roger Harlan seconded. <u>Motion unanimously carried</u>.

VII ADDITIONAL DISCUSSION – AGENDA ITEMS

VIII 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 3 p.m. Members in attendance were Mayor Dana Williams, Candace Erickson, Roger Harlan, Jim Hier, Joe Kernan, Liza Simpson, and Council-elect Alex Butwinski and Cindy Matsumoto. Staff present was Tom Bakaly, City Manager; Tom Daley, Deputy City Attorney; Kathy Lundborg, Water Manager; Michael Kovacs, Assistant City Manager; Diane Foster, Sustainability Manager; Jon Weidenhamer, Economic Development Manager; Bret Howser, Budget Manager; and Mark Harrington, City Attorney. Joe Kernan, "I move to close the meeting to discuss property and litigation". Liza Simpson seconded. Motion carried unanimously. The meeting opened at approximately 4:50 p.m. Candace Erickson, "I move to open the meeting". Roger Harlan 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

Janet M. Scott, City Recorder