

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
APRIL 15, 2010**

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will hold its regularly scheduled meeting at the Marsac Municipal Building, City Council Chambers, 445 Marsac Avenue, Park City, Utah for the purposes and at the times as described below on Thursday, April 15, 2010.

Closed Session

3:00 p.m. Property and litigation

Work Session

4:00 p.m.	Council questions/comments	
4:15 p.m.	Quarterly goal update	P. 6 - 19
4:45 p.m.	Carrying capacity – market analysis survey	P. 20 - 33
5:30 p.m.	Review of regular meeting – nondiscrimination ordinances	P. 69 - 93
5:50 p.m.	Break	

Regular Meeting

6:00 p.m.

I ROLL CALL

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

III WORK SESSION NOTES AND MINUTES OF MEETING OF APRIL 1, 2010
P. 34 - 45

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

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”*)

1. Consideration of approval of Richardson Flat Park and Ride Lease, in a form approved by the City Attorney P. 47 - 65

2. Consideration of the transfer of property known as Snow Creek Cottages, located at 2061 Snow Creek Drive, Park City, Utah from Park City Municipal Corporation to the Redevelopment Agency of Park City, Utah P. 66 - 67

3. Resolution proclaiming the month of April as Fair Housing Month in Park City, Utah P. 68

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

1. Consideration of an Ordinance relating to unlawful discrimination in employment practices based on sexual orientation and gender identity and creating Chapter 16 within Title 4 of the Municipal Code of Park City, Utah P. 69 - 93

- (a) Public hearing
- (b) Action

2. Consideration of an Ordinance relating to unlawful discrimination in housing practices based on sexual orientation and gender identity and creating Chapter 17 within Title 4 of the Municipal Code of Park City, Utah P. 69 - 93

- (a) Public hearing
- (b) Action

VII OLD BUSINESS (*Continued items*)

1. Consideration of an Ordinance amending the Land Management Code of Park City, Utah, revising Section 15-1-18(C) regarding the option of appointing a hearing officer to hear certain appeals of Planning Commission decisions P. 94 – 99

- (a) Public hearing
- (b) Action

**See separate packet
for exhibits**

2. Consideration of an Ordinance amending the Land Management Code of Park City, Utah revising Sections 15-2.3, 15-6, regarding development regulations for Master Planned Developments in the HR-2 District and clarification of support commercial and meeting space within Master Planned Developments P. 100 – 105

- (a) Public hearing
- (b) Action

**See separate packet
for exhibits**

VIII ADDITIONAL DISCUSSION – AGENDA ITEMS

IX ADJOURNMENT

**PARK CITY REDEVELOPMENT AGENCY
SUMMIT COUNTY, UTAH
APRIL 15, 2010**

I ROLL CALL

II PUBLIC INPUT

III MINUTES OF MEETING OF JANUARY 7, 2010 P. 46

IV NEW BUSINESS

Consideration to proceed with real estate purchase contracts for the sale of the Snow Creek Cottages, 2061 Snow Creek Drive, Park City, Utah, in a form approved by the City Attorney P. 106 - 107

- (a) Public hearing
- (b) Action

V ADJOURNMENT

A majority of City Council members may meet socially after the meeting. If so, the location will be announced by the Mayor. City business will not be conducted.

Pursuant to the Americans with Disabilities Act, individuals needing special accommodations during the meeting should notify the City Recorder at 435-615-5007 at least 24 hours prior to the meeting.

Wireless internet service available in Marsac Building on Wednesdays and Thursdays – 4 p.m. to 9 p.m.

Posted: 04/12/10

See www.parkcity.org

Note: This future meeting schedule is TENTATIVE and subject to change.
PARK CITY COUNCIL TENTATIVE MEETING SCHEDULE

April 2010

- 22 Traffic and Transportation Master Plan Study (20 min)
Sundance debrief
Norfolk reconstruction project (5 p.m. work and public input) – KC
Final bond issue – public hearing/action
Service agreement with Rocky Mountain Power for design and construction services for the Bonanza Drive Reconstruction Project in the amount of \$131,830 in a form approved by the City Attorney.
Professional service agreement with InterPlan Company for consultant services related to the traffic and transportation master plan study in an amount of \$262,296 in a form approved by the City Attorney.
Ordinance – 100 Marsac Avenue one year extension
- 29 **Alex and Cindy gone**
No meeting

May 2010

- 6 Parking program update (30 min.)
Presentation of budget – work
BOA interviews (3:45 – 5:45 p.m.)
PC Heights annexation
Acceptance and award of Pavement Management Bids – PE
MFL – RU In run
MFL – Running with Ed
- 13 **Dana gone - 5/7 – 5/20**
No meeting
- 20 Budget - work
27 Budget – work

June 2010

- 3
10
17
24

July 2010

- 1
8 **No meeting**
15
22
29

Pending Items:

Parking enforcement

Resolution approving a Memorandum of Understanding with the Park City School District for the SR248 Tunnel
Outdoor dining on Main Street – encroachment permits
Transportation master plan – MC
MFL and special event Code amendments
Open space maintenance
U S Postal Service gang boxes in Old Town - MC
Quinn's WTP Building Construction Contract – TT
Special event prioritization – work
Performance measures (work)
Resolution amending (or replacing) Resolution No. 20-07, adopting Affordable Housing Guidelines and Standards for Park City, Utah
Wild land interface issues

MEMO



Executive Department

To: City Council
From: Tom Bakaly, City Manager
Subject: 1st Quarter (January - March, 2010)
Date: April 15, 2010

445 Marsac Avenue
P.O. Box 1480
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www.parkcity.org

On April 15, 2010 we have scheduled time in work session for City Council to review goals and action items. Council may direct Staff to provide more detailed information in the future on the status of projects. We have used a system of one-word summaries over the years: **complete** - project is complete; **in progress/in process** - on target for revised or initial date; **pending** - project may not meet time lines depending on action by entities outside the City.

We continue to tentatively add new action items to your goal status report based upon individual input from Council members, the Mayor and Staff. Those items are in bold and need to be affirmed by Council.

The report also includes quarterly summaries related to traffic calming and neighborhood service requests. This work session will provide an opportunity to for departments to provide operational updates on Council goals if requested.

2010 Park City Goals & Targets for Action (January - March, 2010)				
Top Priority				
Goal 1 Preservation of Park City Character				
Target for Action / Actions / Staff Coordinator	Initial Target Date	Revised Target Date	Status	
1. Old Town Improvements - Jonathan Weidenhamer and Dave Gustafson				
Downtown Projects				
1. Pocket Park/Historical Wall Renovation •RFP for Design •Construction complete	Aug-09 Oct-10 Oct-12	Jan-11 Oct-11	Pending Pending Pending	
2. Town Plaza/Swede Alley	Ongoing		Ongoing	
3. Last Phase of Downtown Improvements (streetscape, sidewalks, pedestrian connections, etc.)				
2. Affordable Housing - Phyllis Robinson				
1. Affordable Housing Resolution Update	Jul-09	Jul-10	Pending	
2. Snow Creek Affordable Housing •Lottery & Selection •Occupancy	Apr-10 May-10		Complete In Progress	
3. Monitor Developer Obligations & Compliance	Ongoing		Ongoing	
3. Trash and Recycling - TBD				
1. Discussion on recycling facility relocation		Jul-10	Pending	
2. Support HMBA Recycling Program Efforts (recycling contract completed)	Ongoing		In Progress	
4. Environmental Initiatives - Diane Foster				
1. Energy audits of Council member homes	Oct-08	Jun-10	In Progress	
2. Environmental Heroes Awards	Jul-10		In Progress	
3. Update to Environmental Strategic Plan	Aug-10		Bi-Annual	
4. Develop and Implement community CO2 emission and water consumption reduction program in conjunction with partners	Aug-09	Dec-10	In Progress	
5. Historic Preservation - Thomas Eddington				
1. Planning Department to work with HPB to clarify their role and Joint Meeting with Council	Jul-10		In Progress	
2. LMC Amendments for Sustainability	Jun-10		In Progress	
3. Assessment of National Historic District - Main Street Designation	Aug-10		In Progress	
4. Clean up miscellaneous Historic Preservation Issues	Aug-10		In Progress	
5. Create a plan for 1450/1460 Park Avenue	Aug-10		In Progress	
6. Senior Issues - Rhoda Stauffer				
1. InterAgency Working Group & Strategies	Sep-10		Pending	

Target for Action / Actions / Staff Coordinator		Initial Target Date	Revised Target Date	Status
7. Park City Heights Joint Venture - Phyllis Robinson				
1. Annexation - City Council Determination		Apr-10	May-10	In Progress
2. Master Planned Development (MPD) for site		Jun-10		Pending
8. Lower Park Avenue Property Redevelopment - Jonathan Weidenhamer, Michael Kovacs				
1. Identify potential components and tax increment		Feb-10		Complete
2. Create implementation strategy		Apr-10		In Progress
3. Extend Development Agency		Apr-10		In Progress
4. RFP for Market Analysis and Carrying Capacity Study		May-10		In Progress
5. Elliott Workgroup workforce housing first phase		May-10		In Progress
9. General Plan Update - Thomas Eddington				
1. Work with Sustainability on the PC Heights Annexation		Apr-10		In Progress
2. Work with Sustainability on PC Heights MPD		Jun-10		Pending
3. Data collection, analysis, meetings with Planning Commission, recommendations and complete plan preparation		Dec-11		In Progress
10. Bonanza Park Plan - Michael Kovacs, Jonathan Weidenhamer, Thomas Eddington				
1. Launch private/public meetings and concept discussions		Feb-10		Complete
2. Examine ability for new anchor tenant		Feb-10	May-10	In Progress
3. Change General Plan section name to Bonanza Park		Feb-10	May-10	Pending
4. Promote/discuss advantages of new General Plan concept (e.g. Bonanza Park, form-based coding, etc.) with Council		Jun-10		Pending
5. Adoption of new General Plan section on Bonanza Park Redevelopment by Planning Commission		Sep-10		Pending
6. Examine ability to do event venue, convention area, and permanent Sundance area		Sep-10		Pending
7. Adoption of new General Plan Section on Bonanza Park Redevelopment by Council		Dec-10		Pending
8. Concept planning and Bonanza park functional priorities - talk to power company		Dec-10		Pending
9. Identify transportation corridors as part of General Plan Transportation Element		Dec-10		Pending
11. Neighborhoods - Thomas Eddington				
1. Tie Lower Park Avenue / Bonanza Park Redevelopment concepts into General Plan		Jun-10		In Progress
2. Planning Department to work with the Planning Commission to better define Old Town Neighborhoods		Oct-10		In Progress

2010 Park City Goals & Targets for Action (January - March, 2010)

Top Priority

Goal 2 World Class, Multi-Seasonal/Resort Community

Target for Action / Actions / Staff Coordinator

	Initial Target Date	Revised Target Date	Status
1. Economic Development - Jonathan Weidenhamer			
1. High Altitude Training/Master Planning City property at Quinn's			
• RFP Issuance with USSA and UOP	Jan-10	May-10	Pending
• Develop Model	Mar-10	May-10	Pending
2. Tents and Temporary Structures	Dec-08	May-10	In Progress
3. HMBA Requests			
• HMBA Vision & Prioritization	May-10	Jun-10	In Progress
• Expanded Sidewalk Dining	May-10		In Progress
4. City-wide market analysis & carrying capacity study		Jul-10	In Progress
5. Implementation of 2010 Economic Development Plan	Dec-10		Ongoing
2. Public Art - Sharon Bauman			
1. Art in Public Places Implementation	Ongoing		Ongoing
2. Ice Rink Artistic Banner Installation - Artist Selected - Designs Complete - Installation Pending	Apr-09	Jun-10	In Progress
3. Bus Shelter Enhancement Implementation - Phase II (project on hold until Spring 2010)	Apr-09	Jun-10	In Progress
3. Community Amenities and Events: Evaluation, Future Direction - Jonathan Weidenhamer			
1. Event Overhaul			
• Event Fees, revenues and enforcement	Jun-09	Jun-10	In Progress
• Update Event Fee Schedule	Jun-10		In Progress
• Codify Criteria to Close Main Street	Jun-10		In Progress
• Update Municipal Code	Jun-10		In Progress
• Update of administrative processes (applications, etc.)	Jun-10		In Progress

2010 Park City Goals & Targets for Action (January - March, 2010)				
Top Priority				
Goal 3 Effective Transportation System				
Target for Action / Actions / Staff Coordinator	Initial Target Date	Revised Target Date	Status	
1. Neighborhood Traffic Management - Kent Cashel See Attached Neighborhood Traffic Management Summary Report				
2. Regional Transportation - Kent Cashel				
1. Enhance Transit Marketing	Annual		Ongoing	
2. Implement employee vanpool incentive program	Annual		Ongoing	
3. Regional/Rural Transportation Issues - COG	Ongoing		Ongoing	
4. Iron Horse Expansion				
•Begin Construction	Nov-09	Mar-10	In Progress	
•Construction Complete	Dec-10	Dec-11		
3. Transportation Strategic Plan - Kent Cashel				
1. Annual Progress Report to City Council	Annual		Annual	
2. Implement Transportation Plan Strategies	Ongoing		Ongoing	
3. Implement Task Force Recommendations	Ongoing		Ongoing	
4. Update Strategic Plan to include pedestrian-bicycle and transit modes - Pending General Plan Update	Sep-08	May-10	Pending	
5. General Plan	May-10		In Progress	
4. Public Parking - Kent Cashel				
1. Conduct Main Street Circulation Study	May-09		Ongoing	
2. Taxi Drop-off/Pick-up	Oct-11		Pending	
5. Community Transportation Plan -Matt Cassel, Kent Cashel, Jonathan Weidenhamer, Thomas Eddington				
1. Entry Corridor	Ongoing		Ongoing	
2. Park and Ride	Jan-10	Apr-10	In Progress	
3. Citywide Transportation Plan and Modeling	Dec-10		In Progress	
4. Tie to General Plan	Dec-10		In Progress	

Target for Action / Actions / Staff Coordinator		Initial Target Date	Revised Target Date	Status
6. Highway 248 - Kent Cashel				
1. Complete Environmental Study for Richardson Flat Road Intersection		Apr-10	Jun-10	In Progress
2. Engineering design of Richardson Flat Road Intersection		Aug-10		
3. Complete Environmental Work for Corridor		Sep-10		
4. Engineerig Design of Strategic Plan Improvements		Feb-11		
5. Secure Funding for Strategic Plan Improvements		Mar-11		
6. Construct Improvements		Oct-11		
7. Traffic Study - Kent Cashel				
(tie with economic carrying capacity)				
1. Complete Highway 224 Strategic Plan		Oct-10		In Progress
2. Complete Transportation Network Modeling		Oct-10		In Progress

2010 Park City Goals & Targets for Action (January - March, 2010)

Top Priority

Goal 4 Quality and Quantity of Water

Target for Action / Actions / Staff Coordinator	Initial Target Date	Revised Target Date	Status
1. Pipeline Preferred Project Agreements - Kathy Lundborg			
Determine a preferred project with Weber Basin and Bureau of Reclamation			
1. Quinn's Treatment Plant - design	Dec-08		Complete
2. Pipeline Construction - Incremental Process - All Three Sections in progress	Apr-09	May-10	In Progress
3. Quinn's Treatment Plant - Begin Construction	Sep-09	Jun-10	In Progress
2. Judge Water Treatment Plants - Kathy Lundborg			
1. Determine Scope and Timing for Plant Design and Construction (Evaluating alternatives due to antimony level increases)	Aug-04	May-10	Pending
2. NPDES Permit	Sep-05	Jan-11	Pending
3. Judge delivery system to Quinn's Water Treatment Plant construction	Apr-06	Oct-11	Pending
3. Other Water Solutions - Supply Options/Conservation - Kathy Lundborg			
1. Summit County, Snyderville Basin Water Reclamation District Cooperation Discussions/Stream Flow Enhancements	Annual		Ongoing
2. JSSD Water Discussions	Annual		Ongoing
3. Supply/Demand Update to City Council		Jun-10	Pending
4. Water Funding Strategy - Kathy Lundborg			
1. Pursue future appropriations and authorizations	Annual		Ongoing

2010 Park City Goals & Targets for Action (January - March, 2010)

High Priority

Goal 5 Recreation, Open Space and Trails

Target for Action / Actions / Staff Coordinator

	Initial Target Date	Revised Target Date	Status
1. Ongoing Open Space Acquisition - Diane Foster, Matt Twombly			
1. Flagstaff - Distribution of open space contribution	Ongoing		Ongoing
2. Osguthorpe Conservation Easement Acquisition	Feb-10	Feb-10	Complete
3. Red Maple/Air Force	Oct-04	Oct-10	In Progress
4. Other Properties	Ongoing		Ongoing
2. Open Space Management - Diane Foster, Matt Twombly			
1. Additional easement monitoring on new acquisitions	Ongoing		In Progress
2. Install legacy signage on all open space acquisitions	Jun-09	Jun-10	In Progress
3. Kimball and new Round Valley Conservation Easement	Feb-10	Jul-10	In Progress
4. Gambel Oak & White Acre Conservation Easement	Jul-10		Pending
3. Trails - Matt Twombly/Heinrich Deters			
1. Trailhead Parking Phase III - as sites are available	Ongoing		Ongoing
2. Coordinate new connections by development/TMP CIP	Ongoing		Ongoing
3. Flagstaff Trails reconstruction	Ongoing		Ongoing
4. Implement back-country trails maintenance plan and budget	Ongoing		Ongoing
5. Citywide Pedestrian/Street Lighting guidelines consistent with General Plan, Trails Master Plan and WALC	Jan-09	Jun-10	In Progress
6. Trails Webpage	Feb-10	Jun-10	In Progress
7. Armstrong OS trail connection	Jul-10		In Progress
8. April Mountain Trails & Recreation Plan	Jul-10		In Progress
9. Bike Route Plan	Jul-10		In Progress
10. Quinn's to Silver Summit through IHC/PR!	Aug-10		In Progress
11. Evaluate and Improve backcountry trail signage	Aug-10		In Progress
4. Neighborhood Parks - Ken Fisher/Matt Twombly			
1. Creekside Park on Holiday Ranch Loop	Jun-09	Jul-10	In Progress
• Park construction			
2. Dog Park - Direction from RAB/Council - Construction Complete			
• Receive \$10,000 Donation from Dog Park Fundraiser	Jan-10		Complete
• Install Shade Structure at Dog Park	May-10		In Progress
3. Begin Master Plan for north and south ends of City Park	May-09	May-10	Pending
4. Off-leash Dog Park Option at Library Field (RAB)	May-10	Jul-10	In Progress
5. Recommendation on amended Summit County Leash Ordinance	Jul-10		In Progress

Target for Action / Actions / Staff Coordinator	Initial Target Date	Revised Target Date	Status
5. Ice Rink -Jason Glidden & Jon Pistey 1. Install new scoreboards on sports fields 2. Work with PAAB to install artistic banners	Aug-08 Dec-08	May-10 Jun-10	In Progress In Progress
6. Recreation and Racquet Club: Next Steps - Ken Fisher 1. Racquet Club Renovation •Development of schematic design & design development •Planning Commission Action •MPD Planning Commission Approval •Development of Construction Documents •Bid for construction	Dec-08 Dec-09 Feb-10 Apr-10	Dec-09 Jan-10 Apr-10	Complete Complete In Progress Pending
7. Outdoor Recreation Complex - Matt Twombly 1. Phase II Improvements	FY'10		Pending
8. Walkability Implementation Phase I - Matt Twombly, Heinrich Deters 1. Holiday Ranch Loop Path •Engineering •Construction 2. SR-248 Tunnel 3. Bonanza Tunnel 4. Traffic Calming Improvements • Monitor Drive - Island • Wyatt Earp - Entry Feature / Island • Sidewinder @ Gold Dust - Entry Feature / Island 5. Comstock Sidewalk 6. Sidewinder Drive Sidewalk	Mar-09 Aug-10 Oct-09 Oct-10 Oct-10 Oct-11 Oct-11 Oct-09 Oct-11	Apr-10 Aug-10 Jul-11	In Progress In Progress In Progress In Progress In Progress In Progress In Progress In Progress

2010 Park City Goals & Targets for Action (January - March, 2010)

High Priority

Goal 6 Regional Collaboration and Partnerships

Target for Action / Actions / Staff Coordinator	Initial Target Date	Revised Target Date	Status
1. Transportation - Kent Cashel See Goal 3			
2. Flagstaff-Wasatch County - Tom Bakaly 1. Work with Wasatch County re SR-224 and public versus private access	Ongoing		Ongoing
3. Recreation - Ken Fisher See Goal 5			
4. Health - Pace Erickson 1. Noxious weed coordination and enforcement on private property	Ongoing		Ongoing
5. Water - Kathy Lundborg See Goal 1	Ongoing		Ongoing
6. Solid Waste - Pace Erickson 1. Implementation of Solid Waste Alternatives	Ongoing		Pending
7. Mosquito Abatement - Pace Erickson 1. Continued coordination with Summit County	Ongoing		Ongoing
8. Library - Linda Tillson 1. Library Reciprocal Borrowing for Summit County Students	Ongoing		Ongoing
9. Inter-Agency Task Force 1. Continued Participation	Ongoing		Ongoing
10. Open Space Acquisition See Goal 5	Ongoing		Ongoing
11. SOS Community Carbon & Water Action Plan - Diane Foster 1. Engage community, in partnership with Summit County and other groups (non-profit, HMBA, Chamber, School District) in reducing water consumption and carbon emissions	Ongoing		In Progress
12. Rocky Mountain Power Transmission Line and Substation Siting Task Force - Thomas Eddington, Matt Cassell and Diane Foster 1. Provide direction to RMP with regard to the location of future transmission lines & substations (Task Force & RMP meetings)	Sep-10		In Progress
13. Public Safety - Special Events 1. Information Sharing 2. Special Event Staffing to Reduce Overtime Costs	Ongoing Ongoing		Ongoing Ongoing

Target for Action / Actions / Staff Coordinator		Initial Target Date	Revised Target Date	Status
14. Council of Governments - Kent Cashel				
1. Continued Participation		Ongoing		Ongoing
15. Utah League of Cities and Towns - Michael Kovacs				
1. Continued Participation		Ongoing		Ongoing

2010 Park City Goals & Targets for Action (January - March 2010)					
Neighborhood Traffic Management Summary Report Attachment "A" to Quarterly Status Report					
Location	Date Recd/ Phase 1 Mtg	Citizen Concerns	Phase 1 Follow-up	Status	Target Completion
McHenry/Rossi Hill					
	Sep-08	•Sight lines at intersection	•Field Study and Data Gathering	Complete	Oct-08
	Oct-08		•Committee Meeting	Complete	Oct-08
			•Implement Action Plan	Complete	Nov-08
			•Engineering Report	Complete	Nov-08
			•Installed Stop Sign on McHenry	Complete	Nov-09
			•Install stop signs on 3 legs of intersection	Pending til Spring	May-10
Norfolk Avenue					
	Apr-09	•Traffic Calming Requests	•Order and Install Signs	Complete	Aug-09
			•Traffic Counts	Complete	Ongoing
			•Crosswalk Study	Complete	Aug-09
			•Post Reconstruction Parking Study	Complete	May-10
			•Review Plan with Council	In Process	Apr-10
Rail Trail Cross Walk @ Wyatt Earp					
	Jul-09	•Traffic Calming Requests	•Traffic Counts	Complete	Sep-09
			•Crosswalk Study	Complete	Sep-09
			•Order and Install Signs	In Process	Spring-10
			•Stripe Crosswalk	In Process	Spring-10
Meadows Drive (Near Crescent Drive)					
	Aug-09	Traffic Calming Request	•Staff Visit	Complete	Sep-09
			•Deploy Temporary Speed Trailer	Complete	Ongoing
			•Enforcement	In Process	Ongoing
			•Continue Speed Counts	Complete	Ongoing
Sullivan Road (City Park)					
	Dec-09	•Traffic Calming Request	•Enforcement	Complete	Ongoing
			•Traffic Counts	Complete	Mar-10
Crescent Tram					
	Dec-09	•Traffic Calming Request	•Traffic Counts	In Process	Apr-10
			•Committee Response to Request	Pending	May-10
Iron Mountain Drive					
	Jan-10	•Parking restriction request	•Staff visit	Complete	Jan-10
			•Order and Install Signs	In Process	Apr-10
Marsac Avenue					
	Mar-10	•Traffic Calming Request	•Traffic Counts	In Process	May-10
			•Police Enforcement	In Process	May-10
			•Committee Response to Request	Pending	Jun-10
Daly Avenue					
	Mar-10	Traffic Calming request	•Traffic Counts	In Process	May-10
			•Committee Response to Request	Pending	May-10

2010 Park City Goals & Targets for Action (January - March 2010)				
Neighborhood & Business District Needs Assessment <i>Request for Elevated Levels of Service Request (RELS) Attachment "B" to Quarterly Report</i>				
<u>Status Report</u> Staff met with neighborhood and prioritized requests - Project 1 sidewalk on Deer Vally Drive completed. Bus stop installed. School bus stop pending completion by private developer.				
Target for Action / Actions / Staff Coordinator Target Date Status Budget				
1. Pedestrian Lighting - Matt Cassel 1. Install street and pedestrian lights from Stonebridge condos to roundabout				
Jun-10 Cost identified State Road Funds Grant				
18				

2010 Park City Goals & Targets for Action (January - March 2010)

Neighborhood & Business District Needs Assessment *Request for Elevated Levels of Service Request (RELS) Attachment "B" to Quarterly Report*

Status Report
Staff met with HMBA. Step 6 of RELS

Target for Action / Actions / Staff Coordinator	Target Date	Status	Budget
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1. Main Street Improvements

1. Conduct feasibility study regarding installation of lighting system on Main Street Buildings	Aug-09	Jan-10	\$5,000
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City Council Staff Report



Author: Jonathan Weidenhamer
Subject: Carrying Capacity Study Scope
Date: April 15, 2010
Type of Item: Informational update

Summary Recommendation:

Review and discuss the draft scope of the upcoming Carrying Capacity Study and provide direction.

Background

During the annual Council visioning session in January 2010, an update was given on redevelopment efforts in the Lower Park Avenue Redevelopment District (LPARDA). Anticipated phases of staff's efforts include:

Phase IA	Preliminary Planning Concepts
Phase IB	Concept Project list
Phase II	Implementation/Master Plan City-Owned Property
Phase III	Market Analysis
Phase IV	Carrying Capacity
Phase V	Comprehensive Implementation plan (all LPARDA property)

Phase I was completed and presented to Council on January 5, 2010. Findings included high-level planning principles and a draft list of potential redevelopment projects. Themes identified by Council included:

- 1) Keep all remaining green/open space
- 2) Identify individual neighborhood characteristics
- 3) Preservation of historic fabric and scale (where possible)
- 4) Master planning - If we scraped the canvas clean and started over, what would we do?
- 5) Consider and balance community and environmental impacts with all redevelopment projects

Staff plans to release an RFP for Phases III (Market Analysis) & IV (Carrying Capacity) together, while addressing the implementation (Phase II) and final project implementation planning (Phase V) phases separately. The Market Analysis will involve detailed analysis of current and anticipated market conditions in the local Park City market, as well as an examination of Park City's overall position in the regional and national markets for ski resort communities. The draft scope of the Market Analysis is attached as Exhibit A.

Carrying Capacity Study

The World Tourism Organization defines carrying capacity as the maximum number of people who may visit a tourist destination at the same time without causing destruction of the physical, economic and socio-cultural environment and/or unacceptable decrease in the quality of visitors' satisfaction -

(http://ec.europa.eu/environment/iczmp/pdf/tcca_material.pdf - 8.30.07)

Researching "tourism carrying capacity" or "sustainable destination carrying capacity" yields a proliferation of background research and position papers (Exhibit C). It is worth noting most studies are from older more established communities (European and Middle Eastern cities); while studies found from North America tend to limit analysis to environmental or traffic concerns.

Analysis

Carrying Capacity Scope

Discussions with Council on January 7, 2010 and with the Planning Commission during the January visioning session identify the overall goal of redevelopment as providing the tourism economy a framework for long-term viability. While we don't want to grow or redevelop just for the sake of growth, our charge is to redevelop and diversify the resort economy efficiently, while minimizing impacts. Staff sees the carrying capacity exercise as a similar tool and believes the study can help the community further narrow and define the amount and type of redevelopment we seek.

The City is currently undertaking a series of broader planning efforts to ensure that we can provide services for full-time residents and amenities for visitors, all while balancing the competing nature of our quality of life, environmental sustainability and economic viability. These efforts include the general plan updates, the transportation master plan and Bonanza Park redevelopment consideration. These planning efforts combined with the phased redevelopment planning in the LPARDA, including the Carrying Capacity Study and Market Analysis, should provide the foundation and roadmap for managed and directed growth. However, this is not a "no growth" strategy; it is a smart growth strategy.

Staff is currently finalizing the RFP. The entire draft scope is found as Exhibit B, it includes examination of:

1. Capacity of existing amenities and services to meet peak visitor demands.
2. Limiting factors in capturing additional market share.
3. Net impact of potential strategies to "limit" growth.
4. Environmental impact of specific redevelopment strategies.

Study Area

Staff sees our regional economy as a series of concentric rings, with Main Street and the resort bases as the center, followed by Bonanza Park, Snyderville Basin and so on. During previous discussions there has not been consensus on the study area. Some thought we should focus only on Main Street, some on the entire regional economy.

Staff believes we are not in direct competition with Snyderville basin, rather sees each as a partner in the regional economy (with some overlap). However to be immediately effective with anticipated redevelopment efforts in the resort base and responding sensitivity from Main Street of perceived competition, staff believes we should focus on the two RDA districts. Each offers clearly delineated boundaries, having specific tax increment goals, and is a logical fit in the context of anticipated PCMR and PCMC owned property redevelopment.

Anticipated Budget

Staff anticipates Phases II & III to cost between \$30,000 - \$40,000. Each part of Phase I cost was \$10,000.

Issues for Discussion

1. Geographic scope of Market Analysis & Carrying Capacity Study: Is focusing the geographic area of the Market Analysis and Carrying Capacity Studies to the Main Street and Lower Park Ave RDA's appropriate?
2. Temporal scope of the Market Analysis & Carrying Capacity Study: The Market Analysis and Carrying Capacity Study will:
 - a. Use data from 2009 and 2010 (skier visits, overnight stays, type of businesses and capacities thereof, population, etc.)
 - b. Forecast average daily population (residents + part time residents + visitors + workers) for 2011 – 2015.
 - c. Will not forecast business growth

Department Review: Executive, Legal, Sustainability and Planning have reviewed this report.

Recommendation

Review and discuss the draft scope of the upcoming Carrying Capacity Study and provide direction.

Exhibits

- Exhibit A – Market Analysis Scope – Draft
- Exhibit B – Carrying Capacity Scope – Draft
- Exhibit C – RDA Boundaries
- Exhibit D – Excerpts from research on the internet

Exhibit A & B

Market Analysis & Carrying Capacity Scope – Draft

Phase III – Retail / Commercial Market Inventory & Analysis

The consultant will conduct a retail / commercial market inventory and analysis of the Lower Park Avenue RDA and the Main Street RDA districts in order to provide data and conclusions to guide long term community planning for the future of these districts. This process will involve detailed analysis of current and anticipated market conditions in the local Park City market, as well as an examination of Park City's overall position in the regional and national markets for ski resort communities. The consultant will draw from existing research of the local market and comparable communities to determine the overall market positioning of these districts within Park City (in terms of servicing local residents versus visitors, or day visitors versus longer term or seasonal visitors). The City anticipates that the consultant will proceed through the following steps in conducting the market inventory and analysis.

- Base Data Analysis: The consultant will compile an accurate inventory of existing retail businesses in both the Main Street and Lower Park Avenue RDA areas. The consultant will work with city staff to gather data concerning sales tax receipts by type of business, size and type, etc. for the two RDA areas. Base data gathering may also include a site visit to the area and any necessary in-person or telephone-based interviews with local merchants, chamber of commerce officials, or other government agencies.
- Overview of Current Trends in Ski Industry and Comparable Community Analysis: The consultant will profile up to five comparable ski resort communities in the West (including but not limited to Vail, Breckenridge, and Aspen) and outline applicable trends in these resort-based communities with regards to retail and commercial development. The consultant will also examine how similar communities have balanced the needs of local residents with the desire to attract destination visitors. The consultant will outline trends in development affecting ski resort communities nationwide and locally and identify the latest trends in the tourism industry impacting these markets.
- Identify each RDA's position in the Regional Market: This part of the study should outline how the Main Street and Lower Park Avenue RDA's complement, compares to and competes within the regional market. This analysis will extend beyond a consideration of retail and address, in broad terms, the trends in various segments of real estate, resort development and visitor experience that impact Park City. This portion of the analysis will help to identify Park City's "place" in the local and regional market.
- Retail / Commercial Demand Analysis: The consultant will calculate the supportable retail / commercial demand in the two RDA areas (in terms of square footage) and will provide an outline of the types and quantities of retail / commercial space that the local market can support, both short term (immediate) and long term (five to ten years).
- Outline of Development Scenarios and Fiscal Impact on Park City: Drawing from the results of the retail demand analysis and an assessment of how potential development may dovetail with the community's quality of life goals and objectives and overall vision (in terms of environment, traffic considerations, stated goals to attract local versus

national businesses, etc.), the consultant will outline two to three overarching retail / commercial development scenarios for the Lower Park Avenue and Main Street RDA areas. The scenarios should consider how various commercial and product mixes may fit the community's stated vision, such as the balance between community character and environmental quality. In addition, the consultant will conduct a qualitative assessment of how these scenarios would impact the competitive position of Park City overall versus other resort communities in the local market and on a national level and how they would impact the fiscal position of Park City Municipal Corporation (in terms of tax receipts generated from different types of businesses).

- Public Policy Implications: Based upon the two to three development scenarios outlined above, the consultant will outline the zoning and related municipal code or ordinance changes necessary to implement these scenarios over time.
- SWOT Analysis (Strengths / Weaknesses / Opportunities / Threats): Drawing from the elements of the market study outlined above, the consultant will conduct a SWOT analysis and examine the existing competitive strengths of the local Park City community with regard to retail and commercial development, as compared to local competitors as well as similar ski resort communities in the West.

Phase IV – Carrying Capacity Study

Park City, like many communities, continues to debate the amount of development that is supportable not only in terms of market demand, but also in terms of physical limitations, diminishing quality of experience and the community's environmental carrying capacity. Phase IV will more closely examine the limits of development and therefore help guide decision makers considering projects. This phase will assist community leaders in creating long term plans for the community.

- **Carrying Capacity: Tourism Built Environment**

The consultant will examine the capacity of Park City (in terms of product type and amenities) to meet the expectations and number of peak winter, peak summer and off-peak visitors. The study will examine the limiting factors Park City faces in capturing additional destination tourism visits and market share, and will outline the limits to capacity in the community that would lead potential visitors to avoid Park City and visit competing destinations. The consultant should consider factors such as: a) the number of guests in Park City at a given time, b) the number of hot beds and cold beds available, c) the number of available restaurant seats, d) the number of employees working in Park City businesses, e) the number of cars and trucks on the road and the scale of associated infrastructure (such as parking spaces), f) the number of ski lifts on the ski resorts in the Park City area and the overall capacity of the resorts to accommodate skiers or boarders on the slopes on a given day or g) the number of full time residents in Park City and their service and amenity needs .

This element of the carrying capacity study should combine the physical limitations in the Park City area, as well as the limits on the carrying capacity of the Park City community's tourism industry created by market forces.

The consultant should also demonstrate the effects of continued urban sprawl if development patterns resume, placing homes and commercial areas around the City instead of in the City, and the net impact of potential no-growth strategies in Park City proper on the overall Summit and Wasatch County development patterns.

- **Carrying Capacity: Environmental**

The consultant will utilize existing city records and research to determine the environmental carrying capacity of the Park City community as it considers development scenarios and investment projects for the Lower Park Avenue and Main Street RDA areas. This study will not involve detailed, highly quantitative calculations, but should instead draw qualitative conclusions concerning the carrying capacity of the community in terms of the following metrics:

- Water capacity
- Wildlife impacts
- Pollution
- Particulates in the air (emissions)
- Landfill space

The consultant will determine the incremental carbon impact resulting from the achievement of maximum carrying capacity for development in the Park City community. The consultant should also consider urban sprawl development patterns and net-carbon effects of pushing development into remoter regions and increasing vehicle trips. This analysis should consider increases in full-time population, part-time population, visitor population, and worker population. The incremental carbon impact could also be measured based upon measurements of vehicle miles traveled (VMT), airline travel, electricity use for business and residential, and natural gas use. The consultant can use data from the existing Park City Community Carbon Inventory to facilitate this process.

Exhibit C

Main Street RDA Boundary

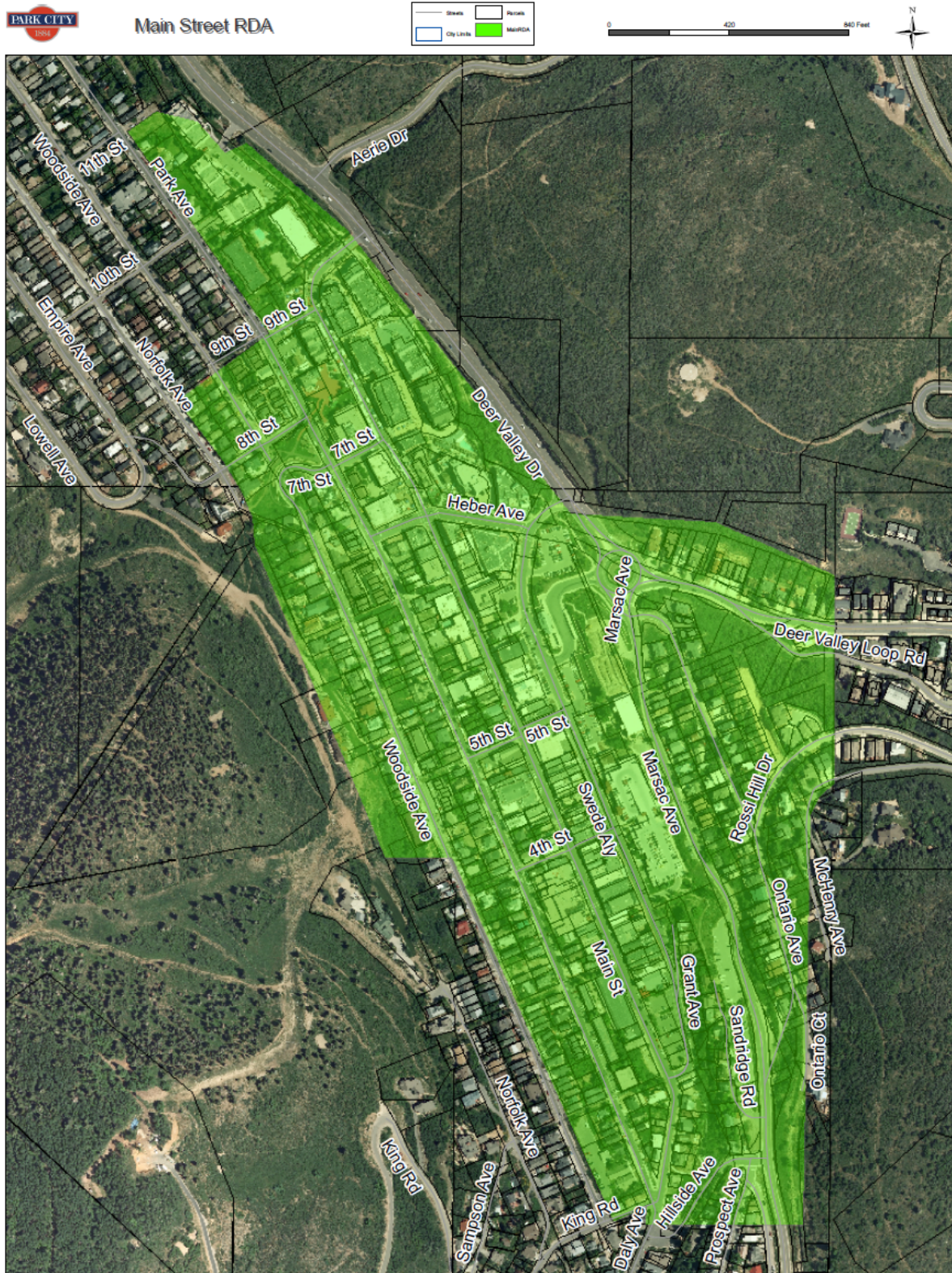


Exhibit C Lower Park Ave RDA Boundary



Exhibit D –excerpts from research on internet

Wikipedia Excerpt – “Tourism carrying capacity” search on Google.

The process of defining Tourism Carrying Capacity (TCC) is composed of two parts. It follows (in principle) the conceptual framework for TCC as described by Shelby and Heberlein (1986), and these parts are described as follows:

Descriptive part (A): Describes how the system (tourist destination) under study works, including physical, ecological, social, political and economic aspects of tourist development. Within this context of particular importance is the identification of:

- Constraints: limiting factors that cannot be easily managed. They are inflexible, in the sense that the application of organisational, planning, and management approaches, or the development of appropriate infrastructure does not alter the thresholds associated with such constraints.
- [Bottlenecks](#): limiting factors of the system which managers can manipulate (number of visitors at a particular place).
- Impacts: elements of the system affected by the intensity and type of use. The type of impact determines the type of capacity (ecological-physical, social, etc). Emphasis should be placed on significant impacts.

Evaluative part (B): Describes how an area should be managed and the level of acceptable environmental impacts. This part of the process starts with the identification (if it does not already exist) of the desirable condition or preferable type of development. Within this context, goals and management objectives need to be defined, alternative fields of actions evaluated and a strategy for tourist development formulated. On the basis of this, Tourism Carrying Capacity can be defined. Within this context, of particular importance is the identification of:

- Goals and/or objectives: (i.e. to define the type of experience or other outcomes which a recreational setting should provide).

Differing definitions

First of all, the carrying capacity can be the motivation to attract tourists visit the destination. The tourism industry, especially in national parks and protected areas, is subject to the concept of carrying capacity so as to determine the scale of tourist activities which can be sustained at specific times in different places. Various scholar over the years have developed several arguments developed about the definition of carrying capacity. Middleton and Hawkins defined carrying capacity as a measure of the tolerance of a site or building which is open to tourist activities, and the limit beyond which an area may suffer from the adverse impacts of tourism (Middleton & Hawkins, 1998). Chamberlain defined it as the level of human activity which an area can accommodate without either it deteriorating, the resident community being adversely affected or the quality of visitors' experience declining (Chamberlain, 1997). Clark defined carrying capacity as a certain threshold (level) of tourism activity, beyond which there will be damage to the environment and its natural inhabitants (Clark, 1997).

The [World Tourism Organisation](#) argues that carrying capacity is the maximum number of people who may visit a tourist destination at the same time, without causing destruction of the physical, economic and socio-cultural environment and/or an unacceptable decrease in the quality of visitors' satisfaction (http://ec.europa.eu/environment/iczmm/pdf/tcca_material.pdf. Date assessed 08/03/07).

As part of a planning system

The definitions of carrying capacity need to be considered as processes within a planning process for tourism development which involves:

- Setting capacity limits for sustaining tourism activities in an area. This involves a vision about local development & decisions about managing tourism.
- Overall measuring of tourism carrying capacity does not have to lead to a single number, like the number of visitors (http://ec.europa.eu/environment/iczmm/pdf/tcca_material.pdf. Date assessed 08/03/07).
- In addition, carrying capacity may contain various limits in respect to the three components (physical-ecological, socio-demographic and political-economic).

Other Excerpts found online:

[Sustainable tourism study breaks little new ground – MSNBC.com](#)

Most tourism researchers gave up on the concept of [Carrying Capacity](#) a couple of [decades](#) ago, as I discussed in an earlier [podcast](#). Yet the media, [politicians](#), and the general public still hang on to the simplistic belief that a scientifically-based single number [carrying capacity](#) can be determined for any [single place](#). Well, now the State of Hawaii has shown that even \$1.2 million, 2,560 pages, and 5 years of research cannot determine a [carrying capacity](#) for the [Aloha state](#)...

The study sidestepped any effort to calculate the state's so-called "[carrying capacity](#)," which was one of the missions set out by the Legislature when it funded the study in 2001.

Instead, the project, conducted by the state Department of Business Economic Development and Tourism, aims to provide guideposts for managing tourism so that the positives of employment and economic growth are not outweighed by the negatives of crowding and diminishing [natural resources](#). - [Cheapflightsexpert.com blog](#)

Establishing the social tourism carrying capacity for the tourist resorts of the east coast of the Republic of Cyprus

Abstract

It is inevitable that the development of tourism induces changes on the social character of a destination. However, the direction (i.e., whether positive or negative) and the magnitude of these changes depends on the carrying capacity of a destination in relation to the volume of tourist activity. Each destination can sustain a specific level of acceptance of tourist development and use, beyond which further development can result in socio-cultural deterioration or a decline in the quality of the experience gained by visitors. **In other words, the carrying capacity of a destination is determined (i) by its ability to absorb tourist development before negative impacts are felt by the host community; and (ii) by the level of tourist development beyond which tourist flows will decline because the destination area ceases to satisfy and attract them.** This paper attempts, firstly, to shed light on the concept of carrying capacity and its importance as a management tool in tourism planning and development, and secondly, to assess the carrying capacity of a region in terms of sociological capacity thresholds.

“Carrying capacity is not just a scientific concept or formula of obtaining a number beyond which development should cease, but a process where the eventual limits must be considered as guidance. They should be carefully assessed and monitored, complemented with other standards, etc. Carrying capacity is not fixed. It develops with time and the growth of tourism and can be affected by management techniques and controls” (Saveriades, 2000).

The reason for considering carrying capacity as a process, rather than a means of protection of various areas is in spite of the fact that carrying capacity was once a guiding concept in recreation and tourism management literature. Because of its conceptual elusiveness, lack of management utility and inconsistent effectiveness in minimising visitors' impacts, carrying capacity has been largely re-conceptualized into management by objectives approaches, namely: the limits of acceptable change (LAC), and the visitor experience and resource protection (VERP) as the two planning and management decision-making processes based on the new understanding of carrying capacity (Lindberg and McCool, 1998). These two have been deemed more appropriate

in the tourism planning processes of protected areas, especially in the United States, and have over the years been adapted and modified for use in sustainable tourism and ecotourism contexts (Wallace, 1993; McCool, 1994; Harroun and Boo, 1995).

The purpose of this study is to suggest a model for assessing the physical carrying capacity of tourism destinations, as a tool to evaluate whether the current situation is sustainable or not and to determine if a rise in visitor numbers could affect the quality of the environment, the resources available and the quality of public services.

<http://library.witpress.com/pages/PaperInfo.asp?PaperID=18239>

By changing the character of the question from 'How many is too many?' to 'What are the appropriate or acceptable conditions?', the issues giving rise to discussions about carrying capacity are addressed. -

<http://www.informaworld.com/smpp/content~content=a908038853&db=all>

Determinants of Market Competitiveness in an Environmentally Sustainable Tourism Industry

Salah S. Hassan

Department of Marketing of the School of Business and Public Management at the George Washington University in Washington, D.C.

This article introduces a detailed new model of competitiveness that focuses on environmental sustainability factors associated with travel destinations. The multiplicity of industries involved in destinations' planning and development requires the use of a competitiveness model that examines the relationships among all stakeholders involved in creating and integrating value-added products to sustain resources while maintaining market position relative to other competitors. The development of future destinations must be guided by effective and efficient management with a focus on sustainable customer base. Thus, destination management should focus on a systematic examination of unique comparative advantages that provide a special long-term appeal to the target travel customer segments. Therefore, sustaining the longevity of a given destination becomes a function of responding to market demand and competitive challenges. It is critical for future destination development plans to be compatible with market needs and environment integrity for the industry to maintain its economic viability.

<http://jtr.sagepub.com/cgi/content/abstract/38/3/239>

**PARK CITY COUNCIL WORK SESSION NOTES
SUMMIT COUNTY, UTAH
APRIL 1, 2010**

Present: Mayor Dana Williams; Council members, Alex Butwinski, Candace Erickson, Joe Kernan, Cindy Matsumoto, and Liza Simpson

Tom Bakaly, City Manager; Mark Harrington, City Attorney; Bret Howser, Budget Manager

1. Council questions/comments. Joe Kernan commented on the Snow Creek Cottages lottery. He suggested that Council members consider expanding ownership opportunities to single people, rather than just allowing families to apply and spoke about his own personal experience buying and living in an affordable housing unit. Members were willing to discuss this. Candace Erickson commented on free Museum tours for the public, which are underwritten by sponsors, through April and May. The Mayor announced that he has accepted a position as a board member of the Swaner EcoCenter. He thanked staff for helping to organize the parade on Main Street for returning Olympian athletes.

2. Budget update. Bret Howser explained that this work session is an update to information presented during the Visioning Session in January. Through a PowerPoint presentation, he pointed out the growth in US gross domestic product for two consecutive quarters which is an indicator of recovery. Consumer confidence and unemployment trends were explained. He explained that the index of leading economic indicators has continued in a positive trend and helps predict the nature of the recession. With regard to resort trends, Mr. Howser addressed spending per visitor and lead times for bookings which seem to be improving. However, staff is still predicting sales tax to be down about 5.7% and development fees down 48% from the budgeted levels. Property taxes are projected to decrease by 2% and franchise tax by 8% while fees, charges or transfers are anticipated to increase by 2%.

Mr. Howser explained that in January 2010, the shortfall was estimated at \$1.8 million and now it is estimated at \$1.57 million which is a slight improvement. The \$1.57 million shortfall is considered within the minor level and staff is proposing a similar strategy for recovering the shortfall this year as discussed in January. The proposal is a mix of funding the General Fund by diverting some of the resort sales tax that would typically be allocated to the Transit Fund, an approach which was used last year. Other elements include using some money from capital, namely the asset management balance, and 5% operating cuts which are already implemented at this point.

In January, staff presented an update of the service level assessment analysis which evaluated growth in the operating budget over the last ten years. Reasons for increases could be due to inflation, growth of demand, or increased level of service directed by Council. He explained that budget requests are categorized in these three categories and performance measure data is considered in making decisions. New

expenses can be covered with existing revenue growth, expenditure offsets, or new revenue sources. Mr. Howser referred to discussions at the Visioning Session on long-term finance issues and developing a balanced budget for 2010 that contributes to long-term financial health.

He suggested continuing with a revenue mix analysis approach. This includes examining the volatility of different types of revenue streams and determining the appropriate level of risk of the revenue mix. Another tool is to look at services on the expenditure side and prescribe a revenue mix for each type of service. He explained that creating a plan to improve the current situation to a preferred revenue mix may take as long as ten to fifteen years because of adjustments in major revenue sources, but it is a better planning process.

He relayed that property tax levels and building, planning and engineering fees, etc will be discussed this budget review. An administrative inter-fund transfer update, operating budget cuts and associated service level impacts will be reviewed. Mr. Howser explained that the two-year pay plan was flipped last year resulting with the 2011 budget including pay plan increases. Pension plan costs have increased and health insurance strategies will be a focus. Lump merit increases or performance bonuses have been historically covered within existing departmental budgets, which is a lot more challenging after the budget cuts have been made. Creating a pool for bonuses may be an option. Capital replacement and debt service levels will also be analyzed; \$550,000 is transferred from the General Fund to the Equipment Replacement Fund.

In response to a comment from Joe Kernan regarding Truth in Taxation hearings, Mr. Howser explained that staff is not recommending a property tax increase this year but is encouraging members to consider an increase at some point in time. Property tax is a small component in the revenue mix, especially into the future. Mr. Kernan suggested that parameters be set in place which would trigger the process for a property tax increase. The City Manager interjected that a revenue mix shift is an indicator and Mr. Howser agreed. Candace Erickson expressed that the volatility of sales tax this year was stunning because it seemed so stable and normally represented half of Park City's revenues. She spoke about most cities relying on property taxes to fund most basic services and the possibility of the legislature allowing an inflationary component. Mr. Howser felt there is general consensus that Utah is too dependent on sales and discussion ensued on property tax.

Prepared by Janet M. Scott, City Recorder

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
APRIL 1, 2010**

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, April 1, 2010. Members in attendance were Dana Williams, Alex Butwinski, Candace Erickson, Joe Kernan, Cindy Matsumoto, and Liza Simpson. Staff present was Tom Bakaly, City Manager; Mark Harrington, City Attorney, Scott Robertson, IT Manager; Kirsten Whetstone, Planner; and Thomas Eddington, Planning Director.

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

Google You Tube Video – Scott Robertson explained that the City's application has been submitted for the Google Fiber contest and displayed the City's video which is a component. He understood a decision will be made by the end of the year.

III WORK SESSION NOTES AND MINUTES OF MEETING OF MARCH 11, 2010 AND MARCH 18, 2010

Joe Kernan, "I move approval of the March 11 and March 18, 2010 work session notes and minutes". Liza Simpson abstained from voting on the March 11 minutes. Cindy Matsumoto seconded. Motion carried.

	<u>03/11</u>	<u>03/18</u>
Alex Butwinski	Aye	Aye
Candace Erickson	Aye	Aye
Joe Kernan	Aye	Aye
Cindy Matsumoto	Aye	Aye
Liza Simpson	Aye	Abstention

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

HMBA parking ticketing complaint – Mary Black read a letter complaining about the number of parking tickets issued in the Main Street area and explained that the HMBA is forming a committee on the issue. She asked that someone from the City participate and suggested that the first violation be a warning and not a citation. Tom Bakaly recommended that a work session discussion be held on the City's enforcement policy of the parking management plan.

V RESIGNATIONS AND APPOINTMENTS

Appointment of Planning Commissioner to fill an unexpired term to July 1, 2010 – The Mayor requested a motion to appoint Mick Savage to the Planning Commission.

Cindy Matsumoto, "I so move". Candace Erickson seconded. Motion unanimously carried.

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

Consideration of an Ordinance amending the Land Management Code of Park City, Utah, revising Sections 15-1, 15-2.3, 15-6, 15-10, 15-11, and 15-12 regarding development regulations and master planned developments in the HR-2 and HCB Districts, streamlining the Historic Design Review process for minor projects, and clarifying the appeals process for land within all zoning districts – An amended version of the draft ordinance was distributed to members. Kirsten Whetstone stated that on March 24, 2010, the Planning Commission conducted a public hearing on all six chapters and forwarded a positive recommendation to the City Council. The amendments address planning and zoning issues, design issues for the HR-2 Zone, and appeals of Planning Commission decisions.

She explained that Chapter 1 is an amendment that enables the City Council to designate a hearing officer as the appeal authority for appeals and call-ups of Planning Commission decisions. The Planning Commission's process would remain the same. The Commission added language with regard to qualifications and the process for the hearing officer option.

Mark Harrington added that Planning Commissioners were concerned that the process remain accessible and open to the public. Mr. Harrington explained that the amendment allows Council to focus on its legislative role as opposed to a judicial role which is limited by current due process regulations that inhibits reacting to other proposals coming from the planning process. After a healthy debate, the Planning Commission added some further language that preserves assurances at the front end, including an open selection process and qualifications for the hearing officer. He recognized criticisms alleging that Council will be passing on tough decisions relating to the Treasure Project, and that may be true in a narrow sense, but decisions will still be limited to a determination of correctness of the application of the Code to the development proposal. He admitted that there may be dramatic impacts but felt that the Treasure project is very unique.

It is normal that the Council direct the City Manager or City Attorney to negotiate with parties on projects, but the problem with Treasure is that any potential solution is not in the City's toolbox without a legislative amendment. For instance, solutions may include using Redevelopment Agency authority, negotiating density transfers, or bonding for financing. Any potential solution necessitates some sort of legislative leadership beyond Council's traditional role and authority and this is why staff is recommending this amendment. Mr. Harrington acknowledged that this approach is different and can be a little scary, but the process is not new to Utah and Park City uses a hearing officer for code enforcement. Other cities like South Salt Lake, Salt Lake City, and Draper use hearing officers for CUP appeals. The process is only as good as the qualifications of

the appointee and he felt confident the City will find a competent person. The process does not change with regard to criteria which has to be met or the standards for who can appeal. The hearing officer approach frees up Council members to engage in a more accountable proactive mode rather than reacting to what the developers have presented, which may or may not meet Code, and he felt this change will hold Council members more accountable.

In response to a comment from the Mayor, the City Attorney explained that the Council would not appoint a hearing officer before any actual appeal. Because of high public interest in Treasure, he encouraged Council to make a decision on the appeal process before an appeal is filed. The Planning Commission process will remain unchanged. The appeal may or may not happen and the regulatory process remains separate. The amendment seems appropriate from a timing standpoint and ex parte communications were distinguished. Mr. Harrington explained it is recommended that two Council members be appointed to work with the City Manager to negotiate with the developers in a public process.

Alex Butwinski noted that he attended the Planning Commission meetings where this approach was discussed extensively. He referred to comments on the qualifications of the hearing officer and the argument that more weight should be given to an area resident. He stated that he does not agree because the hearing officer's experience is much more important than residency. Mark Harrington stated that this point was debated and felt that the hearing officer should be vetted for bias or predetermined interest but felt the Planning Commission was looking to ensure a good knowledge base of the community which could be reflected in the criteria, rather than just residency. Joe Kernan hoped that the hearing officer would have a good knowledge of Park City, but not be required to be a resident. It may be difficult to find a qualified Park City resident that is unbiased.

Ms. Erickson asked if a hearing officer's decision carries more weight when an issue proceeds to court. Mark Harrington explained that there is less likelihood of procedural, due process and ex parte challenges but in terms of substance, both methods are the same. Decisions of hearing officers tend to be overturned less than decisions of lay bodies. The Mayor opened the public hearing.

Rich Wyman, Treasure Hill Impacted Neighborhood Coalition (THINC), stated that the group remains opposed to the proposal. This is happening too fast. Mark Harrington described the status of the Treasure Project relating to presenting a revised plan to the Planning Commission; he detailed several opportunities available through the new legislation, and pointed out that this does not affect the Planning Commission process. Mr. Harrington continued to explain the benefits of allowing the Council to negotiate and emphasized the efficiencies of a hearing officer with regard to technical decisions on the application of the Code.

The Mayor relayed that legal counsel for Treasure contacted the City asking that one member of the Council be recused from deliberations because of bias. He emphasized

the importance of the perception of unbiased decision-making which could be protected through a hearing officer and feared that other members of Council would be targeted. Mark Harrington agreed that the letter was a factor in moving ahead with amending the Code but the timing was more compelling. The amendments will alleviate having that fight now or in the future. Rich Wyman expressed anxiety about introducing a new *piece* to the process and Mark Harrington responded that he does not view it as a new piece but as insurance of fairness for both sides and a change that will enable more options.

Brian VanHecke, THINC, stated that he still has some reservations and believed that the amendments may be a gamble. He felt negotiations with the developer are healthy but is concerned about our elected officials not voting on the project. He asked what other communities in the same situation have done this and felt that this is being a little rushed. Many citizens are out of town and don't know what's going on. THINC would like Treasure Hill to remain undeveloped and preserved in the future; it is the signature of Park City, understanding that the Sweeneys have property rights. He relayed that he needs to be further convinced and would like to see more due diligence conducted on examples of its successes and failures. Mr. VanHecke stated that he is not convinced that a person living outside the community is qualified to be a hearing officer and cited the traffic plan for Treasure as being technical but unrealistic. We need our elected officials, who know what this town is all about, to ultimately make the right decisions. This is a major change and this is too big a risk to gamble with.

Liza Simpson confirmed with the City Attorney that the hearing officer, like the City Council, would be provided a full record of the application, including discussions on traffic, streetscapes, etc.

Lisa Wilson, Deer Valley resident, expressed her concern that citizens are losing their right to appeal to the elected City Council. The people voted for you and you need to do your job. This doesn't seem legal. The Mayor explained that the overriding goal is to protect the interests of the community and to be fair to the applicants. Another goal is to eliminate the perception that because members live here, they do not have the ability to be unbiased, which has already been questioned. He did not view this as usurping authority but understood her position. Ms. Wilson disagreed and felt the current process works.

John Stafsholt, THINC member and Woodside Avenue resident, stated that the group attended last week's Planning Commission meeting. Selecting a hearing officer is missing from the ordinance. There are now qualifications in the draft which only happened because of public input at one meeting. He felt that being a resident of Park City or Summit County is important for reasons that Mr. VanHecke relayed. As written, the hearing officer doesn't even need to be a US resident. This is extreme power for one person who could even bring in his own staff. Although THINC changed the qualifications section of the draft ordinance, staff was not addressed. A single person greatly increases the opportunity for improper influence and corruption, especially if this person is not a resident or an elected official. He criticized a *pro and con list* produced

by the City and stated that quasi-judicial functions should be a priority of Council; this is why you are elected and he didn't understand how this comment could be defined as a *pro*. Judicial authority must be given to those elected by the people. The amount of money for hiring a hearing officer and staff can be significant and it is unbudgeted. For de novo reviews, the hearing officer must gain enough insight into the Treasure Project that he will have to have a staff to research all of the documents and meeting notes going back to 1985. This is potentially a massive expense to taxpayers. Another huge aspect is that the City will probably not adequately fund hearing officer services to properly research the project which could dramatically impact the decision either way. This has the potential of increasing costs for the applicants and if they prevail, they may seek reimbursement of costs from the taxpayers. He agreed with Ms. Wilson that elected officials will abdicate accountability and authority and an independent hearing officer can leave town after making a decision. Mr. Stafsholt questions why the hearing officer section is included with many other changes to the LMC and why a 25 year project could possibly be decided by a LMC change that has been in front of the public for two weeks. He understood if the amendment is approved tonight, a vote to send Treasure to a hearing officer will occur next week. The Mayor interjected that his understanding is inaccurate. Mr. Stafsholt continued to state that the City Council is still authorized to call-up Planning Commission decisions and it makes no sense to call up a project and then defer it to a hearing officer. There needs to be more time for additional public input as the public input rendered last week contributed to half of the content of the current draft. He suggested forming a committee of local citizens to review this amendment because it affects all applications. This was written by the City Attorney in fifteen minutes during a meeting and with time, it could be better because it is really important.

Bob Garda, Lowell Avenue resident, stated that he is in favor of any action that allows our elected officials to enter into negotiations with the developer over contentious issues. However, he strongly urged that the alteration of the appeals process give the Council the option to appoint a panel of three rather than one hearing officer. There are currently disagreements over interpretations of the LMC, requirements of the MPD, and mitigation plans, which he detailed. He believed these are subjective matters and not prone to easy solutions. The process will be fair only if it involves three people rather than one. For instance, there are no specifications about how much of the mountain can be excavated although the plan shows six stories below ground. There is always the possibility that a matter can be overlooked by a single person and it is less contentious to have three rather than one. He again urged that a three person panel be an option which is fairer for everyone.

Mike Allred, Empire Avenue resident, acknowledged that he is not up to speed on this issue but it doesn't *smell right* to him. He is concerned that a member of Council has already been asked to be removed from voting. He has been attending meetings on Treasure Hill for many years and strongly felt that residency is important when making decisions about Park City. Mr. Allred agreed with previous comments made by THINC members. As a developer himself, he felt that a big mistake was made by not sun-

setting the development agreement. Although the Sweeneys have property rights, this project will not work in Old Town.

Brian VanHecke asked if there has been any indication from the Sweeneys that they are open to negotiations. Mark Harrington noted that there have been positive preliminary indications. Developer Mike Sweeney stated that they are open and willing to sit down with the City to work at arriving at the best possible project for the City. This includes from buying them out 100% to buying out part of the density.

City Attorney Mark Harrington indicated that he didn't feel the cost of a hearing officer is a problem. There is no line item for this but there are sufficient funds for these types of contracts. However, he acknowledged that cost may become a factor for a three person panel versus one hearing officer and a panel may become more difficult to manage. Typically, communities follow the court model. The three person model was explored by staff and is not recommended as an option. Mr. Harrington invited the public to meet with him about the proposal.

Mr. Harrington stated that he feels the Council has greater authority to effectuate change and greater accountability to the community with this approach. He felt that the proposal allows Council members to engage in a more proactive role without so many limitations and pointed out that the voters empowered the City Council to explore resources for alternatives. He advised that the window of opportunity is real.

Alex Butwinski clarified that he was not advocating hiring an outsider, but rather commented on not giving extra weight to a local person. Secondly, he stated that the Council does not need to call up the project, but has the option. Mark Harrington stated that legal staff felt it important that everyone's appeal right remain unchanged but the call-up would go to the hearing officer. Mr. Butwinski understood that once an appeal is filed, that members can decide to hear it or hire a hearing officer. Mark Harrington encouraged adoption as soon as possible.

Liza Simpson pointed out that Council typically votes to open an appeal to public input, although it is not required. She asked if the hearing officer can be directed to accept public input and Mark Harrington responded yes, and explained that direction can be given at the time of the referral. Cindy Matsumoto stated that she appreciates the arguments against this, but felt that negotiating and engaging in discussions is more responsible than not.

Thomas Eddington asked if members want to bifurcate sections of the ordinance. In response to a comment from Candace Erickson, Mark Harrington explained that criteria listed are minimum qualifications and others can be added like residency. She expressed an interest in hearing more public input. Mark Harrington noted that there was public comment on the selection of the hearing officer and advised not taking more at this point is because it may not be necessary. Cindy Matsumoto asked if other members were intrigued by the three member panel suggestion and Ms. Erickson expressed concerns about the cost, acknowledging that she doesn't know what a

hearing officer would cost. Mark Harrington explained that an estimate is hard to provide not knowing the scope and nature of the appeal. He pointed out that the cost of future litigation may far outweigh the cost of a hearing officer and added that he is not concerned about the cost. Joe Kernan felt that making the qualifications too restrictive may result in few choices and didn't support the panel suggestion.

The Mayor asked if there are options if the Council disagrees with the decision of the hearing officer and Mr. Harrington explained that the Council has the right to appeal the decision to court. Planner Kirsten Whetstone asked if it is appropriate to add the word *panel* to the ordinance so there is that option at the time an appeal is filed. Mark Harrington indicated that the Council could do that but the problem is that the City has to comply with state statute, and suggested designating a hearing officer or a panel but not both. The Mayor asked for consensus on this point and Alex Butwinski stated that he prefers to continue discussion and action on the Code section.

Liza Simpson, "I move to bifurcate (separate Chapter 1 from the draft ordinance)". Cindy Matsumoto seconded. Motion unanimously carried. Ms. Simpson stated that she would rather not continue this because of the opportunity of being proactive rather than reactive. This approach frees up Council to be able to negotiate on Treasure and is the best thing that has happened in the process since 1986. Proactive leadership as opposed to being hogtied with regulatory roles is a great move. Alex Butwinski, "I move to continue (Chapter 1) for two weeks (April 15)". Candace Erickson seconded. Motion unanimously carried.

Planner Kirsten Whetstone pointed out that Chapters 15-2.3 and 15-6 are related and address master planned developments in the HR-2 Zone, east side of Park Avenue behind Main Street. The Planning Commission forwarded a positive recommendation for MPDs in the zone with additional conditions like not allowing height exceptions or the transfer residential density between the two zoning districts. The MPD chapter is then amended to clarify the regulations in the HR-2 Zone. Chapter 6 also clarifies the calculation of support commercial and meeting space within any MPD which is based on residential unit equivalents as opposed to gross floor area. Discussion ensued on applying a percentage to the residential equivalents to arrive at the support commercial number and conducting an analysis supporting the formula. In response to a comment from the Mayor, Ms. Whetstone explained that approved MPDs are grandfathered under associated codes but the City Attorney felt that they would have to be reviewed on a case by case basis.

Joe Kernan hoped that the restrictions would not detract potential hoteliers and Mr. Eddington explained that the research is to arrive at an industry average. Mr. Kernan added that he would also like to leave as much discretion with the Planning Commission whenever possible because there is a risk of excluding some sort of unknown. The Planning Director explained that the Planning Commission will also review the data and felt they are more likely to set a parameter rather than a specific number. Ms. Whetstone stated that the clarification on the calculation for support commercial and meeting space is not considered a substantive change. There was discussion on

increasing square footage opportunities through the MPD process and discouraging attracting retail chain stores. Membership club privileges which may turn public were discussed in the context of the different application of support and commercial uses.

Candace Erickson asked the reasoning for allowing the Planning Commission to consider a waiver of parking for historic structures for in lieu fees within a MPD. Kirsten Whetstone explained that the process is intended to result in a better design and Tom Eddington interjected that a waiver would be determined on a case-by-case basis. Ms. Erickson explained her disdain for in lieu parking fees and felt that exceptions place pressure on elected officials. In response to a question from Ms. Simpson, Tom Bakaly believed that parking in lieu fees were spent on new construction and not maintenance. Ms. Erickson stated that she has issues with not providing parking for a project. Mark Harrington explained that part of the reasoning stems from the special improvement district that exempted certain floor area ratios of initial development. He advised to keep the criteria very narrow. Ms. Simpson stated that she could support in lieu fees for parking if they supported another bus route or added equipment. Ms. Erickson acknowledged that there may be circumstances where accepting a lieu payment makes the most sense. Ms. Whetstone added that the whole purpose of encouraging MPDs is for the benefit of the streetscape and the occupancy of any commercial area is conditioned on completing the residential structure first.

With regard to the last three chapters to be reviewed, Ms. Whetstone pointed out the minor amendments to the Board of Adjustment section making it consistent with existing language in Chapter 1. She discussed the appeals process changes, not relating to the hearing officer. Chapter 11 addresses the Historic Preservation Board and streamlines the Historic District Design Review process while still requiring full compliance. Regulations for significant structures and landmark properties are distinguished. Mark Harrington pointed out that HPB participation in the Design Review process is not recommended because there must be a clear separation of powers. In response to a question from Ms. Simpson about legal standing to appeal, Mark Harrington explained that anyone has the ability to appeal the application of the Code to any particular project and projects going through an administrative process are posted with a building permit. Landmark structures are processed at a higher level of review. Candace Erickson commented on the importance of different staff members making consistent decisions on historic elements.

Alex Butwinski stated that he needs more time to think about the unintended consequences of amendments to the HCB and HR-2 and suggested continuing Section 15-2.3. Candace Erickson agreed. Thomas Eddington explained that Sections 15-10, 15-11, and 15-12 could be adopted tonight because they are straight-forward, but Sections 15-2 and 15-6 should be continued and considered together.

The Mayor opened the public hearing on remaining chapters.

Mike Sweeney, Treasure, relayed that Chapter 6 was specifically revised in the 1990s to attract destination recreational development which was successful. It is important to

be aware of the financial consequences to the community if the language is changed. Park City needs to stay competitive. He referred to the purpose statement and felt that the language is too subjective, e.g., *neighborhood*, *negative impacts*, *best planning practices*, which leads to arguments. He encouraged taking more time. The Mayor felt Mr. Sweeney's comments are valid and Tom Eddington believed that some of the wording can be better defined. Joe Kernan suggested adding standards to the negative impact element.

Mike Scrogg, DDRM, stated that they own the Main Street Mall and are excited about the proposed changes. Private residential clubs, approved as a conditional use, was removed by the Planning Commission and he encouraged members to add it again. Some concerns raised related to mass, scale, residential integrity and they feel that the private residence club is a consistent use.

In response to a question from Alex Butwinski, Ms. Whetstone explained that a private residence club is real estate within a single condominium project in which ownership or use of the condominium dwelling unit is shared by not less than four or more than 12 owners. Private residence clubs require a conditional use permit. Thomas Eddington explained that it was pulled because the Planning Commission felt that by allowing that kind of ownership, the fabric of the neighborhood would be detracted. But the reality is that nightly rentals are allowed so there is already turn-over of units in the HR-2 and private residence club use would not look or feel different. With no further comments from the audience, the public hearing was closed.

Liza Simpson, "I move that we continue Chapters 15-2.3 and 15-6". Alex Butwinski seconded. Motion unanimously carried. Liza Simpson, "I move we approve the Land Management changes to 15-10, 15-11 and 15-12". Alex Butwinski seconded. Motion unanimously carried,

VII ADDITIONAL DISCUSSION – AGENDA ITEMS

None.

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, Alex Butwinski, Candace Erickson, Joe Kernan, Cindy Matsumoto, and Liza Simpson. Staff present was Tom Bakaly, City Manager; Michael Kovacs, Assistant City Manager; Tom Daley, Deputy City Attorney; Diane Foster, Sustainability Manager; Thomas Eddington, Planning Director; Ron Ivie, Chief Building Official; Jason Christensen, Legal Intern; Phyllis Robinson, Public Affairs Manager; Bret Howser, Budget Manager; and Mark Harrington, City Attorney. Joe Kernan, "I move to

close the meeting to discuss property and litigation". Cindy Matsumoto seconded. Motion carried unanimously. The meeting opened at approximately 5 p.m. Candace Erickson, "I move to open the meeting". Liza Simpson 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

**PARK CITY REDEVELOPMENT AGENCY
SUMMIT COUNTY, UTAH
JANUARY 7, 2010**

I ROLL CALL

Chairman Dana Williams called the regular meeting of the RDA to order at approximately 6:30 p.m. at the Marsac Municipal Building on Thursday, January 7, 2010. Members in attendance were Dana Williams, Alex Butwinski, Candace Erickson, Joe Kernan, Cindy Matsumoto, and Liza Simpson. Staff present was Tom Bakaly, Executive Director and Mark Harrington, City Attorney.

II PUBLIC INPUT

None.

III MINUTES OF MEETING OF JUNE 18, 2009

Members Alex Butwinski and Cindy Matsumoto abstained as they were not seated on the Board at that time. Candace Erickson, "I move approval of the minutes of June 18, 2009". Joe Kernan seconded.

Alex Butwinski	Abstention
Candace Erickson	Aye
Joe Kernan	Aye
Cindy Matsumoto	Abstention
Liza Simpson	Aye

IV CONSENT AGENDA

Consideration of a Resolution establishing a regular meeting date, time, and location for 2010 meetings and appointing officers of the Board of Directors of the Park City Redevelopment Agency – Liza Simpson, "I move approval of the Resolution setting forth meeting dates and appointing officers for the RDA". Joe Kernan seconded. Motion unanimously carried.

V ADJOURNMENT

With no further business, the regular meeting of the Redevelopment Agency was adjourned. The meeting for which these minutes were prepared was noticed by posting at least 24 hours in advance and by delivery to the news media two days prior to the meeting.

Prepared by Janet M. Scott

Janet M. Scott, Secretary



Park City Council Staff Report

Subject: Flagstaff Mountain – Richardson Flats Park-n-Ride Lease
Author: Kent Cashel
Department: Public Works
Date: April 15, 2010
Type of Item: Administrative- Lease Agreement

Summary Recommendations: Staff recommends that the City Council take public input, and consider approving the attached Ground Lease between United Park City Mines Company (“UPCMC”) and Park City for a 99 year term, in a form approved by the City Attorney.

Topic/Description:

Parking; Traffic mitigation pursuant to the Amended and Restated Flagstaff Development Agreement (“Development Agreement”).

Background:

The 2007 Amended and Restated Flagstaff Development Agreement requires UPCM to convey or lease the City 30 acres for a parking area for a total of up to 750 spaces and recreational uses at Richardson Flats. UPCM recently completed constructing the parking area and associated improvements and staff negotiated the attached Lease for Council’s consideration. The construction was done under a Summit County permit and the pavement remains under warranty until October 26, 2013, with a retained guarantee in the amount of \$273,410.

Analysis:

Term

The proposed term is 99 years with a renewal for an additional 99 years. Staff confirmed with the FTA that the Lease is sufficient for federal grant purposes.

Operation

100 of the spaces remain under the operation and control of UPCM for the Montage and Empire Pass. Until the City opens the lot to the public, the lot is anticipated to be fully allocated to Montage construction parking.

The remainder of the acreage is reserved for future recreation use by the City pursuant to the Development Agreement. UPCM retains naming rights of any ball fields. The area is not active, but it is also not completed within the repository plan. The Lease maintains the ability for UPCM to continue operations in the area, including pursuant to the 2005 Memorandum of Understanding addressing City capacity. UPCM is required to finish the area pursuant to the EPA approved plans. The City will need to provide desired elevations for the final use chosen for the area.

Environmental

The Lease and uses permitted there under are subject to the ongoing jurisdiction of the USEPA over the site as specified in the Consent Decree dated 10/04/07. UPCMC remains responsible for all environmental liability generally and the work plan requirements under the Consent Decree. The City may not operate the lot or other leased area in any manner inconsistent with such requirements.

Department Review:

The City Attorney and City Manager reviewed this report.

Alternatives:

- A. Approve the Request:** Council may approve the proposed Ground Lease as outlined. ***This is Staff's recommendation.***
- B. Modify the Request:** Council may modify the Ground Lease.
- C. Continue the Item:** Council may continue the item and direct staff to return with additional information or options.
- D. Deny the Request:** Council may reject the Ground Lease proposal and direct staff to work with UPCMC on a specified alternative (fee title; different lease terms).

Significant Impacts:

Layton Construction (Montage Hotel construction contractor) has contacted Staff several times over the past 3 months to express its interest in using the park and ride lot. The contractor is required, under the Montage project's construction mitigation plan, to park its employees off site. Layton currently uses several separate lots to park approximately 600-650 employee cars. The contractor is motivated to consolidate this parking into one lot. The contractor has indicated they will have a need for this parking until the end of December 2010.

The City had no plan to open the lot during 2010 and previously Council indicated that construction mitigation parking was an acceptable use of the lot. Staff is confident an agreement can be reached with the contractor whereby the contractor will cover operations and maintenance costs for the lot while they occupy it from May to December (estimated \$65,000 for snow removal, sweeping, trash, security, lighting and etc). If an agreement cannot be reached the City will need to determine if it is willing to bear these costs. If the City is unwilling to bear these costs an option for the City would be to only open the 100 spaces dedicated to the Montage under the Development Agreement.

It is important to note that the City has utilized Federal Transit Administration (FTA) funds to install a video surveillance system, emergency phones, transit shelters and to complete the City's segment of Richardson Flat Road (Park and Ride east to the Wasatch County line). The FTA has grown increasingly impatient with project delays and dedication of the Ground Lease.

Recommendation:

Staff recommends that the City Council take public input, and consider approving the attached Ground Lease between United Park City Mines Company ("UPCMC") and Park City for a 99 year term, in a form approved by the City Attorney.

GROUND LEASE

between

**UNITED PARK CITY MINES COMPANY
("Landlord")**

and

**PARK CITY MUNICIPAL CORPORATION
("Tenant")**

dated as of

April __, 2010

GROUND LEASE

THIS GROUND LEASE (the "Lease") is made and entered into this ____ day of April, 2010 (the "Effective Date") by and between United Park City Mines Company, a Delaware Corporation ("Landlord") and Park City Municipal Corporation, a political subdivision in the State of Utah (the "City" or "Tenant"). Landlord and Tenant are sometimes collectively referred to as the "Parties."

RECITALS

A. The Parties are signatories to an Amended & Restated Development Agreement dated March 2, 2007 (the "Development Agreement").

B. Section 3.1 and related Schedule 3.1 of the Development Agreement contain certain provisions related to a 30-acre parcel which is to be deeded or leased to the City. This Lease is in fulfillment of, and is implemented pursuant to, those provisions.

C. The Premises described herein are subject to the requirements of that certain Consent Decree (the "Consent Decree") between United Park City Mines and the United States Environmental Protection Agency approved by the United States District Court for the District of Utah on October 4, 2007, a copy of which has been provided to Tenant by Landlord.

TERMS & CONDITIONS OF LEASE

NOW THEREFORE, in consideration of the mutual promises of Landlord and Tenant, and for other good and valuable consideration, Landlord and Tenant agree as follows:

1. LEASED PREMESIS AND RENT

1.01 For the payment of One Dollar (\$1.00), Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, that improved parking lot and surface use rights as defined herein on the parcel of land more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference, together with all improvements thereon and appurtenances related thereto (collectively, the "Premises"). Nothing herein shall be interpreted to include any Hazardous Material within the Premises.

1.02 Except for: 1) the existing Development Improvement Agreement with Summit County dated July 18, 2008, and the associated Parking Lot Pavement Warranty (as described in the letter from Derek Radke, Summit County Engineer, dated February 2, 2010), which obligations shall remain with Landlord; 2) as otherwise expressly provided in this Lease; and 3) subject to the Landlord's indemnity in Section 7.03 below; Tenant hereby accepts the Premises from Landlord on an "AS-IS," "WHERE-IS" basis, without any representations or warranties from Landlord, and subject to all physical conditions of the Premises, whether known or unknown.

2. DURATION OF LEASE

2.01 The term of this Lease shall commence on the date hereof and shall continue for a period of Ninety-Nine (99) years (the "Term").

2.02 Tenant may by right extend the term of this Lease on the same terms and conditions as provided herein for an additional term of Ninety-Nine (99) years (the "Renewal Term") by sending Landlord written notice of the exercise of this renewal option not less than 12 months prior to the expiration of the Initial Term. Upon such receipt of written notice, the Lease shall be renewed for the Renewal Term.

3. USE OF THE PREMISES, AND LANDLORD'S RESERVED RIGHTS AND OBLIGATIONS

3.1 The Premises shall be used by the Tenant only for ball fields or similar recreational spaces, and improvements related thereto, and parking (the "Permitted Uses"). Landlord has constructed a Park & Ride facility and related improvements on the Premises comprising 750 parking spaces which will accommodate (i) segregated Montage Hotel and Empire Pass parking (up to 100 spaces) the access and use of which is reserved to Landlord, and (ii) parking for the City (up to 650 spaces) which may also be used by the City for reasonable ancillary uses such as special events. This parking area also serves as the location for Montage Hotel construction parking, and the Landlord or Montage Hotel shall be responsible for providing or arranging construction parking shuttles. Landlord has the exclusive right to name the ball fields or similar recreational spaces, and will not select a name that is inappropriate.

3.2 Subject to the use rights and restrictions specified herein, Tenant shall control the use of and access to the Premises. Landlord shall have access to the Premises as may be necessary to conduct restoration and reclamation activities including, without limitation, any activities directed by any federal or state agency with jurisdiction over the Premises.

3.3 Landlord shall not perform any act or omission in relation to the Premises that is materially inconsistent with or which will materially impair Tenant's actual utilization of the permitted uses under this Lease; provided, however, that nothing in this provision shall be construed to prevent Landlord from complying with any Environmental Law or any other applicable law, rule, regulation or order. Landlord shall provide Tenant written notice of any certificate of completion, violation notice, or any material modification of the Consent Decree in relation to the Premises.

4. COSTS AND EXPENSES

Tenant shall, during the Term of this Lease, be responsible for and shall pay all costs and expenses of any kind or nature whatsoever related to the Premises and the use, occupancy, improvement and operation thereof, including, without limitation, all assessments, utilities, taxes, operating and maintenance costs, and other charges, costs and expenses of every kind and nature whatsoever, extraordinary as well as ordinary. The precise layout and costs of any kind associated with the ball fields or similar recreational spaces, and improvements related thereto, are the Tenant's responsibility.

5. LIENS

Tenant shall not permit any lien to be filed against the Premises or any interest of Landlord or Tenant that remains more than sixty (60) days after it has been filed. Tenant shall cause any such lien to be discharged of record by payment, deposit, bond, order if a court of competent jurisdiction, or as otherwise permitted by law. If Tenant fails to cause such lien to be discharged within the 60-day period, then, in addition to any other right or remedy, Landlord may, but shall not be obligated to, discharge the lien by paying the amount in question. Tenant may, at Tenant's expense, contest the validity of any such asserted lien, provided Tenant has furnished a bond in an amount sufficient to release the Premises from such lien. Any amounts paid by Landlord to discharge such liens shall be deemed to be an additional Ground Lease Fee payable by Tenant upon demand.

6. MAINTENANCE AND USE

6.01 Tenant shall, at Tenant's sole expense, use, occupy, operate and maintain the Premises in accordance with applicable laws, and consistent with the terms of this Lease and the Consent Decree, and in accordance with all Environmental Laws applicable to Tenant's use, occupancy, operation, and maintenance of the Premises. Tenant shall take no action or make no omission that shall exacerbate any condition relating to Hazardous Materials that may exist on the Premises or its surrounding environs.

6.02 In the event that Landlord is required by any federal or state agency having jurisdiction over the Premises to conduct any response action, maintenance, or other work on the Premises, Tenant shall accommodate and provide Landlord reasonable access to complete any such action, maintenance or work.

6.03 Tenant shall neither cause nor permit any Hazardous Materials to be used, generated, stored, transported, handled or disposed of in or about the Premises at any time following the Effective Date, unless thereafter expressly authorized to do so by Landlord in a manner that is consistent with the Consent Decree and the 2005 Memorandum of Understanding between Tenant and Landlord.

7. RELEASE AND INDEMNIFICATION

7.01 Landlord shall not be liable to Tenant and Tenant hereby releases, agrees to hold harmless, and waives all claims and causes of action against the Landlord for any injury to or death of any person or damage to or destruction of property in or about the Premises arising by or from any use, occupancy, operation or maintenance by Tenant of the Premises pursuant to this Lease, except to the extent resulting from any Environmental Conditions, or any negligence or intentional torts of Landlord.

7.02 Tenant shall indemnify, protect and hold the Landlord harmless from and defend (by counsel reasonably acceptable to Landlord) the Landlord against any and all claims, causes of action, liability, damage, loss or expense (including reasonable attorneys' fees and costs and court costs),

statutory or otherwise arising out of or incurred in connection with (i) the use, operation, occupancy or existence of the Premises or the presence of visitors, or any other person, at the Premises during the Term or the Renewal Term, (ii) any activity, work or thing done or permitted or suffered by Tenant in or about the Premises, (iii) any acts, omissions or negligence of Tenant, any person claiming through Tenant, or the contractors, agents, employees, members of the public, invitees, or visitors of Tenant or any other such person ("Tenant Party" or "Tenant Parties"), (iv) any breach, violation or nonperformance by any Tenant Party of any provision of this Lease or of any law of any kind, or (v) except to the extent resulting from any Environmental Conditions, or any negligence or intentional torts of Landlord, or any injury to or damage to the person, property or business of any Tenant Party or any other person or entity.

7.03 Landlord shall indemnify, protect and hold Tenant harmless from, and shall defend Tenant against, any and all Environmental Claims arising out of or incurred in connection with the violation of any Environmental Law by Landlord. Notwithstanding the foregoing, Landlord shall have no duty, liability or responsibility to Tenant to the extent that any Environmental Claim arises out of or is based on any action or omission by Tenant that directly or indirectly exacerbates any condition relating to Hazardous Materials that may exist on the Premises or its surrounding environs.

7.04 The foregoing indemnity obligations shall include reasonable attorneys' fees and all other reasonable costs and expenses incurred by reason of any of the foregoing. The provisions of this Paragraph 7 shall survive the expiration or earlier termination of this Lease with respect to any damage, injury or death occurring prior to such expiration or termination. Nothing herein shall limit or waive any defense or limitation of the Utah Government Immunity Act.

8. INSURANCE

8.01 Tenant will maintain, and/or cause to be maintained, at no cost to Landlord, public general liability and umbrella and/or excess insurance insuring its interests against claims for personal injury, bodily injury, death and property damage occurring on, in or about the Premises with a "Combined Single Limit" (covering personal injury liability, bodily injury liability and property damage liability) in an amount to be reasonably designated from time-to time by Landlord, with an initial designation of not less than Five Million Dollars (\$5,000,000.00), for total claims for any one occurrence.

8.02 All policies of insurance carried by Tenant pursuant hereto shall be issued by insurance companies which have a Best's Rating of "A-IX" or better and which are qualified to do business in the State of Utah. Landlord shall be named as an "additional insured" on Tenant's policies. Insurance certificates evidencing Tenant's compliance with the insurance requirements herein shall be delivered to Landlord prior to delivery of possession of the Premises to Tenant, within ten (10) days after renewal of any policy of insurance, and within thirty (30) days after written request by Landlord. All policies of insurance or certificates thereof delivered to Landlord must specify thereon the amount of deductible, if any, and shall contain a provision that the company writing the policy shall give to Landlord thirty (30) days' advance written notice of any cancellation or lapse or the effective date of any reduction in the amounts of insurance. All liability and property damage and other casualty policies shall be written as primary policies, not contributing with, and not in excess of coverage which Landlord or any other party may carry respecting the Premises.

8.03 From time-to-time as determined by Landlord, Landlord may review the nature, type extent, levels of insurance coverage, and any other insurance related matter to update the insurance requirements of this Lease to be generally consistent with insurance customarily being maintained by comparable properties with comparable uses, which determinations by Landlord shall be final and binding on the Parties.

9. DEFAULT AND REMEDIES

9.01 Events of Tenant's Default. Tenant shall be in default under this Lease if any of the following occurs: Tenant shall have failed to perform any material obligation, term, covenant or condition of this Lease to be performed by Tenant, and Tenant fails to substantially cure same within sixty (60) days after written notice from Landlord, delivered in accordance with the provisions of this Lease, specifying the nature of such default, where such failure could reasonably be cured within said sixty(60)-day period: provided, however, that where such failure could not reasonably be cured within said sixty(60)-day period, that Tenant shall not be in default unless it has failed to promptly commence and thereafter continue to make diligent and reasonable efforts to substantially cure such failure as soon as practicable.

9.02 Landlord's Remedies. In the event of Tenant's default, Landlord may, at Landlord's election, enforce all of its rights and remedies at law or in equity, including the right to recover sums as they become due by appropriate legal action or proceed in equity or at law to compel Tenant to perform its obligations and/or to recover damages proximately caused by such failure to perform.

9.03 Landlord's Default and Tenant's Remedies. In the event Landlord fails to perform any material term, covenant or condition of this Lease to be performed by Landlord, and Landlord fails to substantially cure such default within sixty (60) days after written notice from Tenant, delivered in accordance with the provisions of this Lease, specifying the nature of such default, where such default could reasonably be cured within said sixty (60) day period, or fails to commence such cure within said sixty (60) day period and thereafter continuously with due diligence prosecute such cure to completion where such default could not reasonably be cured within said sixty (60) day period, then Tenant may, at its option proceed in equity or at law to compel Landlord to perform its obligations and/or to recover damages proximately caused by such failure to perform.

10. SUBLETTING AND ASSIGNMENT

10.01 Tenant shall not, without the prior written consent of Landlord, which consent may be withheld for any reason, (a) assign this Lease or any interest hereunder, or (b) permit any assignment of this Lease by operation of law. Tenant may not sublet the Premises or any part thereof and may permit the use or occupancy of all or any part of the Premises by any parties other than Tenant, its agents, employees and invitees without the consent of Landlord. Temporary or seasonal licenses for parking use with Montage or similar employee, ski resort or master festival/special event users shall not require prior written consent, provided that such do not interfere with the uses and access described in Section 3.1.

10.02 Landlord shall cause any transferee of Landlord's interest in the Premises to assume Landlord's obligations under this Lease, and shall provide Tenant with advance written notice of such transfer.

11. ENVIRONMENTAL DEFINITIONS

(a) "Environmental Claim" means any claim for damages, personal injury, death and/or property damage made, asserted or prosecuted by or on behalf of any third party, including, without limitation, any other governmental entity, employee, former employee, or their respective legal representatives, heirs, beneficiaries and estates, relating to the Premises and arising or alleged to arise under any Environmental Law and resulting from the presence of Hazardous Material in existence prior to the Effective Date.

(b) "Environmental Conditions" shall mean any Hazardous Material subject to the Consent Decree on, under, or related to the Premises, except to the extent exacerbated by the use, occupancy, operation, or maintenance of the Premises by Tenant.

(c) "Environmental Law" means any federal or state statute, rule, regulation, order, consent decree, judgment or common-law doctrine, and provisions and conditions of permits, licenses and other operating authorizations relating to (i) pollution or protection of the environment, including natural resources, (ii) exposure of persons, including employees, to Hazardous Materials or other products, raw materials, chemicals or other substances, (iii) protection of the public health or welfare from the effects of by-products, wastes, emissions, discharges or releases of chemical substances from industrial or commercial activities, or (iv) regulation of the manufacture, use or introduction into commerce of chemical substances, including, without limitation, their manufacture, formulation, labeling, distribution, transportation, handling, storage and disposal.

(d) "Hazardous Material" is defined to include any chemical or hazardous or toxic substances, material or waste which is or becomes regulated by the State of Utah, or the United States Government, including, without limitation, petroleum, asbestos, lead, PCBs, hazardous substances and hazardous wastes.

12. QUIET ENJOYMENT

Landlord, subject to the provisions hereafter set out, warrants that Landlord will not disturb Tenant's quiet possession or enjoyment of the Premises throughout the Term and the Renewal Term, provided Tenant is not in default in performance of any of the covenants or conditions of this Lease.

13. CAPTIONS/NUMBER/GENDER

The headings of the Sections contained herein are for convenience only and do not define, limit, or construe their contents. When required by context, the singular includes the plural, and the neuter gender includes a person, corporation, firm or association.

14. NOTICES

Wherever in this Lease it shall be required or permitted that notice or demand be given or served by either party to this Lease to or on the other, such notice or demand shall, except as otherwise provided herein, not be deemed to be given or served unless such notice is in writing and personally delivered, or forwarded by certified or registered mail, or sent for next-day delivery through a courier or delivery

company maintaining delivery records and providing nationwide service, addressed to the following addresses:

If to Landlord:

United Park City Mines
1850 Sidewinder Drive, 2nd Floor
P.O. Box 4349
Park City, Utah 84060
Attn: David J. Smith

If to Tenant:

Park City Municipal Corporation
1354 Park Avenue
P.O. Box 1480
Park City, Utah 84060
Attn: Mark Harrington

Either Party may change such address by written notice to the other given at least ten (10) days prior to the effective date of the change.

15. RELATIONSHIP TO THE PARTIES

Nothing herein shall be deemed or construed by the Parties or by any third party as creating the relationship of principal and agent or of partnership or of joint venture between the Parties, it being understood and agreed that no provision herein, nor any acts of the Parties, shall be deemed to create any relationship between the Parties other than the relationship of landlord and tenant.

16. CONSENT OF LANDLORD AND TENANT

Except as otherwise provided in this Lease, wherever Landlord or Tenant is required to give its consent or approval to any action on the part of the other, such consent or approval shall not be unreasonably withheld conditioned or delayed. This Paragraph 16 shall not apply to Paragraph 10.

17. SUCCESSORS

All of the rights and obligations of the Parties under this Lease shall bind and inure to the benefit of the respective successors, grantees and assigns of the Parties.

18. SEVERABILITY

If any term or provision of this Lease or the application of it to any person or circumstance shall to any extent be held by a court in an action between the Parties or otherwise affecting this Lease to be invalid or unenforceable, the remainder of this Lease or the application of such term or provision to persons or circumstances other than those to which it is invalid or unenforceable shall

not be affected thereby, and each term and provision of this Lease shall be valid and shall be enforced to the extent permitted by law.

19. AUTHORITY

The individuals who execute this Lease represent and warrant that they are duly authorized to execute this Lease on behalf of Landlord or Tenant, as the case may be, that the Parties named are all the necessary and proper parties, and that no other signature, act or authorization is necessary to bind such entity to the provisions of this Lease.

20. GOVERNING LAW

This Lease shall be governed by and construed in accordance with the laws of the State of Utah.

21. WAIVER

A waiver of any breach, default or condition shall not be a waiver of any other breach, default or condition. Landlord's consent to, or approval of, any act by Tenant requiring Landlord's consent or approval shall not be deemed to waive or render unnecessary Landlord's consent to or approval of any subsequent similar act by Tenant.

22. SURRENDER

On the last day or sooner termination of the Term or the Renewal Term of this Lease, Tenant shall quit and surrender to Landlord the Premises, and any permanent improvements located thereon, provided, however, that notwithstanding anything in this Lease to the contrary, Tenant shall have the right, but not the obligation, at the end of the term, to remove any improvements made, constructed or installed by Tenant upon the Premises, provided that such removal shall be accomplished within thirty (30) days following the end of the term.

23. FEDERAL COMPLIANCE OBLIGATIONS

23.01 Access to Records. The following access to records requirements apply to this Lease:

(a) Where the Tenant is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 18.36(i), the Landlord agrees to provide the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Landlord which are directly pertinent to this Lease for the purposes of making audits, examinations, excerpts and transcriptions. Landlord agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(b) Landlord agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this Lease, except in the event of litigation or settlement of claims arising from the performance of this Lease, in which case Landlord agrees to maintain same until the Tenant, the FTA Administrator, the Comptroller

General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).

23.02 No Obligation by the Federal Government

(a) Landlord and Tenant acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of any underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Tenant, Landlord, or any other party (whether or not a party to that contract) pertaining to any matter resulting from any underlying contract.

(b) Landlord agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that this clause shall not be modified, except to identify any sub-tenant who will be subject to its provisions.

23.03 Program Fraud and False or Fraudulent Statements or Related Acts

(a) Tenant acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, may apply to its actions pertaining to use of the Premises. Upon execution of the underlying Lease, Landlord certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, to the Federal Government pertaining to the underlying Lease. In addition to other penalties that may be applicable, the Landlord further acknowledges that if it knowingly and willingly makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government directly pertinent to the underlying lease, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Tenant to the extent the Federal Government deems appropriate.

(b) Landlord also acknowledges that if it knowingly and willingly makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government has the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(I) on the Landlord, to the extent the Federal Government deems appropriate.

23.04 Suspension and Debarment. This Lease is a covered transaction for purposes of 49 CFR Part 29. As such, the Tenant is required to verify that none of the Landlord, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The certification in this clause is a material representation of fact relied upon by the Tenant. If it is later determined that Landlord knowingly rendered an erroneous certification, in addition to remedies available to it the certification in this clause is a material representation of fact relied upon by the Tenant, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. Landlord agrees to comply with the requirements of 49 CFR 29, Subpart C during the term of this Lease.

23.05 Civil Rights. The following requirements apply to the Lease:

(a) Nondiscrimination -In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, Tenant agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, Tenant agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(b) Equal Employment Opportunity -The following equal employment opportunity requirements apply to the Lease:

(i) Race, Color, Creed, National Origin, Sex -In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49.

U.S.C. § 5332, the Tenant agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. Tenant agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, Tenant agrees to comply with any implementing requirements FTA may issue.

(ii) Age -In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §§ 623 and Federal transit law at 49 U.S.C. § 5332, the Tenant agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, Tenant agrees to comply with any implementing requirements FTA may issue.

(iii) Disabilities -In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, Tenant agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, Tenant agrees to comply with any implementing requirements FTA may Issue.

(iv) Tenant also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

23.06 Lobbying. The Parties understand and agree that Landlord's ability to enter into this Lease is subject to the Landlord's certification regarding lobbying, as outlined in Exhibit B.

23.07 Federal Changes. Landlord shall at all times comply with the applicable FTA regulatory provisions as contained in this Section 23, and as the same may be amended or promulgated from time to time during the Term of the Lease.

23.08 Incorporation of Federal Transit Administration (FTA) Terms. The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Lease. Landlord shall not perform any act, fail to perform any act, or refuse to comply with any Tenant requests which would cause Tenant to be in violation of the FTA terms and conditions in this Lease.

IN WITNESS WHEREOF, the Parties have executed this Lease as of the day and year first above written.

Landlord:

Tenant:

United Park City Mines, Inc.

Park City Municipal Corporation

By:

By:

Its:

Its:

Date:

Date:

STATE OF UTAH
COUNTY OF SUMMIT

I hereby certify that on this ____ day of April, 2010, before the subscribed, a Notary Public of the State of Utah, and for the County of Summit, personally appeared _____ for the Tenant who did acknowledge the foregoing instrument to be his/her Act.

In testimony whereof,
I have affixed my official seal.

NOTARY PUBLIC

My Commission Expires: _____

SEAL:

STATE OF UTAH
COUNTY OF SUMMIT

I hereby certify that on this ____ day of April, 2010, before the subscribed, a Notary Public of the State of Utah, and for the County of Summit, personally appeared _____ for the Landlord who did acknowledge the foregoing instrument to be his/her Act.

In testimony whereof,
I have affixed my official seal.

NOTARY PUBLIC

My Commission Expires: _____

SEAL:

Exhibit A

RICHARDSON FLAT 30-ACRE PARCEL

A parcel of land located in the west half of Section 1, Township 2 South, Range 4 East, Salt Lake Base and Meridian, said parcel being more particularly described as follows:

Beginning at point that is South 00°34'37" West 1576.63 feet along section line and East 945.28 feet from the northwest corner of Section 1, Township 2 South, Range 4 East, Salt Lake Base and Meridian; and running thence South 77°11'28" East 994.74 feet; thence South 34°18'26" East 855.13 feet; thence South 57°47'58" West 285.31 feet; thence South 10°16'00" East 253.35 feet; thence South 79°44'00" West 60.00 feet; thence North 10°16'00" West 229.19 feet; thence South 57°47'58" West 172.70 feet; thence North 77°12'02" West 1251.75 feet; thence North 12°48'25" East 951.79 feet to the point of beginning.

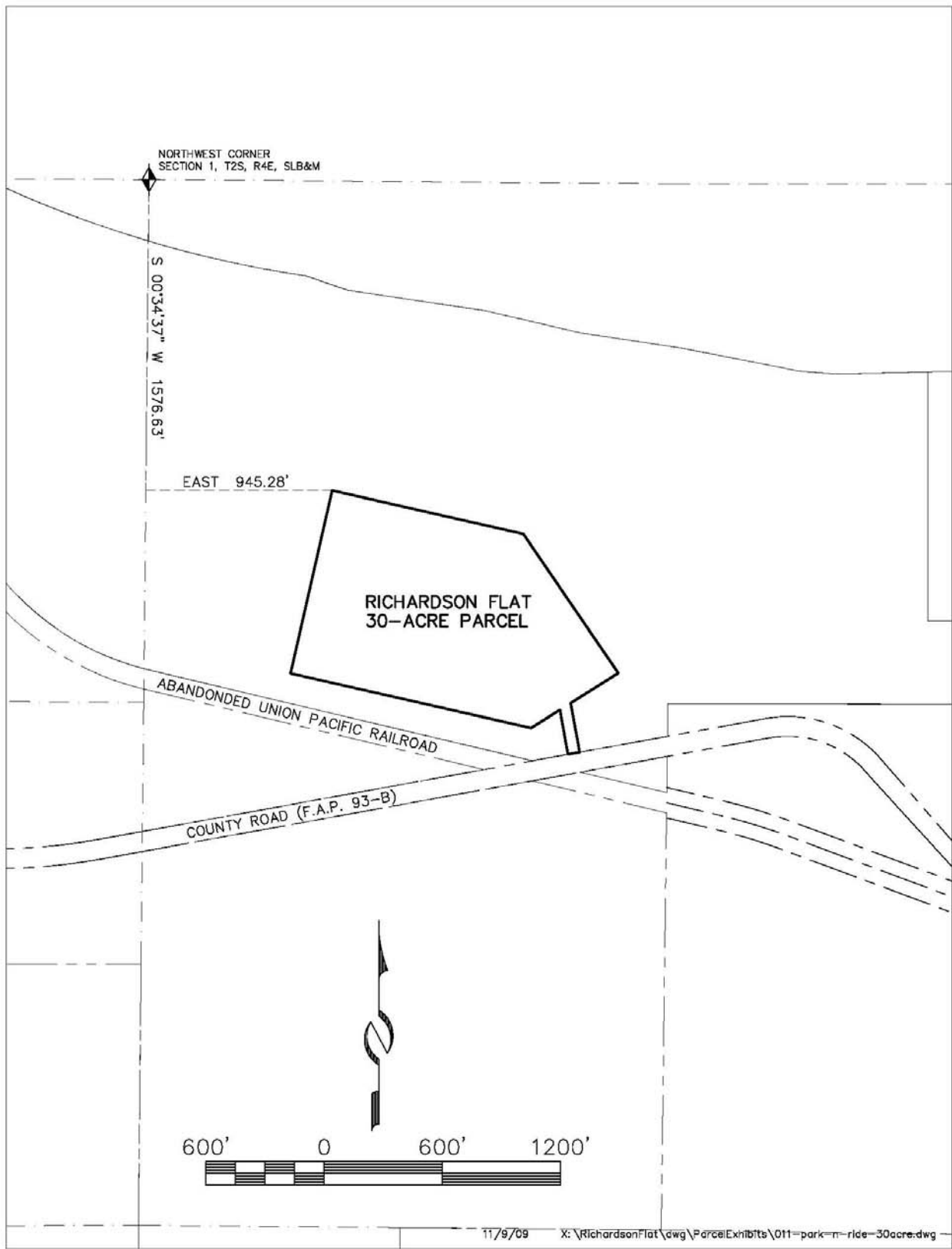


Exhibit B

49 CFR PART 20 – CERTIFICATION REGARDING LOBBYING

The undersigned Landlord certifies, to the best of its knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form – LL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]

This certification is a material representation of fact upon which reliance was placed when this Lease was made or entered into. Submission of this certification is a prerequisite for making or entering into this Lease imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Landlord certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Landlord understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

_____	Signature of Landlord's Authorized Official
_____	Name and Title of Landlord's Authorized Official
_____	Date

City Council Staff Report



Author: Phyllis McDonough Robinson
Subject: Transfer of municipally owned land to
Redevelopment Agency of Park City
Date: April 15, 2010
Type of Item: Administrative

Sustainability

Summary Recommendations:

Conduct a public hearing with possible action on the disposition of a municipally-owned parcel located at 2061 Snow Creek Drive to the Redevelopment Agency (RDA) of Park City.

Description:

Topic:
Land Transfer

Background:

In April 1998 the Park City Council authorized the purchase of Snow Creek Lot 9 located along SR 224 at the northeast corner of the intersection with Snow Creek Drive. This is the site of the Post Office, the Police Building and the Snow Creek Cottages. Staff was directed to determine the source of funding to complete the transaction. At the time of authorization it was anticipated that the City would use bond funds to complete the purchase and the purchase agreement was drawn up between the Seller and Park City Municipal. Shortly before closing the decision was made to use RDA funds for the acquisition but the Real Estate Purchase Contract was not amended to reflect the change in ownership from PCMC to the RDA.

Shortly afterwards the property was subdivided and a portion sold to the US Post Office. In those documents the Seller warranted that the property was owned by the RDA. The remaining Lot 9B which today includes the Police Facility and Snow Creek Cottages remained titled with PCMC.

Analysis:

In the process of preparing for the sale of the Snow Creek Cottages staff noticed that the title report listed PCMC as the owner. Staff confirmed with Finance that the property was purchased by the Redevelopment Agency of Park City (RDA) and is listed as an asset of the RDA. The most straightforward solution is for PCMC to dispose of the parcel to the RDA. Should title remain in PCMC it could require a transfer of funds from PCMC to reimburse the RDA for the original purchase.

Staff recommends that the City Council dispose of the parcel located at 2061 Snow Creek Drive to the Redevelopment Agency of Park City. Staff is ready to record the plat for this property but cannot do so until the title is corrected. This is a time sensitive transaction. The plat must be recorded in order for the sales documents for Snow Creek Cottages to be executed. All sales documents must be completed by April 30 in order for the buyers to be eligible for the federal homeownership tax credit.

Legal notices advertising the public hearing and possible action on the disposition of property located at 2061 Snow Creek Drive was published in the Park Record and posted on-site in accordance with Utah Code.

Should the City ever wish to dispose of the Police Facility, it will be necessary to transfer the land ownership to the RDA as well. Due to publishing deadlines and a 14-day public notice requirement, Staff was unable to amend the legal notice to include this land within the same transaction and will return to Council to transfer Lot 9B-1 to the RDA at a later time.

Significant Impacts:

The most significant impact of not approving this transaction is the delay in recording the plat and the loss of eligibility of the federal homeownership tax credit. Should the property transfer not occur, it may be necessary for the City to reimburse the RDA. There is also an administrative cost for staff to adjust the financial reports for both the City and the RDA.

REVIEW

This report was reviewed by Finance, the City Attorney and City Manager.

ALTERNATIVES:

- A. Approve the request. Authorize the disposition of property located at 2061 Snow Creek Drive to the Redevelopment Agency of Park City. This is Staff's recommendation.
- B. Deny the request. This could have a significant negative financial impact on potential purchasers of Snow Creek cottages as well as internal financial impacts.
- C. Continue the request. The City Council may continue the action for more information and discussion. This would have the same impact as denying the request.

RECOMMENDATION:

Conduct a public hearing with possible action on the disposition of a municipally-owned parcel located at 2061 Snow Creek Drive to the Redevelopment Agency of Park City.

**RESOLUTION PROCLAIMING THE MONTH OF APRIL
AS FAIR HOUSING MONTH IN PARK CITY, UTAH**

WHEREAS, April marks the 42nd anniversary of the passage of the Federal Fair Housing Law, Title VIII of the Civil Rights Act of 1968, as amended, which enunciates a national policy of fair housing without regard to race, color, national origin, religion, sex, familial status, or disability, and encourages fair housing opportunities for all citizens; and

WHEREAS, we must, as individuals and as people, take our stand to provide equity for all, including equal opportunity in housing a reality in our community; and

WHEREAS, the state of Utah passed a Fair Housing Act in 1989, recognizing the right of all residents of this state to be free from discrimination in the sale, rental and financing of their homes based on race, color, religion, sex, national origin, familial status, disability and source of income; and

WHEREAS, Park City, Utah, welcomes this opportunity to reaffirm our commitment to provide equal housing to all people and support the right of every citizen to live where they choose without fear of discrimination;

NOW, THEREFORE, BE IT RESOLVED that the Mayor and City Council proclaim the month of April 2010 as Fair Housing Month in Park City, Utah and urge all citizens to recognize and embrace the goal of improving the quality of life for all residents.

PASSED AND ADOPTED this 15th day of April, 2010.

PARK CITY MUNICIPAL CORPORATION

Mayor Dana Williams

Attest:

Janet M. Scott, City Recorder

Approved as to form:

Mark D. Harrington, City Attorney



City Council Staff Report

Subject: Anti-Discrimination Ordinances
Authors: Michael Kovacs, Phyllis Robinson, and Cindy LoPiccolo
Departments: Executive & Sustainability
Date: April 15, 2010
Type of Item: Legislative

Summary Recommendations:

City Staff recommends that Council consider business input and take public comments on the attached ordinances created from the Salt Lake City ordinances for possible action.

Topic/Description:

Two ordinances (one on employment and one addressing housing) to strengthen and enhance protected classes to include Anti-Discrimination language for the LGBT (lesbian, gay, bisexual, and transgender) community were requested by the Mayor and Council. The attached ordinances are based on Salt Lake City's ordinances and prior 1.5 years worth of work and public input.

Background:

The Civil Rights Act of 1964 began anti-discrimination efforts by prohibiting individuals and businesses from deciding whom they would and would not serve based on a person's race, color, religion, or national origin. Later, equal rights provisions were adopted to protect women, the ADA (Americans with Disabilities Act) was passed to address disability access issues, and finally the Age Discrimination Act was passed to add extra protections for those over 40. Congress is taking up federal legislation to potentially expand these protections to the LGBT community and many cities across the US have adopted similar ordinances already. Some conservative minded citizens are upset about what they see as the endorsement of the LGBT lifestyle by the adding of the protected classifications, loss of property rights on behalf of business owners and landlords, and the erosion of religious liberties. Park City business community input (Lodging Association, Board of Realtors, Chamber, HMBA) has ranged the full spectrum from supportive of the ordinance to non-supportive of an ordinance, but favoring a resolution. Congress is about to take up this debate at the national level and our proposed ordinances largely mirror the proposed Democratic initiatives in this area.

Analysis:

Discrimination Under Consideration to be Prohibited in New City Ordinances

- Sexual orientation – a person's actual or perceived orientation as heterosexual, homosexual, or bisexual.
- Gender identity and expression – a person's actual or perceived gender related identity, appearance, mannerisms, or other characteristics of an individual with or without regard to the person's sex at birth.

Practices Covered by Possible New City Ordinances

Employment Practices, for example:

- hiring and firing decisions, compensation and other benefits of employment (but benefits for a person's domestic partner not required)
- training programs
- referrals
- labor union membership

Public Accommodation Practices, for example, the denial of accommodations or facilities.

Housing Practices:

- sale and rental decisions
- refusal to show
- terms and conditions of sale or lease
- financing
- brokerage services

Exempted Parties from Possible New City Ordinances

- Religious organizations
- US Government and its departments, agencies, and other entities
- State of Utah and any of its agencies, departments, and other entities such as political subdivisions, but Park City will be covered

Exemptions from Practices Covered by Possible New City Ordinance

Employment Practices:

- Small employers not covered (15 or less employees/agents)
- Bona fide private membership club (other than labor organization) not covered if tax exempt under IRS 501 (c)

Public Accommodation Practices:

- Accommodations restricted to members and their guests not covered
- Bona fide social, fraternal, political, etc. organization not covered if any profits from accommodations are solely for benefit of members

Housing Practices

- Sale or rental of single family dwelling not covered IF owner
 - (i) doesn't own four or more single family dwellings held for lease at same time
 - (ii) has not sold two or more single family dwellings in preceding 24 months AND
 - (iii) doesn't use services of broker, agent or salesman for sale or rental of dwelling
- Rental of dwelling to be occupied by no more than four families not covered IF dwelling owner lives on the premises
- Rental of dwelling by private organization to members not covered IF dwelling owned for a purpose other than a commercial purpose AND rental is incidental to organization's primary purpose
- Rental of dwelling with rooms leased to persons of same sex not covered IF dwelling contains common kitchen, lavatory, etc. facilities for use of occupants

The Mayor and Council directed staff to further research the exemptions and explore altering the classifications to better suit our community. However, due to the heightened sensitivity at the state level regarding the on-going legislative interest in the local ordinances, staff recommends that Council direct staff to continue to research these areas for possible future action, but adopt the ordinances in their current form which are consistent with Utah's other local jurisdictions.

Enforcement of Possible New City Ordinances

- No private right of action
- No right or remedy that is the same or substantially equivalent to federal or state remedies
- Complaint filed with City, which then investigates. Staff recommends that the Asst. City Manager be designated as the "Administrator."
- Conciliation process available
- If no resolution, complaint referred to City Attorney, who, after review and/or investigation may file an action in County Court seeking a fine of not more than \$1,000 for an individual and \$5,000 for a corporation or partnership, per state statute setting ceiling on City fines in general.

Department & External Review:

City Departments - Executive, Sustainability, & Legal. Business Groups – Chamber of Commerce, Board of Realtors, HMBA, Lodging Association.

Alternatives:

A. Approve:

Approve the ordinances and enact them.

B. Deny:

Do not initiate suggested actions.

C. Modify:

Provide input to staff on a less strict or more strict set of regulations.

For example, a less strict set of ordinances could increase the exemptions for business sizes upwards or allow for a defense to prosecution for the demonstration of evidence of personal faith (personal testimony, tax returns showing giving, etc.) and an explanatory defense of the special situation before a city representative prior to formal charges being brought.

Some options for a more strict set of ordinances could include, (but are not recommended):

1. For the Employment ordinance - A reduction downward in the number of employees/agents the business has from 15 to 10, 5, or even 1.
2. For the Housing ordinance – A reduction downward in the number of units an owner owns for rental from 4 to 3, 2, or even 1.

D. Continue the Item:

Table the item to more fully consider the implications and get more public input.

E. Do Nothing:

See if Congress & President or the Utah legislature decides the issue.

Significant Impacts:

Adoption of the ordinances extends protections to very real and valuable segments of our residents and workers. While the City will realize both positive and negative public relations from the LGBT and conservative communities, the fundamental issues are those of fairness and equality. Staff does not know how many potential claims of past discrimination may have occurred locally (since there is currently no mechanism for potential victims to report or claim such), but staff finds no worthier protection within the City's "health, safety and welfare" power as ensuring such basic rights as housing employment free from discrimination. There is remote chance of a court challenge to

the ordinances on first amendment grounds under the worst possible circumstances, but this is highly unlikely if we use the proposed ordinances that follow Salt Lake City's. According to the Park City Chamber & Visitors Bureau, there could be some loss in summer tourism from the predominantly Utah based visitors who come in the off-season, depending on how the state's public reacts to the media coverage.

Consequences of not taking the recommended action:

An attempt to adopt ordinances stronger than the ones proposed may cause the Utah Legislature to react to local initiatives that vary from Salt Lake's, including invalidating all such ordinances in 2011. Worse, this could set the City up to be targeted individually by the legislature on other issues, if we are perceived as directly contradicting the leadership. Although this is an emotional issue, a measured and practical approach will serve our citizens best and preserve our long term local authority over matters of local concern.

Recommendation:

City Staff recommends that Council consider business input and take public comments on the attached ordinances created from the Salt Lake City ordinances for possible action.

Ordinance No. 10-

AN ORDINANCE RELATING TO UNLAWFUL DISCRIMINATION IN EMPLOYMENT PRACTICES BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY, AND CREATING CHAPTER 16 WITHIN TITLE 4 OF THE MUNICIPAL CODE OF PARK CITY, SUMMIT COUNTY, UTAH

An ordinance enacting a new Chapter 16, in Title 4, of the Park City Municipal Code, relating to unlawful discriminatory employment practices based on sexual orientation or gender identity.

WHEREAS, Park City is comprised of diverse and varied groups, communities and individuals;

WHEREAS, Park City values this diversity;

WHEREAS, discriminatory practices impede the social and economic progress of the City by preventing all people from contributing to or fully participating in the cultural, spiritual, social and commercial life of the community, which is essential to the growth and vitality of the City's neighborhoods and businesses;

WHEREAS, the Utah Antidiscrimination Act, Utah Code Section 34A-5-101 et seq. addresses employment-related discrimination based on race; color; religion; sex; pregnancy, childbirth, or pregnancy-related conditions; national origin; age (if over 40 years of age); and disability, but does not address employment-related discrimination based on sexual orientation or gender identity;

WHEREAS, Utah Code Section 10-8-84(1) grants Park City the power to "provide for the safety" of and to "promote the prosperity . . . and comfort and convenience" of "the city and its inhabitants;"

WHEREAS, this ordinance prohibiting discrimination in employment on the basis of race, ethnicity, national origin, religion, age, gender, sexual orientation and gender identity and expression is proposed for adoption;

NOW, THEREFORE, be it ordained by the City Council of Park City, Utah, as follows:

SECTION 1. That Title 4, Chapter 16, of the Park City Municipal Code, pertaining to discriminatory practices in employment based upon sexual orientation and gender identity, is hereby enacted to read as follows:

CHAPTER 16 – EMPLOYMENT DISCRIMINATION

- 4-16- 1. PURPOSE
- 4-16- 2. ADMINISTRATION

- 4-16- 3. NO PRIVATE RIGHT OF ACTION; NO SPECIAL RIGHTS
- 4-16- 4. SEVERABILITY
- 4-16- 5. DEFINITIONS
- 4-16- 6. EXEMPTIONS
- 4-16- 7. UNLAWFUL EMPLOYMENT PRACTICES
- 4-16- 8. UNLAWFUL INTIMIDATION, RETALIATION, AND COERCION
- 4-16- 9. PROCEDURES FOR FILING COMPLAINTS
- 4-16-10. INVESTIGATION
- 4-16-11. CONCILIATION
- 4-16-12. DISPOSITION OF A COMPLAINT
- 4-16-13. OFFENSES AND PENALTIES

4-16-1. Purpose

Every individual in the City has the right to work and earn wages through gainful employment. Discriminatory employment practices are detrimental because they impede the social and economic progress of the City by preventing all of the City's citizens from contributing to or fully participating in the cultural, spiritual, social and commercial life of the community, which is essential to the growth and vitality of the City's neighborhoods and businesses. The Utah Antidiscrimination Act, Utah Code Section 34A-5-101 et seq., addresses employment related discrimination based on race; color; sex; pregnancy; childbirth, or pregnancy-related conditions; religion; national origin; age (if 40 years of age or older); and disability, but does not address discrimination based on sexual orientation or gender identity.

The City has found that discrimination in employment on the basis of sexual orientation and gender identity must be addressed. The denial or deprivation of employment rights because of an individual's sexual orientation or gender identity is detrimental to the health, safety, and welfare of the City's citizens and damages the City's economic well-being. The purpose of this chapter is to provide a clear and comprehensive mandate for the prevention and elimination of discrimination in employment in the City against individuals based upon sexual orientation or gender identity and this chapter shall be liberally construed to achieve that purpose.

4-16-2 Administration

The City Manager is responsible for administering and implementing this chapter.

4-16-3 No Private Right of Action; No Special Rights

This chapter does not create a private cause of action, nor does it create any right or remedy that is the same or substantially equivalent to the remedies provided under federal or state law. This chapter does not create any special rights or privileges which would not be available to all of the City's citizens because every person has a sexual orientation and a gender identity.

4-16-4 Severability

If any section, sentence, paragraph, term, definition or provision of this chapter is for any reason determined to be illegal, invalid, superseded by other authority or unconstitutional by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such portion shall be deemed a separate, distinct, and independent provision and such determination shall have no effect on the validity of any other section, sentence, paragraph, term, definition or provision of this chapter, all of which will remain in full force and effect.

4-16-5 Definitions

In this chapter:

A. ADMINISTRATOR means the person designated by the City Manager to receive, investigate, and conciliate complaints under this chapter and includes the Administrator's designated representatives.

B. CITY means the city of Park City, Utah.

C. CITY ATTORNEY means the City's duly appointed City Attorney.

D. COMPLAINANT means a person, including the Administrator, who files a complaint under this chapter.

E. CONCILIATION means the attempted resolution of issues raised in a complaint filed under this chapter, or raised in the investigation of the complaint, through informal negotiations involving the Complainant, the Respondent, and the Administrator.

F. CONCILIATION AGREEMENT means a written agreement setting forth the resolution of issues by conciliation under this chapter.

G. DISCRIMINATION means any direct or indirect exclusion, distinction, segregation, limitation, refusal, denial, or other differentiation in the treatment of a person because of a person's actual or perceived sexual orientation or gender identity or because of a person's association with any such person. Discrimination shall not be interpreted to require or to grant or accord preferential treatment to any person because of that person's sexual orientation or gender identity.

H. EMPLOYEE means any individual applying with or employed by an employer. The term does not include an elected official.

I. EMPLOYER means any person employing fifteen (15) or more employees in the City for each working day in each of twenty (20) or more calendar weeks in the current or preceding calendar year, and includes any agent of such a person.

J. EMPLOYMENT AGENCY means any person, and any agent of a person, undertaking to procure employees or opportunities to work for any other person in the City or holding itself out to be equipped to procure employees or opportunities to work for any other person in the City.

K. GENDER IDENTITY means a person's actual or perceived gender identity, appearance, mannerisms, or other characteristics of an individual with or without regard to the person's sex at birth.

L. LABOR ORGANIZATION means any organization that exists for the purpose in whole or in part of collective dealing with Employers concerning grievances, terms or conditions of employment; or other mutual aid or protection in connection with employment.

M. CITY MANAGER means the duly appointed and qualified City Manager of Park City.

N. OTHERWISE QUALIFIED means a person who possesses the following required by an employer for any particular job, job classification, or position:

1. education;
2. training;
3. ability;
4. moral character;
5. integrity;
6. disposition to work;
7. adherence to reasonable rules and regulations; and
8. other job related qualifications required by an employer.

O. PERSON means one or more individuals, partnerships, associations, corporations, legal representatives, trusts or trustees, receivers and the City.

P. RELIGIOUS ORGANIZATION means a religious corporation, association, educational institution, society, trust or any entity or association which is a wholly owned or controlled subsidiary or agency of any religious corporation, association, society, trust or corporation sole.

Q. RESPONDENT means a person identified in a complaint as having committed an unlawful practice under this chapter.

R. SEXUAL ORIENTATION means a person's actual or perceived orientation as heterosexual, homosexual, or bisexual.

S. UNLAWFUL PRACTICE means a discriminatory act or practice relating to employment that is prohibited under this chapter.

4-16-6 Exemptions

This chapter does not apply to:

- A. a religious organization;
- B. an expressive association whose employment of a person protected by this chapter would significantly burden the association's rights of expressive association under *Boy Scouts of America v. Dale*, 530 U.S. 640 (2000);
- C. the United States government, any of its departments or agencies, or any corporation wholly owned by it; or the State of Utah or any of its departments, agencies, or political subdivisions except for the City.

4-16-7 Unlawful Employment Practices

- A. Employers. An employer may not refuse to hire, promote, discharge, demote, or terminate any person, and may not retaliate against, harass, or discriminate in matters of compensation or in terms, privileges, and conditions of employment against any person otherwise qualified because of a person's sexual orientation or gender identity.
- B. Employment agencies. An employment agency may not refuse to list and properly classify for employment, or refuse to refer a person for employment, in a known available job for which the person is otherwise qualified because of a person's sexual orientation or gender identity.
- C. Labor organizations. A labor organization may not exclude any person otherwise qualified from full membership rights in the labor organization, expel the person from membership in the labor organization, or otherwise discriminate against or harass any of the labor organization's members in full employment of work opportunity, or representation, because of a person's sexual orientation or gender identity.
- D. Training programs. An employer, labor organization, joint apprenticeship committee, or vocational school, providing, coordinating, or controlling apprenticeship programs, or providing, coordinating, or controlling on-the-job-training programs, instruction, training, or retraining programs may not deny to, or withhold from, any qualified person, the right to be admitted to, or participate in any apprenticeship training program, on-the-job-training program, or other occupational instruction, training or retraining program because of a person's sexual orientation or gender identity.

E. Notices and advertisements. Unless based upon a bona fide occupational qualification, or required by and given to an agency of government for security reasons, an employer, employment agency, or labor organization may not print, or circulate, or cause to be printed or circulated, any statement, advertisement, or publication, use any form of application for employment or membership, or make any inquiry in connection with prospective employment or membership that expresses, either directly or indirectly any limitation, specification, or discrimination because of a person's sexual orientation or gender identity.

It is unlawful for a joint labor-management committee controlling apprenticeship or other training or retraining (including on-the-job training programs) to print or publish, or cause to be printed or published, any notice or advertisement relating to admission to, or employment in, any program established to provide apprenticeship or other training by the joint labor-management committee that indicates any preference, limitation, specification, or discrimination based on sexual orientation or gender identity.

Nothing in this chapter prohibits a notice or advertisement from indicating a preference, limitation, specification, or discrimination based on sexual orientation or gender identity when sexual orientation or gender identity is a bona fide occupational qualification for employment.

F. No Preferential Treatment. Nothing in this chapter shall be interpreted to require any employer, employment agency, labor organization, vocational school, joint labor-management committee, or apprenticeship program subject to this chapter to grant preferential treatment to any person because of the person's sexual orientation or gender identity on account of an imbalance which may exist with respect to the total number or percentage of persons of any sexual orientation or gender identity employed by any employer, referred or classified for employment by an employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of that sexual orientation or gender identity available in the City's available work force.

4-16-8 Unlawful Intimidation, Retaliation, and Coercion

It is unlawful for any person to discriminate against, harass, threaten, harm, damage, or otherwise penalize another person for opposing an unlawful practice, for filing a complaint, or for testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing under this chapter.

4-16-9 Procedures for Filing Complaints

A. Any person who claims to have been injured by an unlawful employment practice subject to the City's jurisdiction under this Chapter may file a complaint with the Administrator. A complaint may also be filed by the Administrator if the Administrator has reasonable cause to believe that a person has committed an unlawful employment practice. A complaint must be filed within 180 calendar days after an alleged unlawful employment practice has occurred.

B. A complaint must be in writing on a form provided by the Administrator, made under oath or affirmation, and contain the following information:

1. The Complainant's name, address, and signature;
2. The date the alleged unlawful employment practice occurred;
3. A statement of the facts upon which the allegation of an unlawful employment practice are based; and
4. The Respondent's name and address.

C. Promptly after the filing of a complaint, the Administrator shall:

1. Provide the Respondent named in the complaint written notice that a complaint alleging the commission of an unlawful employment practice has been filed against the Respondent;
2. Furnish a copy of the complaint to the Respondent; and
3. Advise the Respondent of the Respondent's procedural rights and obligations, including the right to file a written, signed, and verified informal answer to the complaint within 15 days after service of notice of the complaint.

D. Not later than the 15th day after service of the notice and copy of the complaint, a Respondent may file an answer to the complaint. The answer must be in writing, made under oath or affirmation, and contain the following information:

1. The Respondent's name, address, telephone number, and signature of the Respondent or the Respondent's attorney, if any; and
2. A concise statement of facts in response to the allegations in the complaint, including facts of any defense or exception.

4-16-10 Investigation

A. Upon the filing of a complaint, the Administrator shall commence an investigation to determine the facts behind the complaint and whether there is reasonable cause to believe the Respondent committed an unlawful employment practice, except that no investigation may commence if, after reviewing the allegations of the complaint, the Administrator determines that the complaint does not come within the scope of this chapter. Upon determining that a particular complaint does not come within the scope of this chapter, the Administrator shall dismiss the complaint, notify the Complainant and Respondent and take no further action.

B. In connection with any investigation of a complaint filed under this chapter, the Administrator shall seek the voluntary cooperation of any person to:

1. obtain access to premises, records, documents, individuals, and any other possible source of information;
2. examine, record, and copy necessary materials; and
3. take and record testimony or statements of any person reasonably necessary for the furtherance of the investigation.

C. The Administrator may request the City Attorney to issue an executive branch subpoena or subpoena duces tecum to compel the attendance of a witness or the production of relevant materials or documents.

D. The Administrator may dismiss a complaint during the investigation and prior to referral to the City Attorney if the Administrator determines that:

1. the complaint was not filed within the required time period;
2. the location of the alleged unlawful employment practice is not within the City's jurisdiction;
3. the employer does not employ a sufficient number of employees in the City to meet this chapter's jurisdictional requirements;
4. the alleged unlawful employment practice is not a violation of this chapter;
5. the Complainant refuses to cooperate with the Administrator in the investigation of the complaint or enforcement of an executed conciliation agreement;
6. the Complainant cannot be located after the Administrator has performed a reasonable search; or
7. a conciliation agreement has been executed by the Complainant and Respondent.

4-16-11 Conciliation

A. During or after the investigation, but subsequent to the mailing of the notice of the complaint to the Respondent, the Administrator shall, if the Respondent appears to have committed an unlawful employment practice, attempt to conciliate the complaint. In conciliating a complaint, the Administrator shall try to achieve a just resolution and obtain assurances that the Respondent will satisfactorily remedy any violation of the Complainant's rights and take action to ensure the elimination of both present and future unlawful employment practices. A conciliation agreement may include: sensitivity training for the Respondent and/or the Respondent's employees; the Respondent's agreement to adopt and pursue a policy of non-discrimination in employment practices; and the Respondent's agreement to not engage in discriminatory practices in the future.

B. A conciliation agreement executed under this section must be in writing in a form approved by the City Attorney and must be signed and verified by the Respondent and the Complainant, subject to approval of the Administrator who shall indicate approval by signing the agreement.

C. If a Respondent voluntarily enters into a conciliation agreement, the Administrator shall immediately dismiss the complaint.

4-16-12 Disposition of a Complaint

A. If, upon completion of an investigation of a complaint, the Administrator determines that an unlawful employment practice has occurred and is unable to secure an acceptable conciliation agreement from the Respondent, then the Administrator shall refer the case to the City Attorney. The Administrator shall refer the entire file to the City Attorney, who shall determine how best to pursue further action, if any, on the complaint.

B. If the City Attorney determines that cause exists to find that an unlawful employment practice occurred and the facts are sufficient to warrant the initiation of an action in justice court, then the City Attorney shall provide written notification to the Respondent and the Complainant that an action to enforce this chapter may be initiated in justice court. If the City Attorney determines that there is no cause that an unlawful employment practice occurred or that the facts are insufficient to warrant the initiation of an action in justice court, the City Attorney shall provide written notification to the Respondent and the Complainant and notify the Administrator who shall then dismiss the complaint.

4-16-13 Offenses and Penalties

A person violates this chapter if the person engages in any action made unlawful by this chapter. An offense committed under this chapter by an employer employing fifty (50) or fewer employees is punishable by a civil fine of not more than \$500.00. An offense committed under this chapter by an individual employing fifty-one (51) or more employees or by an employment agency or labor organization is punishable by a civil fine of not more than \$1,000.00.

SECTION 2. EFFECTIVE DATE. This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this day of April, 2010

PARK CITY MUNICIPAL CORPORATION

Mayor Dana Williams

Attest:

Janet M. Scott, City Recorder

Approved as to form:

Mark D. Harrington, City Attorney

Ordinance No. 10-

AN ORDINANCE RELATING TO UNLAWFUL DISCRIMINATION IN HOUSING PRACTICES BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY, AND CREATING CHAPTER 17 WITHIN TITLE 4 OF THE MUNICIPAL CODE OF PARK CITY, SUMMIT COUNTY, UTAH

An ordinance enacting a new Chapter 17, in Title 4, of the Park City Municipal Code, relating to unlawful discriminatory housing practices based on sexual orientation or gender identity.

WHEREAS, Park City is comprised of diverse and varied groups, communities and individuals;

WHEREAS, Park City values this diversity;

WHEREAS, the Utah Fair Housing Act Utah Code Section 57-21-1 et seq. addresses housing-related discrimination based on race; color; religion; sex; national origin; familial status; source of income; or disability, but does not address housing-related discrimination based on sexual orientation or gender identity;

WHEREAS, discrimination based on sexual orientation and gender identity are among the forms of discrimination that adversely affect the general welfare of the City and the vitality of its neighborhoods;

WHEREAS, Utah Code Annotated section 10-8-84(1) grants Park City the power to “provide for the safety” of and to “promote the prosperity . . . and comfort and convenience” of “the city and its inhabitants;”

WHEREAS, this ordinance prohibiting discrimination in housing on the basis of race, ethnicity, national origin, religion, age, gender, sexual orientation and gender identity and expression is hereby proposed for adoption;

NOW, THEREFORE, be it ordained by the City Council of Park City, Utah, as follows:

SECTION 1. That Title 4, Chapter 17, of the Park City Municipal Code, pertaining to discriminatory practices in housing based upon sexual orientation and gender identity is hereby enacted to read as follow:

CHAPTER 17 – HOUSING DISCRIMINATION

- 4-17- 1. PURPOSE
- 4-17- 2. ADMINISTRATION
- 4-17- 3. NO PRIVATE RIGHT OF ACTION; NO SPECIAL RIGHTS
- 4-17- 4. SEVERABILITY

- 4-17- 5. DEFINITIONS
- 4-17- 6. EXEMPTIONS
- 4-17- 7. UNLAWFUL PRACTICES
- 4-17- 8. UNLAWFUL INTIMIDATION, RETALIATION, AND COERCION
- 4-17- 9. PROCEDURES FOR FILING COMPLAINTS
- 4-17-10. INVESTIGATION
- 4-17-11. CONCILIATION
- 4-17-12. DISPOSITION OF A COMPLAINT
- 4-17-13. OFFENSES AND PENALTIES

4-17-1. Purpose

Every individual in the City has the right to seek housing. Discriminatory housing practices are detrimental because they impede the social and economic progress of the City by preventing all of the City's citizens from contributing to or fully participating in the cultural, spiritual, social and commercial life of the community, which is essential to the growth and vitality of the City's neighborhoods and businesses.

The Utah Fair Housing Act, Utah Code Section, 57-21-1 et seq., addresses housing related discrimination based on race; color; religion; sex; national origin; familial status; source of income; and disability, but does not address discrimination based on sexual orientation or gender identity.

The City has found that discrimination in housing on the basis of sexual orientation and gender identity must be addressed. The denial or deprivation of access to housing because of an individual's sexual orientation or gender identity is detrimental to the health, safety, and welfare of the City's citizens and damages the City's economic well-being. The purpose of this chapter is to provide a clear and comprehensive mandate for the prevention and elimination of discrimination in housing in the City against individuals based upon sexual orientation or gender identity and this chapter shall be liberally construed to achieve that purpose.

4-17-2 Administration

The City Manager is responsible for administering and implementing this chapter.

4-17-3 No Private Right of Action; No Special Rights

This chapter does not create a private cause of action, nor does it create any right or remedy that is the same or substantially equivalent to the remedies provided under federal or state law. This chapter does not create any special rights or privileges which would not be available to all of the City's citizens because every person has a sexual orientation and a gender identity.

4-17-4 Severability

If any section, sentence, paragraph, term, definition or provision of this chapter is for any reason determined to be illegal, invalid, superseded by other authority or unconstitutional by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such portion shall be deemed a separate, distinct, and independent provision and such determination shall have no effect on the validity of any other section, sentence, paragraph, term, definition or provision of this chapter, all of which will remain in full force and effect.

4-17-5 Definitions

In this chapter:

A. ADMINISTRATOR means the person designated by the City Manager to receive, investigate, and conciliate complaints under this chapter and includes the Administrator's designated representatives.

B. CITY means the city of Park City, Utah.

C. CITY ATTORNEY means the duly appointed City Attorney.

D. COMPLAINANT means a person, including the Administrator, who files a complaint under this chapter.

E. CONCILIATION means the attempted resolution of issues raised in a complaint filed under this chapter, or raised in the investigation of the complaint, through informal negotiations involving the Complainant, the Respondent, and the Administrator.

F. CONCILIATION AGREEMENT means a written agreement setting forth the resolution of issues by conciliation under this chapter.

G. DISCRIMINATION means any direct or indirect exclusion, distinction, segregation, limitation, refusal, denial, or other differentiation in the treatment of a person or persons because of a person's actual or perceived sexual orientation or gender identity or because of a person's association with any such person. Discrimination shall not be interpreted to require or to grant or accord preferential treatment to any person because of that person's sexual orientation or gender identity.

H. DWELLING means any building or structure, or a portion of a building or structure, occupied as, or designed or intended for occupancy as, a residence of one or more families inside the City and vacant land that is offered for sale or lease for the construction or location of a dwelling inside the City.

I. GENDER IDENTITY means a person's actual or perceived gender identity, appearance, mannerisms, or other characteristics of a person with or without regard to the person's sex at birth.

J. CITY MANAGER means the appointed and qualified City Manager of Park City.

K. PERSON includes one or more individuals, corporations, limited liability companies, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under the United States Bankruptcy Code, receivers, and fiduciaries.

L. REAL ESTATE BROKER or SALESPERSON means a principal real estate broker, an associate real estate broker, or a real estate sales agent as those terms are defined in Utah Code Section 61-2-2 or any successor provision.

M. RELIGIOUS ORGANIZATION means a religious corporation, association, educational institution, society, trust, or any entity or association which is a wholly owned or controlled subsidiary or agency of any religious corporation, association, society, trust or corporation sole.

N. RENT means to lease, sublease, let, or otherwise grant for a consideration the right to occupy premises not owned by the occupant.

O. RESIDENTIAL REAL ESTATE RELATED TRANSACTION means the making or purchasing loans or providing other financial assistance for purchasing, constructing, improving, repairing, or maintaining a dwelling; or secured by residential real estate; or selling, brokering, or appraising residential real property inside the City.

P. RESPONDENT means a person identified in a complaint as having committed an unlawful housing practice under this chapter.

Q. SEXUAL ORIENTATION means a person's actual or perceived orientation as heterosexual, homosexual, or bisexual.

R. UNLAWFUL PRACTICE means a discriminatory act or practice relating to housing that is prohibited under this chapter.

4-17-6 Exemptions

This chapter does not apply to a temporary or permanent residence facility operated by a nonprofit organization; a charitable organization; or a person in conjunction with a religious organization, association, or society, including any dormitory operated by a public or private educational institution, if the discrimination is based on sexual orientation or gender identity for reasons of personal modesty or privacy or in the furtherance of a religious organization's sincerely held religious beliefs.

This chapter does not prohibit or restrict a religious organization or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization from limiting the sale, rental, or occupancy of dwellings it owns or operates for primarily noncommercial purposes to persons of the same religion, or from giving preference to such persons.

This chapter does not prohibit distinctions based on a person's inability or failure to fulfill the terms and conditions, including financial obligations, of a lease, rental agreement, contract of purchase or sale, mortgage, trust deed, or other financing agreement.

This chapter does not apply to: 1) the United States government, any of its departments or agencies, or any corporation wholly owned by it; or 2) the government of the State of Utah or any of its departments, agencies, or political subdivision, except for the City.

4-17-7 Unlawful Housing Practices

A. It is a discriminatory housing practice to do any of the following:

1. refuse to sell or rent after the making of a bona fide offer, refuse to negotiate for the sale or rental, or otherwise deny or make unavailable any dwelling from any person because of the person's sexual orientation or gender identity;
2. discriminate against any person in the terms, conditions, or privileges of the sale or rental of any dwelling or in providing facilities or services in connection with the dwelling because of the person's sexual orientation or gender identity;
3. represent to any person that any dwelling is not available for inspection, sale, or rental when in fact the dwelling is available;
4. to make a representation orally or in writing or make, print, circulate, publish, post, or cause to be made, printed, circulated, published, or posted any notice, statement, or advertisement, or to use any application form for the sale or rental of a dwelling, that directly or indirectly expresses any preference, limitation, or discrimination based on sexual orientation or gender identity, or expresses any intent to make any such preference, limitation, or discrimination;
5. to induce or attempt to induce, for profit, any person to buy, sell, or rent any dwelling by making representations about the entry or prospective entry into the neighborhood of persons of a particular sexual orientation or gender identity;
6. engage in any discriminatory housing practices because of sexual orientation or gender identity based upon a person's association with another person.

B. It is a discriminatory housing practice for a real estate broker or salesperson to do any of the following because of a person's sexual orientation or gender identity:

1. to discriminate against any person in making available a residential real estate transaction, or in the terms or conditions of the transaction, inside the City, because of a person's sexual orientation or gender identity;

2. to deny any person access to, or membership or participation in, any multiple-listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting dwellings inside the City or to discriminate against any person in the terms or conditions of access, membership, or participation in the organization, service, or facility inside the City because of a person's sexual orientation or gender identity; or

3. engage in any discriminatory housing practices inside the City because of sexual orientation or gender identity based upon a person's association with another person.

C. Exceptions. This chapter does not apply to the following:

1. The sale or rental of any single-family dwelling, if the owner:

(i) does not own an interest in or title to four or more single-family dwellings held for lease or sale at one time located inside the City;

(ii) has not sold two or more single-family dwellings inside the City in which the owner did not reside in the dwelling within the 24-month period preceding the sale or rental of the dwelling; and

(iii) does not use the services or facilities of any real estate broker, agent, or salesperson, or of any other person in the business of selling or renting dwellings, in connection with the sale or rental of the dwelling inside the City.

2. The rental of a dwelling that is occupied or intended to be occupied by no more than four families living independently of each other, when the owner actually maintains and occupies part of the dwelling as a residence.

3. Nothing in this section prohibits conduct against a person because of the person's conviction by a court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance under state or federal law.

4-17-8 Unlawful Intimidation, Retaliation, and Coercion

It is unlawful for any person to discriminate against, harass, threaten, harm, damage, or otherwise penalize another person for opposing an unlawful practice, for filing a complaint, or for testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing under this chapter.

4-17-9 Procedures for Filing Complaints

A. Any person who claims to have been injured by an unlawful housing practice may file a complaint with the Administrator. A complaint may also be filed by the Administrator if the Administrator has reasonable cause to believe that a person has committed an unlawful housing practice. A complaint must be filed within 180 calendar days after an alleged unlawful housing practice has occurred.

B. A complaint must be in writing on a form provided by the Administrator, made under oath or affirmation, and contain the following information:

1. The Complainant's name, address, and signature;
2. The date the alleged unlawful housing practice occurred;
3. A statement of the facts upon which the allegation of an unlawful practice are based; and
4. The Respondent's name and address.

C. Promptly after the filing of a complaint, the Administrator shall:

1. provide the Respondent named in the complaint written notice that a complaint alleging the commission of an unlawful housing practice has been filed against the Respondent;
2. furnish a copy of the complaint to the Respondent; and
3. advise the Respondent of the Respondent's procedural rights and obligations, including the right to file a written, signed, and verified informal answer to the complaint within 15 days after service of notice of the complaint.

D. Not later than the 15th day after service of the notice and copy of the complaint, a Respondent may file an answer to the complaint. The answer must be in writing, made under oath or affirmation, and contain the following information:

1. The Respondent's name, address, telephone number, and signature of the Respondent or the Respondent's attorney, if any; and
2. A concise statement of facts in response to the allegations in the complaint, including facts of any defense or exception.

4-17-10 Investigation

A. Upon the filing of a complaint, the Administrator shall commence an investigation to determine the facts behind the complaint and whether there is reasonable cause to believe the Respondent committed an unlawful housing practice, except that no investigation may commence if, after reviewing the allegations of the complaint, the Administrator determines that the complaint does not come within the scope of this chapter. Upon determining that a particular complaint does not come within the scope of this chapter, the Administrator shall dismiss the complaint, notify the Complainant and the Respondent and take no further action.

B. In connection with any investigation of a complaint filed under this chapter, the Administrator shall seek the voluntary cooperation of any person to:

1. obtain access to premises, records, documents, individuals, and any other possible source of information;
2. examine, record, and copy necessary materials; and
3. take and record testimony or statements of any person reasonably necessary for the furtherance of the investigation.

C. The Administrator may request the City Attorney to issue an executive branch subpoena or subpoena duces tecum to compel the attendance of a witness or the production of relevant materials or documents.

D. The Administrator may dismiss a complaint during the investigation and prior to referral to the City Attorney if the Administrator determines that:

1. the complaint was not filed within the required time period;
2. the location of the alleged unlawful housing practice is not within the City's jurisdiction;
3. the alleged unlawful housing practice is not a violation of this chapter;
4. the Complainant refuses to cooperate with the Administrator in the investigation of the complaint or enforcement of an executed conciliation agreement;
5. the Complainant cannot be located after the Administrator has performed a reasonable search; or
6. a conciliation agreement has been executed by the Complainant and Respondent.

4-17-11 Conciliation

A. During or after the investigation, but subsequent to the mailing of the notice of the complaint to the Respondent, the Administrator shall, if it appears that the Respondent has committed an unlawful housing practice, attempt to conciliate the complaint. In conciliating a complaint, the Administrator shall try to achieve a just resolution and obtain assurances that the Respondent will satisfactorily remedy any violation of the Complainant's rights and take action to ensure the elimination of both present and future unlawful housing practices. A conciliation agreement may include: sensitivity training for the Respondent and/or the Respondent's employees; the Respondent's agreement to adopt and pursue a policy of non-discrimination in its practices; and the Respondent's agreement to not engage in discriminatory practices in the future.

B. A conciliation agreement executed under this section must be in writing in a form approved by the City Attorney and must be signed and verified by the Respondent and the Complainant, subject to approval of the Administrator who shall indicate approval by signing the agreement.

C. If a Respondent voluntarily enters into a conciliation agreement, the Administrator shall immediately dismiss the complaint.

4-17-12 Disposition of a Complaint

A. If, upon completion of an investigation of a complaint, the Administrator determines that an unlawful housing practice has occurred and is unable to secure an acceptable conciliation agreement from the Respondent, then the Administrator shall refer the case to the City Attorney. The Administrator shall refer the entire file to the City Attorney, who shall determine how best to pursue further action, if any, on the complaint.

B. If the City Attorney determines that cause exists that an unlawful housing practice occurred and the facts are sufficient to warrant the initiation of an action in justice court, then the City Attorney shall provide written notification to the Respondent and the Complainant that an action to enforce this chapter may be initiated in justice court. If the City Attorney determines that there is no cause that an unlawful housing practice occurred or that the facts are insufficient to warrant the initiation of an action in justice court, the City Attorney shall provide written notification to the Respondent and the Complainant and notify the Administrator who shall then dismiss the complaint.

4-17-13 Offenses and Penalties

A person violates this chapter if the person intentionally or knowingly violates a provision of this chapter or if the person intentionally or knowingly obstructs or prevents compliance with this chapter. An offense committed under this chapter by a Respondent owning or operating twenty (20) or fewer dwellings is punishable by a fine of not more than \$500.00. An offense committed under this chapter by a Respondent owning or operating twenty-one (21) or more dwellings or by a Real Estate Broker or Salesperson is punishable by a fine of not more than \$1,000.00.

SECTION 2. EFFECTIVE DATE. This Ordinance shall take effect upon publication.

PASSED AND ADOPTED this day of April, 2010.

PARK CITY MUNICIPAL CORPORATION

Mayor Dana Williams

Attest:

Janet M. Scott, City Recorder

Approved as to form:

Mark D. Harrington, City Attorney

City Council Staff Report



Planning Department

Subject: Land Management Code (LMC)
Amendments
Author: Kirsten Whetstone, AICP
Thomas Eddington, AICP
Date: April 15, 2010
Type of Item: Legislative
Project Number: PL-09-00784

Summary Recommendations

The City Council should review and discuss proposed amendments to the Land Management Code for:

- Chapter 1 General Provisions and Procedures

Staff recommends the City Council conduct a public hearing, consider input, and consider approving the proposed Land Management Code amendments and adopting the attached Ordinance.

Topic

Project Name: LMC Amendments for Chapter 1
Applicant: Planning Department
Proposal: Revisions to the Land Management Code (LMC)

Background

On March 24, 2010, the Planning Commission conducted a public hearing and forwarded to the City Council Land Management Code (LMC) amendments to address substantive and procedural issues related to appeals of Planning Commission decisions to City Council (Exhibit A).

On April 1, 2010, the City Council opened a public hearing, discussed these amendments and continued the hearing and discussion to April 15, 2010 to allow the public and Council to have additional time to review the proposed amendments.

Analysis

The following amendments are proposed:

- **Chapter 1 (General Provisions and Procedures)** - Procedural amendment: Allows the City Council to designate an independent appeal authority (typically called a hearing officer or administrative law judge) for appeals and call-ups for land in all zones under certain circumstances.

The amendment enables the City Council to designate a Hearing Officer as the appeal authority for appeals and call-ups of Planning Commission decisions for land in all zones (Section 15-1-18 (C)) where the City Council determines it necessary to ensure fair due process for all affected parties or to otherwise

preserve the appearance of a process free of conflicts of interest in any appeal. The Planning Commission process remains unchanged. Only in the event of an appeal (or call-up which the Council will retain the ability to do) the Hearing Officer would replace the City Council in hearing the appeal or call up and will have the same scope and standard of review. Whether to expand the scope of the appeal or allow public input in the appeal will still be determined by the City Council pursuant to LMC 15-1-18 (I). Similar to an administrative law judge, a hearing officer would preside over any appeal or call up in an open and noticed meeting, review factual matters de novo (anew), and determine whether the Planning Commission correctly applied the LMC to proposed project based upon the testimony and record. The Hearing Officer would step into the shoes of the Council in hearing an appeal or call up. Staff recommends a single hearing officer and not a panel. A new board or panel would be more cumbersome and costly to administrate, with limited increased accountability.

City Council Accountability

Both the Planning Commission and public input focused on the pivotal question of Council accountability. Ultimately, the Commission determined that the pros outweighed the cons and that their own frustrations with the limits of their reactive, regulatory role were sufficient reasons to try an out-of-the-box approach. A sheet with "Pros and Cons of Using Hearing Examiners" from the state of Washington where there is a high use of the process is attached as Exhibit H. Note that the state law in Washington and the discussion of such in the handout does not apply. Similarly, the option of the Council retaining a second appeal is not applicable under our situation. Any appeal of the hearing officer decision would be to District Court.

For staff, the key question for Council is what role/decision provides the Council more opportunity to possibly effect the end result of the project, and as a result, ultimately more accountability. Given perhaps a limited window of alternatives and the Sweeney's current position of re-examining their current plan, staff strongly finds that the opportunity is now to embark on a new, parallel track outside the limitations which bind all sides in the traditional regulatory process. Accordingly, staff recommends that the Council adopt the Ordinance as proposed.

Fiscal Impacts

At the Planning Commission, the question of cost of a Hearing Officer was also raised. It is hard to estimate the cost of a Hearing Officer without knowing the exact nature of a potential appeal, if any. The City has several sources of funding for this expense, since the City currently may incur similar expenses in the Utah Private Property Ombudsman process and/or litigation. The potential cost would be indirectly offset by resources and Council time needed to hear such an appeal before the City Council.

Department Review

These amendments have been reviewed by the City's Planning, Engineering, Building, and Legal Departments.

Process

Amendments to the Land Management Code require Planning Commission recommendation and City Council adoption and become pending upon publication of legal notice. City Council action may be appealed to a court of competent jurisdiction per LMC Section 15-1-18.

Notice

Notice was published in the Park Record and posted according to requirements of the Land Management Code.

Public Input

Public input was received at the hearing on April 1, 2010. Concerns were expressed regarding City Council accountability to the public and financial implications, were the Council to appoint a hearing officer for controversial projects. Concerns were also expressed regarding residency of the hearing officer and whether a non-resident would be as sensitive to the specific concerns and unique conditions of the neighborhood and/or City. There was also public comment on the timing of the amendments. The City Attorney addressed the comments. Minutes of the meeting are included in the packet and available at the City's website www.parkcity.org.

Alternatives

- Conduct a public hearing on the LMC amendments and approve the amendments as describe herein, or
- Conduct a public hearing and deny the proposed LMC amendments, or
- Continue action on all or a portion of the LMC amendments to a date certain and approve the remaining portions.

Significant Impacts

The amendments to Chapter One ensure fair due process for all affected parties and to preserve the appearance of fairness in any appeal. See Fiscal Impacts above.

Consequences of not taking the Suggested Recommendation

Not taking the suggested recommendation will leave the LMC unchanged and the Council would have limited opportunity to consider additional legislative action on highly controversial projects that could yield a better project for adjacent neighborhoods and/or the City as a whole.

Recommendation

Staff recommends the City Council conduct a public hearing, consider input, consider the Planning Commission's recommendation and approve the proposed amendments by adopting the attached Ordinance.

Exhibits

Ordinance

Exhibit A- LMC Chapter One- Section 15-1-18-(C) – separate cover

Ordinance - 10

AN ORDINANCE AMENDING THE LAND MANAGEMENT CODE OF PARK CITY, UTAH, REVISING SECTION 15-1-18 (C) REGARDING THE OPTION OF APPOINTING A HEARING OFFICER TO HEAR CERTAIN APPEALS OF PLANNING COMMISSION DECISIONS

WHEREAS, the Land Management Code was adopted by the City Council of Park City, Utah to promote the health, safety and welfare of the residents, visitors, and property owner's of Park City; and

WHEREAS, the Land Management Code implements the goals, objectives and policies of the Park City General Plan to maintain the quality of life and experiences for its residents and visitors; and to preserve the community's unique character and values; and

WHEREAS, the City reviews the Land Management Code on an annual basis and identifies necessary amendments to address planning and zoning issues that have come up in the past year, and to address specific LMC issues raised by Staff and the Commission, to address applicable changes to the State Code, and to align the Code with the Council's goals; and

WHEREAS, Chapter 1, General Provisions and Procedures, provides a description of general requirements, provisions and procedures and the City desires to clarify and revise these requirements, provisions and procedures regarding appeals of Planning Commission decisions in all zoning districts, as outlined in the staff report; and

WHEREAS, the Planning Commission duly noticed and conducted public hearing on these amendments on March 24, 2010 and forwarded a positive recommendation to City Council; and

WHEREAS, the City Council duly noticed and conducted public hearings at its regularly scheduled meetings on April 1 and April 15, 2010; and

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

SECTION 1. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 1- Section 15-1-18 (C). The recitals above are incorporated herein as findings of fact. Chapter 1 of the Land Management Code of Park City is hereby amended as redlined (see Exhibit A).

SECTION 2. SEVERABILITY OF ORDINANCE. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence,

paragraph or section of this Ordinance shall be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

SECTION 3. EFFECTIVE DATE. This Ordinance shall be effective upon publication.

PASSED AND ADOPTED this ____ day of _____, 2010

PARK CITY MUNICIPAL CORPORATION

Dana Williams, Mayor

Attest:

Janet M. Scott, City Recorder

Approved as to form:

Mark Harrington, City Attorney

City Council Staff Report



Planning Department

Subject: Land Management Code (LMC)
Amendments
Author: Kirsten Whetstone, AICP
Thomas Eddington, AICP
Date: April 15, 2010
Type of Item: Legislative
Project Number: PL-09-00784

Summary Recommendations

The City Council should review and discuss proposed amendments to the Land Management Code for:

- Chapter 2.3 Historic Residential HR-2
- Chapter 6 Master Planned Developments

Staff recommends the City Council conduct a public hearing, consider input, and consider approving the proposed Land Management Code amendments and adopting the attached Ordinance.

Topic

Project Name: LMC Amendments for Chapters 2.3, and 6
Applicant: Planning Department
Proposal: Revisions to the Land Management Code (LMC)

Background

On March 24, 2010, the Planning Commission conducted a public hearing and forwarded to the City Council Land Management Code (LMC) amendments to address 1) planning and zoning issues that have arisen in the past year, and 2) development and design issues for the east side of upper Park Avenue in the HR-2 zoning district, (Exhibits A and B).

Previous public hearings and discussions occurred on June 11, 2008, September 23, 2009, November 11, 2009, January 20th and February 24th, 2010 (Planning Commission meeting minutes are available at the following link on the Park City web site: www.parkcity.org/index.aspx?page=541&parent=3350). A public open house to review the proposed amendments was conducted by the Planning Staff on October 27th (See summary of neighborhood concerns in Exhibit C).

On April 1, 2010, the City Council opened a public hearing, discussed these amendments and continued the hearing and discussion to April 15, 2010 to allow the public and Council to have additional time to review the proposed amendments.

Analysis

The following amendments are proposed:

- **Chapter 2.3 (HR-2 Zoning District)** - Additional regulations for Conditional Use Permits and Master Planned Developments within HR-2 Subzone A to facilitate a more complete urban fabric for the Park Avenue neighborhood as well as provide opportunities for increased commercial space on Main Street, e.g. storage space, back offices, restrooms, etc. are proposed.

The properties along the east side of Park Avenue are unique in that they front on a residential street, yet back to the businesses on Main Street. The lots are also quite steep given the grade difference between Main Street and Park Avenue. To strengthen existing regulations that protect the west side while allowing for incentives and better designs to be presented for the east side, Planning Staff has drafted these amendments.

Graphics illustrating potential development scenarios at three Main Street locations are included in Exhibit D. The three locations are 1) 333 Main Street (Main Street Mall), 449 Main Street, and 614 Main Street (Claim Jumper). The graphics are cross-sections looking south (up Main Street) and illustrate the change in grade between Main Street and Park Avenue and how the subterranean commercial space could be located below residential structures on Park Avenue.

At the Planning Commission hearings, there was specific public input regarding concerns for height exceptions, maximum above grade house widths, compatibility language for the historic fabric of the neighborhood, and mitigation of impacts of the HCB uses (mechanical, access, parking, etc.) on residential uses in the HR-2 and HR-1 zones. The proposed code language in Exhibit A, as recommended by the Planning Commission, includes revisions that address these neighborhood concerns, including no height exceptions are permitted for MPDs in the HR-2 zone.

- **Chapter 6 (MPD).** Clarification of how the 5% Support Commercial Floor Area and 5% Meeting Space Floor Area is calculated for Master Planned Developments and specific regulations for Master Planned Developments (MPD) within the HR-2 zoning district. Planning Staff is conducted additional research on the issue of “back-of-house” uses and will return at a future meeting with the results of the research and potential additional amendments (Exhibit B).

Department Review

These amendments have been reviewed by the City’s Planning, Engineering, Building, and Legal Departments.

Process

Amendments to the Land Management Code require Planning Commission recommendation and City Council adoption and become pending upon publication of legal notice. City Council action may be appealed to a court of competent jurisdiction per LMC Section 15-1-18.

Notice

Notice was published in the Park Record and posted according to requirements of the Land Management Code. Courtesy notice was mailed to property owners within HR-2 Subzone A.

Public Input

Public input was received at an open house on October 27th, as outlined in Exhibit C, and at the public hearings as documented in meeting minutes available at the Planning Department or at the City's website: www.parkcity.org/index.aspx?page=541&parent=3350

Alternatives

- Conduct a public hearing on the LMC amendments and approve the amendments as describe herein, or
- Conduct a public hearing and deny the proposed LMC amendments, or
- Continue action on all or a portion of the LMC amendments to a date certain and approve the remaining portions.

Significant Impacts

There are no significant negative fiscal impacts on the City as a result of these amendments. The amendments provide clarifications of processes and procedures in the historic district, consistency of code application between Chapters, and are consistent with City's goals to: preserve Park City's character, maintain and protect Park City's residential neighborhoods, and promote economic development within the Main Street business district. The amendments to Chapter 2.3 may provide fiscal benefits in the future.

Consequences of not taking the Suggested Recommendation

Not taking the suggested recommendation will leave the LMC unchanged and may result in lack of clarity or consistency regarding processes and procedures, definitions, LMC section references, and specific interpretation of sections of the Code. Not taking suggested recommendations may result in continued negative impacts on the Park Avenue neighborhood from adjacent Main Street businesses and activity.

Recommendation

Staff recommends the City Council conduct a public hearing, consider input, consider the Planning Commission 's recommendation and approve the proposed amendments by adopting the attached Ordinance(s) for the following Chapters:

- Chapter 2.3- Historic Residential 2 (Exhibit A)
- Chapter 6- Master Planned Developments (Exhibit B)

Exhibits

Ordinance (attached – exhibits under separate cover)

Exhibit A- Chapter 2.3- Historic Residential 2

Exhibit B- Chapter 6- Master Planned Developments

Exhibit C- Summary of Neighborhood Open House on the HR-2 District amendments

Exhibit D- Vicinity maps and graphics for the HR-2 zone amendments

Ordinance - 10

**AN ORDINANCE AMENDING THE LAND MANAGEMENT CODE
OF PARK CITY, UTAH, REVISING
SECTIONS 15-2.3, 15-6, REGARDING DEVELOPMENT REGULATIONS FOR
MASTER PLANNED DEVELOPMENTS IN THE HR-2 DISTRICT AND
CLARIFICATION OF SUPPORT COMMERCIAL AND MEETING SPACE WITHIN
MASTER PLANNED DEVELOPMENTS**

WHEREAS, the Land Management Code was adopted by the City Council of Park City, Utah to promote the health, safety and welfare of the residents, visitors, and property owner's of Park City;

WHEREAS, the Land Management Code implements the goals, objectives and policies of the Park City General Plan to maintain the quality of life and experiences for its residents and visitors; and to preserve the community's unique character and values; and

WHEREAS, the City reviews the Land Management Code on an annual basis and identifies necessary amendments to address planning and zoning issues that have come up in the past year, and to address specific LMC issues raised by Staff and the Commission, to address applicable changes to the State Code, and to align the Code with the Council's goals;

WHEREAS, the City's goals include preservation of Park City's character regarding Old Town improvements, historic preservation, sustainability, affordable housing, and protecting Park City's residential neighborhoods;

WHEREAS, the City's goals include maintaining the resort community regarding economic development, and enhancing the economic viability of Park City's Main Street Business District; and

WHEREAS, Chapter 2.3, Historic Residential-2 Zoning District, provides a description of requirements, provisions and procedures specific to Subzone A of the HR-2 zoning district, specifically for Master Planned Developments on the east side of upper Park Avenue south of Heber Avenue and the City desires to clarify and revise these requirements, provisions and procedures as outlined in the staff report; and

WHEREAS, Chapter 6 - Master Planned Developments, provides regulations, requirements, and procedural requirements regarding Master Planned Developments, and the City desires to clarify and revise these regulations and procedures as they pertain to 1) development in the HR-2 and HCB Zoning Districts and 2) calculation of Support Commercial and Meeting Space within Master Planned Developments as outlined in the staff report; and

WHEREAS, these amendments are changes identified during the 2009 annual review of the Land Management Code that provide clarifications of processes and procedures, and interpretations of the Code for streamlined review and consistency of application between Sections.

WHEREAS, the Planning Department held a neighborhood information meeting on October 27, 2009 and the Planning Commission duly noticed and conducted public hearings at the regularly scheduled meetings on November 11 and December 16, 2009 and January 20th, February 24th, and March 24th, 2010 and forwarded a recommendation to City Council; and

WHEREAS, the City Council duly noticed and conducted public hearings at its regularly scheduled meetings on April 1 and April 15, 2010; and

WHEREAS, it is in the best interest of the residents of Park City, Utah to amend the Land Management Code to be consistent with the Park City General Plan and to be consistent with the values and identified goals of the Park City community and City Council to protect health and safety, maintain the quality of life for its residents, preserve and protect the Upper Park Avenue residential neighborhood, preserve historic sites and structures, preserve the historic character of neighborhoods in the Historic District, promote economic development within the Park City Historic Main Street business area, and preserve the community's unique character.

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

SECTION 1. AMENDMENTS TO TITLE 15 - Land Management Code
Chapter 2- Section 15-2.3. The recitals above are incorporated herein as findings of fact. Chapter 15-2.3 of the Land Management Code of Park City is hereby amended as redlined (see Exhibit A).

SECTION 2. AMENDMENTS TO TITLE 15 - Land Management Code
Chapter 6- Master Planned Development. The recitals above are incorporated herein as findings of fact. Chapter 6 of the Land Management Code of Park City is hereby amended as redlined (see Exhibit B).

SECTION 3. SEVERABILITY OF ORDINANCE. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

SECTION 4. EFFECTIVE DATE. This Ordinance shall be effective upon publication.

PASSED AND ADOPTED this ____ day of _____, 2010

PARK CITY MUNICIPAL CORPORATION

Dana Williams, Mayor

Attest:

Janet M. Scott, City Recorder

Approved as to form:

Mark Harrington, City Attorney



Redevelopment Authority Staff Report

Subject: Snow Creek Cottages
Author: Rhoda Stauffer
Department: Sustainability
Date: April 15, 2010
Type of Item: Administrative

Summary Recommendation: Authorize the City Manager, as the Executive Director of the RDA, to enter into real estate purchase contracts for the sale of units at Snow Creek Cottage in a form approved by the City Attorney.

Topic: Affordable Housing

Background

In 2005 Park City's Strategic Plan for City-Owned Properties affirmed the use of the Snow Creek Crossing Lot No.9b-2 Subdivision for affordable housing citing the RDM zoning, parcel proximity to transit and other amenities. On September 18, 2008 City Council approved the design and plan submitted by Staff to build 13 homes – 3 two-bedroom and 10 three-bedroom – to be sold to Park City's essential workforce. On October 8, 2009 City Council approved the pricing and selection criteria for the sale of the Cottages.

Analysis

City Council has approved the construction of 13 affordable two and three-bedroom homes to be sold as follows: three two-bedroom homes will each sell for \$228,000 and ten three-bedroom homes will each sell for \$264,000. Sales will be conducted based on the outcome of a lottery that took place on March 26. A total of 35 applicants participated in the Snow Creek lottery. The project is platted as a condominium with a defined building pad beneath their units. The rest of the land in the project will be classified as Limited Common and Common Space to be managed and maintained by the elected Board of the Homeowners Association.

Significant Impact

The sale of the cottages represents the City's commitment to provide homeownership opportunities to Park City's workforce. If the sales are deferred beyond the current timeline, buyers will not be able to take advantage of the Federal Homebuyer Tax credit since the deadline for that program is April 30, 2010 for having a signed sales contract and June 30, 2010 for closing.

Next Steps

The lottery was held on March 26. Sales contracts will be signed with the selected households beginning April 16, 2010. Closing is scheduled to occur on or before June 30, 2010.

Department Review

This report was reviewed by the Sustainability Department, the City Attorney and the City Manager.

Alternatives

- A. **Approve the Request.** Authorize the City Manager, as the Executive Director of the RDA, to enter into real estate purchase contracts for the sale of the Snow Creek Cottages in a form approved by the City Attorney. This is staff's recommendation.
- B. **Modify the Request.** This will affect the ability of the buyers to take advantage of the Federal Homebuyer Tax credit since the deadline for that program is April 30, 2010 for having a signed sales contract and June 30, 2010 for closing.
- C. **Continue the Request.** Direct staff to return with additional information. This would have the same affect as denying the request.
- D. **Deny the Request.** This would prohibit the sales.

Recommendation

Authorize the City Manager, as the Executive Director of the RDA, to enter into real estate purchase contracts for the sale of the Snow Creek Cottages in a form approved by the City Attorney.