

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
MARCH 30, 1995**

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will hold its regularly scheduled meeting at the Marsac Municipal Building, 445 Marsac Avenue, Park City, Utah for the purposes and at the times as described below on Thursday, March 30, 1995.

A G E N D A

Work Session

4:30 p.m. Field trip to 703 Park Avenue - meet at site
5:15 p.m. Council questions and comments
5:30 p.m. Review of the regular meeting

Regular Meeting

6:00 p.m.

I ROLL CALL

II PUBLIC INPUT

III MINUTES OF MEETING OF MARCH 16, 1995

IV CONSENT AGENDA

Contract with Eckhoff, Watson, and Preator Engineering for the King Road Storm Drain Project in an amount not to exceed \$60,000

V ORDINANCE

Ordinance procedure of review and guidelines for actions that may involve a constitutional taking; and establishing an appeal procedure for constitutional takings

VI OLD BUSINESS

1. Ratification of resolution repealing Resolution 8-93 and adopting affordable housing guidelines and standards for Park City, Utah
2. Ratification of resolution directing staff to implement a housing action plan for Park City, Utah
3. Appeal of Historic District Commission denial on February 13, 1995 of Application for Certificate of Appropriateness for

Demolition of buildings located at 664 Woodside Avenue and 703
Park Avenue - Burnis Watts

VII REPORTS FROM COMMISSIONS AND BOARDS

VIII COMMUNICATIONS FROM COUNCIL AND STAFF

IX ADJOURNMENT

3/28/95 noon

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
MARCH 30, 1995**

I ROLL CALL

Mayor Pro Tem Leslie Miller called the regular meeting of the City Council to order at approximately 6 p.m. at the Marsac Municipal Building on Thursday, March 30, 1995. Members in attendance were Ruth Gezelius, Lou Hudson, Shauna Kerr, and Leslie Miller. Mayor Brad Olch and Roger Harlan were excused. Staff present were Toby Ross, City Manager; Mark Harrington, Assistant City Attorney; Meg Ryan, Planner; and Jodi Hoffman, City Attorney.

II PUBLIC INPUT

Leslie Miller invited the public to comment on any matter of City business not scheduled on the agenda. Hearing none, the public input session was closed.

III MINUTES OF MEETING OF MARCH 16, 1995

Ruth Gezelius, "I move approval of the Minutes of March 16, 1995 as presented". Lou Hudson seconded. Motion carried.

Ruth Gezelius	Aye
Roger Harlan	Absent
Lou Hudson	Aye
Shauna Kerr	Aye
Leslie Miller	Aye

IV CONSENT AGENDA

Contract with Eckhoff, Watson, and Preator Engineering for the King Road Storm Drain Project in an amount not to exceed \$60,000 - See following staff report. Ruth Gezelius, "I move approval of the consent agenda". Shauna Kerr seconded. Motion carried.

Ruth Gezelius	Aye
Roger Harlan	Absent
Lou Hudson	Aye
Shauna Kerr	Aye
Leslie Miller	Aye

V ORDINANCE

Ordinance procedure of review and guidelines for actions that may involve a constitutional taking; and establishing an appeal procedure for constitutional takings - Mark Harrington explained the change from the last draft which involves three members of the Board of Adjustments being appointed to the appeal board. If this is not possible, the City Manager will appoint a board. See attached staff report.

Ruth Gezelius, "I move approval of the ordinance". Lou Hudson seconded. Motion carried.

Ruth Gezelius	Aye
Roger Harlan	Absent
Lou Hudson	Aye
Shauna Kerr	Aye
Leslie Miller	Aye

VI OLD BUSINESS

1. Ratification of resolution repealing Resolution 8-93 and adopting affordable housing guidelines and standards for Park City, Utah - and

2. Ratification of resolution directing staff to implement a housing action plan for Park City, Utah - Meg Ryan reviewed the suggestions of Council at work session which included rewording Item 3 of the housing action plan, "~~Consider, Research and propose for Council review,~~ increasing the requirements to provide affordable housing in annexations to 15%." Item 10 will be moved to the medium priority section and renumbered Item 9. Additionally, the wording "Low" as a heading for priorities will be renamed "Long-Term".

The Mayor requested two separate motions:

Ruth Gezelius, "I move approval of Item 1 under Old Business, the ratification of resolution repealing Resolution 8-93 and adopting affordable housing guidelines and standards for Park City, Utah". Leslie Miller seconded. Motion carried.

Ruth Gezelius	Aye
Roger Harlan	Absent
Lou Hudson	Aye
Shauna Kerr	Aye
Leslie Miller	Aye

Shauna Kerr, "I move approval of the second resolution which is the ratification of a resolution directing staff to implement the housing action plan for Park City, Utah (as amended)".
Ruth Gezelius seconded.

Ruth Gezelius	Aye
Roger Harlan	Absent
Lou Hudson	Aye
Shauna Kerr	Aye
Leslie Miller	Aye

3. Appeal of Historic District Commission denial on February 13, 1995 of Application for Certificate of Appropriateness for Demolition of buildings located at 664 Woodside Avenue and 703 Park Avenue - Burnis Watts - Assistant City Attorney Harrington explained that at the last meeting Council received testimony from both staff and the appellant. This is a quasi-adjudicated matter, and as such, the Council should refrain from taking comments off the record. He continued that the Council toured the structures earlier this afternoon. The standard of review is whether the Historic District Commission correctly applied the provisions of the Land Management Code to the facts of this case and the burden of proof is on the applicant. Mr. Harrington stated that Council may make a motion to close the meeting to deliberate since it will be acting as an appellant body.

Planner Janice Lew responded to the question of inspection for the properties. She stated that when applications are received, the Community Development Department typically makes a determination of significance and also whether or not the building is a public hazard. If the building is not significant and if the building is a public hazard, a CAD can be issued without a full process. With this particular application, staff did not perform an inspection because it was aware of the conditions of the properties which did not pose a hazard which would require immediate abatement by demolition. Ms. Lew stated that Ron Ivie made that determination. The burden of providing evidence is on the applicant to show that there is a hardship. During the HDC meetings, the applicant requested that there be inspections and the members indicated that they were aware of the properties and felt comfortable making a decision without visiting the site as a group.

The Mayor Pro Tem invited the public to comment. Mike Watts stated that he understood that other residences further down on Park Avenue were inspected by the Chief Building Official. Ms. Lew responded that buildings were inspected when staff was not particularly familiar with the structures to determine if they were immediate hazards, but most of the applications went through the process. Mr. M. Watts noted that Mr. Ivie indicated in work session that he had never been on the property until today. He continued that it is very important for Mr. Ivie to render his findings regarding the structural integrity of the garage. Mr. M. Watts believed that the Chief Building Official could shed light on whether it becomes an economic hardship to improve the structures for residential or commercial occupancy. This does not have to be an economic analysis but he can provide information as to what needs to occur to have any economic value.

City Attorney Jodi Hoffman explained that under the terms of the Preservation Ordinance, it is the applicant's burden of proof to demonstrate that either the structure is unsound or that there is no reasonable rate of return associated with keeping the structure in its intact state. The integrity of the structures was not an issue before the HDC, as it was conceded that they were structurally sound. The issue before the HDC was whether or not Burnis Watts could reap a reasonable return on his investment and the HDC determined, based on the economic analysis that Mr. Watts provided and not on contrary information supplied by staff, that he could realize a reasonable return on his investment without demolishing the structures. The Council can take any additional information that it desires, however, in order to preserve the appellate system the Council may determine that the information needed to be submitted at an earlier time.

Michael Watts insisted that they did ask for inspections which did not occur. The City Manager added that the inspections aren't really relevant as any contractor could have provided similar information. It is the applicant's obligation to provide it; this is not a service that the City necessarily furnishes. Ms. Hoffman continued that any contractor could have testified that these structures were not capable of restoration or a danger to the public. None of that testimony came forward and it is not fair to the HDC at this point to interject new facts that they did not have before them. It is the applicant's burden to demonstrate to the HDC that one of the statutory criteria which would allow a CAD to be issued has been met and the HDC determined that that burden of proof was not met by Burnis Watts. Michael Watts noted that in the past on other structures, the Chief Building Official determined that structures were unsound or unsafe therefore that information was developed by staff. Ms. Hoffman responded that each CAD application has gone through its specific route and not everyone has been treated exactly the same as there are different facts and circumstances. It is the applicant's burden to demonstrate the statutory criteria for entitlement to a CAD and Ron Ivie is not the only person that can provide testimony about the structural or mechanical integrity of a structure. Ms. Hoffman stated that the fact that Mr. Ivie was not available or declined to inspect is not important, but what is relevant is that no one offered testimony.

Michael Watts stated that as a licensed contractor, he would like to make comments about the integrity of the structures. Ms. Hoffman stressed that hearing additional evidence is up to the Council at this point in time. The Mayor Pro Tem asked Council what they desired. Lou Hudson felt that Council should review additional information so that there is every opportunity for Mr. Watts to present his best case. Shauna Kerr stated that she earlier requested that the Chief Building Official provide an analysis comparing other structures. However, she felt it important that Council was directed back to the process and is not now inclined to go beyond the review process. She suggested that in the future, there be mandatory inspections so that that information is on the record. Ms. Kerr added that the Council should rely on the record before it and make a determination on that information. Ruth Gezelius commented that Council should take additional information under review.

Mayor Pro Tem Miller stated that it would be more efficient to make a decision this evening but this affects Mr. Watts' life to such a degree. She felt that the HDC has done a good job

in reviewing Mr. Watts' application, but that this could be continued to hear additional information. Mr. Kerr asked for clarification on the scope of additional testimony. Mr. Gezelius felt it should be limited to Ron Ivie's analysis. Discussion ensued regarding the focus of Mr. Ivie's report.

Ms. Hoffman stated that she is hearing that there is absence of testimony about the safety of the buildings and there was a deficiency in the process due to the absence of that testimony. She felt that Ron Ivie could inspect all three structures and provide the Council with a report. With regard to economic hardship, the Chief Building Official is not the appropriate person to testify and she did not believe there is a deficiency with regard to that criteria. Ms. Miller concurred and felt it important to frame the inspection to the CAD code. Discussion ensued regarding receiving more information about economic hardship as it relates to the inspection. Ms. Miller expressed her concern that too much new information will be rendered. Mr. Harrington suggested that the appellate integrity of this process be preserved by remanding the appeal to the HDC with specific direction to have an inspection and further testimony on this particular matter. Shauna Kerr expressed that she did not want the appellant to think that Council was shirking its responsibility and Leslie Miller asked the applicant his preference.

Burnis Watts stated that Council is dwelling on a narrow band of information. His interpretation of what the HDC did was strictly on economic hardship but he requested very specifically the portion of the policy that said that the properties were impacted greatly. The HDC chose not to discuss that, although his study pointed out numerous quotes that indicated that there is a burden of hardship. To rehabilitate is costly to him if the City wants to preserve the buildings. He discussed the condition of the garage, a new street coming behind it, a 50 foot hotel in front of the property as conditions beyond his control which result in a hardship. Mr. Watts emphasized that the decision was not made on the facts presented nor the request to discuss and review and he strongly opposed to having the appeal remanded to the HDC.

Ms. Hoffman restated Mr. Watts' comments that he would like the Council to readdress the "third prong" of the criteria that he is asserting is in the CAD ordinance that the milieu around his property creates a hardship that the HDC did not take into account. The Council is confident to take that into account today but she is having trouble understanding how Ron Ivie's testimony could aid to that discussion. Mr. Watts clarified that the HDC indicated that they had no need to visit the property. He felt that \$5,000 annual income on his rental property is not a reasonable return and an economic hardship. He felt that the HDC did not apply the full ordinance or the facts presented to them. Ms. Hoffman again asked how Ron Ivie's testimony could change the Council's perspective on those issues. Mr. Watts responded that he wants the Chief Building Official's opinion because it will lend itself to a determination of what must be met in order to make those properties useable as commercial structures and if improvements are not made, they will become a public hazard. Although he felt that the hazard determination is only a part of it and it has to be looked at globally. Mr. Watts noted that if he is forced to rehabilitate at \$300 per square foot, he will never recover his investment.

City Attorney Hoffman clarified that the Council has two options; one is to continue the hearing and to allow additional testimony from Ron Ivie as to the limited issue of the condition of the structures or it could go forward. She did not feel that the Council would be in error in either respect. She continued that it is difficult for her to say that given the appraisal information before the HDC regarding the present value of the property with three structures on it that the HDC committed error in determining there is reasonable return on his investment. A sale which can reap the type of money that was estimated by Mr. Watts' appraiser could be determined to be a reasonable rate of return, but there is no harm in receiving additional testimony.

The Mayor Pro Tem recommended that Council continue this decision to the meeting of April 20 with direction to Ron Ivie to do an inspection of the premises on an individual basis and provide Council with a report so that it can make a decision on this appeal. Ruth Gezelius, "Is move". Shauna Kerr seconded. Motion carried.

Ruth Gezelius	Aye
Roger Harlan	Absent
Lou Hudson	Aye
Shauna Kerr	Aye
Leslie Miller	Aye

Burnis Watts asked if there was anyway to correct the misinformation of the HDC and Mr. Butkovich's comments in the Park Record. Jodi Hoffman stressed that it is his right and obligation to point out to the Council if the HDC incorrectly considered facts or improperly applied the law to the facts.

VII REPORTS FROM COMMISSIONS AND BOARDS

None.

VIII COMMUNICATIONS FROM COUNCIL AND STAFF

Leslie Miller invited the public to attend the first film of the Film Series at the Education Center.

IX ADJOURNMENT

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

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City Council Meeting
March 30, 1995

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

Prepared by Janet M. Scott

Janet M. Scott

Janet M. Scott
Deputy City Recorder



**PARK CITY COUNCIL WORK SESSION
SUMMIT COUNTY, UTAH
MARCH 30, 1995**

Present: Lou Hudson, Shauna Kerr, Leslie Miller, Ruth Gezelius, Toby Ross, Jodi Hoffman, Mark Harrington, Ron Ivie, Jerry Gibbs, Eric DeHaan, Frank Bell

Burnis Watts and Michael Watts

Absent: Brad Olch and Roger Harlan

1. Field trip for appeal - 664 Woodside Avenue and 703 Park Avenue questions and comments. Ruth Gezelius asked the Chief Building Official's opinion on the stability and the longevity of the structures. Mr. Ivie responded that this was the first time he visited the structures and felt uncomfortable rendering a decision without a more in depth inspection. He stated that he could provide a report. Lou Hudson asked about the possibility of rehabilitating the buildings. Ron Ivie responded that the three structures vary significantly. The question of what is economically feasible is something that Mr. Ivie didn't want to decide, but rather his focus would be the buildings' relationships with the Dangerous Building Code, requirements for change of use to commercial, feasibility of moving them, and a rehabilitation and replacement analysis. Mr. Ivie emphasized that he doesn't know the location of the buildings in relation to the property lines. Ms. Gezelius stated that she would like to know the estimated longevity of the buildings if there is no maintenance.

Ms. Kerr asked for some type of comparison of the conditions of these structures with others. Mr. Hudson felt that this decision is important to Mr. Watts and the Council and the Council should have as much information as possible. Assistant Attorney Mark Harrington cautioned that in requesting this additional information, the appeal is going beyond what the Historic District Commission reviewed. Mr. Harrington further clarified that there are no set rules or boundaries for hearing additional information, but pointed out that Council is requesting additional information and would therefore be looking beyond how the HDC applied the law to the facts before them. City Manager Ross encouraged the Council to discuss this in the regular session. Mr. Ivie felt it appropriate that Burnis Watts' son, Michael who is a contractor, be included in the discovery process.

City Attorney Hoffman explained that by opening the appeal up and having more evidence, places the Council in the position of the HDC and substitutes the Council's judgment for theirs and that is normally not what an appellate body does. Typically in an appeal, the Council would decide whether or not the HDC properly applied the Preservation Ordinance to the facts; Ms. Hoffman felt that there is enough information before Council to do this.

Michael Watts commented that an inspection should be part of a CAD application. Mr. Harrington clarified that the burden of proof is on the applicant to show the stated condition of a property. Mr. M. Watts stated that they numerously requested inspections and it was stressed again that this discussion should be on the record at the regular meeting.

2. Council questions and comments. Lou Hudson pointed out the beaver problem in Holiday Ranch and that beavers were destroyed. Jerry Gibbs explained that the Water Department is in contact with Grant Jentz who is with the Wildlife Division. Mr. Jentz has communicated that there is difficulty moving beavers because they will have a tendency to come back to their home area and relocation has been unsuccessful. Council discussed this matter and felt it would be helpful to have a meeting with a representative from the Wildlife Division about alternatives for beavers to preserve them and the wildlife interface conflicts in general.

Lou Hudson discussed barricading Sandridge and Hillside Avenues, and it was pointed out that it was not feasible because of snow removal. In response to a concern of Leslie Miller, City Engineer Eric DeHaan reported on the survey markers that are missing which will be replaced by the City or the responsible developer.

Rick Lewis discussed the possibility of fire sprinkling on Main Street being included in a grant program. Ruth Gezelius stated that she received complaints about the filming on Main Street on Monday. The City Manager explained that the City indirectly receives revenue from these filming activities and that the Chief of Police is looking into a revenue program for films in Park City. Lou Hudson felt that the film people don't spend money on lodging and meals and Ruth Gezelius added that there needs to be better signage for disruptions and better coordination for deliveries, the bus, and garbage collection. Shauna Kerr expressed that especially in consideration that some residents don't have home delivery, that the post office be accessible. Frank Bell responded that staff spends many hours on these monumental projects and emphasized that Main Street is not closed more than a few minutes at a time or the actual shooting of film, although it might look closed. He added that there will always be impacts from movies. The master festival provisions of the Code need some work and the City could enter into location agreements with movie companies. He added that movie personnel are renting hotel rooms and to a certain extent using locals for crews. Leslie Miller questioned the necessity of promoting Park City to this extent. She felt that the City shouldn't have to solve all of the related problems, and that movie filming could be scheduled on a limited basis. Ms. Gezelius hoped that films could be facilitated but that things could be done better. Chief Bell stated that he will take Council concerns to the Chamber/Bureau next week where events in general will be discussed and noted that there will be major impacts in the Main Street area with construction activity. The City Manager stated that staff will be producing a weekly construction report for Council.

To update Ms. Kerr on the remaining Osguthorpe dairy buildings, Jodi Hoffman stated that the City has made a demand on the title company to release the deed. With regard to

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City Council Work Session
March 30, 1995

artifacts on the property, Mr. Ross indicated that there will probably be an agreement between UDOT and the Osguthorpes with regard to salvage.

3. **Review of regular meeting.** See regular meeting minutes and back-up reports.

Prepared by Janet M. Scott

COUNCIL AGENDA REPORT

DATE: March 23, 1995
DEPARTMENT: Community Development
AUTHOR: Eric DeHaan
TITLE: Engineering Services Contract for King Road Storm Drain
TYPE OF ITEM: Legislative

SUMMARY RECOMMENDATIONS: Approval of design/inspection agreement with Eckhoff, Watson, and Preator Engineering for the 1995 King Road Storm Drain project in an amount estimated not to exceed \$60,000.

DESCRIPTION:

A. Topic: The existing storm drain in King Road consists of sandstone blocks stacked together in the 1930s. Gaps exist between some of the slabs forming the top of the rectangular channel; presenting a hazardous condition. The channel is largely plugged due to debris, and most of the blocks are cracked or broken. Its life is over and it needs to be replaced with a 36-inch culvert. Moreover, like many streets in our Historic District, the 6-inch sewer line is undersized, as is the six-inch water line which exists in a portion of King Road. This engineering design project will finalize the construction plans to reconstruct all of the obsolete utilities at the same time, after which the road will be replaced. The storm drain will empty out into the creek at the corner of Hillside and Main; after the pipes are installed that area will receive some trees and landscaping..

B. Background: The construction management and inspection needed to coordinate traffic access on King Road and to minimize inconvenience to the neighborhood will be substantial. This agreement represents Park City's share of the engineering costs; Snyderville Sewer Improvement District will pay for their share of the design, inspection, and construction. (Our purchasing policy requires Council approval of agreements over \$10,000.) The project itself has been reviewed by Community Development and Public Works. We plan to hold a neighborhood meeting and a staff review meeting before the construction contract is finalized to explain the project and answer questions. Proper maintenance and replacement of our crumbling infrastructure relates to the Council objectives of Quality of Services and Customer Service.

C. Analysis: The approved Capital Improvements Budget specifies \$679,000 to undertake this project. No new appropriations will be necessary for either the engineering or the construction. Although the construction will be disruptive, it is the best way to alleviate the periodic street flooding which occurs on King Road as well as upgrading the utility network to handle the existing homes and the new construction which is occurring in the neighborhood. Please note that even with the new storm drain culvert the homes on King Road will be regarded as being in a flood zone because the Federal Emergency Management Agency doesn't give credit for culverts, only for wide channels.

D. Department Review: The project has been reviewed through Community Development and Public Works. Numerous conversations have occurred over the years with various interested parties such as homeowners who sustained damage during the previous flooding events. Further, the Council will see a subdivision plat in 1995 for the Sweeney/Simon area, which includes the houses upstream in Woodside Gulch from King Road and contains the inlet headwall structure for the King Road storm drain.

ALTERNATIVES:

A. Deny the request. If the Council feels it would prefer to spend the money elsewhere, this request could be denied.

B. Postpone the request. If the Council feels that there will be too much construction activity in the Historic District this summer, the request could be postponed. However, there is a good likelihood that the neighborhood will be heavily affected by the sewer construction for Flagstaff Mountain in 1996, which will probably need to run down Daly Avenue, and it is doubtful that the existing King Road storm drain will remain serviceable that long.

C. Seek alternative suppliers of engineering services. The Staff recommends using Eckhoff, Watson and Preator because they will be designing the SBSID improvements and they have a great deal of background information already collected. Moreover, EWP's field inspectors are highly skilled in construction as well as neighborhood communication. Lastly, part of the design was already accomplished by EWP in 1992 but we didn't bid the project then because of lack of funding. Please refer to the attached letter from 1992 from EWP. Note that all the dates in that letter are moot at this point.

D. Approve the request. For all the reasons mentioned above this is the alternative preferred by Staff.

SIGNIFICANT IMPACTS: Up to \$60,000 (approximately) of the existing \$679,000 appropriation will be committed to engineering services during 1995 as a result of this action. The remainder will pay for Park City's share of construction. We anticipate road closures during construction so that the necessary utility work can be done as quickly as possible. We anticipate allowing adjacent neighbors to use the salvaged sandstone slabs in their landscaping in an effort to preserve an important historic link with the past.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION: Woodside Gulch is our single biggest flash-flood threat to Old Town as a result of topography, the Silver King Mine Dump, and the new construction occurring on the steep slopes of upper Old Town. Further, the sewer and water improvements are important and difficult to postpone without incurring major repairs. Painful though this project may be, it is time we did it.

RECOMMENDATION: Approval of engineering services from Eckhoff, Watson and Preator for the 1995 King Road Storm Drain Project in an amount estimated not to exceed \$60,000.



ECKHOFF, WATSON and PREATOR ENGINEERING

1121 East 3900 South, Suite C 100 • Salt Lake City, UT 84124-1214 • (801) 261-0090, FAX (801) 266-1671

May 8, 1992

Mr. Eric W. DeHaan, P.E.
City Engineer
Park City Municipal Corporation
445 Marsac Avenue
Park City, Utah 84060

Principals

David W. Eckhoff, Ph.D., P.E.
Kenneth W. Watson, P.E., L.S.
Ralph E. Watson, P.E., L.S.
E. Gregory Thorpe, P.E.
Robert L. Siegel, Ph.D.
James V. Olson, P.E.

Associates

Frederick C. Duberow, P.E.
Thomas W. Johnson, C.P.A.
Douglas L. Gilmore, P.E.

Other Offices

Cedar City, UT
Heber City, UT
Las Vegas, NV

Re: King Road Storm Drain Improvements

Dear Mr. DeHaan:

On April 20, 1992 we forwarded a copy of the preliminary King Road Storm Drain plan revisions to the Snyderville Basin Sewer Improvement District. At that time we requested that they review the limits of the proposed storm drain improvements and provide existing sewer lateral and main information for incorporation into the drawings. The information provided by their office revealed several areas of concern related to the existing sewer system. These concerns were addressed in a meeting on April 29, 1992 with the SBSID. Since our understanding of the original intent of the King Road Improvement Project was to improve utilities concurrently along King Road, we have asked that the SBSID contact your office to discuss the sewer improvement considerations and their funding limitations.

We will proceed on the storm drain project design at your direction.

Additionally, we would like to bring to your attention several storm drain related design concerns that have been identified during our technical review of the project. With the further extension of the storm drain along King Road, we feel that the following item needs to be considered in the design of the complete storm drain system:

The design slopes of the 36-inch pipe (11 to 15 percent) may result in velocities, at full flow pipe conditions, in the range of 25 to 30 feet per second. This velocity of stormwater in the storm drain may cause damage to the pipe and to the existing flagstone drain at the connection of the new drain.

In our development of a Scope of Services for the project you indicated that Park City had completed the necessary hydraulic calculations for the storm drain design and that we were to provide a 36-inch pipe for the storm drain. With the determination of required pipe slopes, we request that the hydraulics be re-examined with respect to the design of the storm drain system.

We would like to offer the following options for improving the design of the system, specifically reducing velocities, and suggest that we meet to discuss these alternatives. These alternatives should be analyzed using the design capacity requirement of the system. A combination of design improvements may be required to ensure the system operates effectively under design conditions and to ensure the protection of the flagstone drain that is to remain in service.

Mr. Eric W. DeHaan, P.E.
King Road Storm Drain Improvements
May 8, 1992
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- a. Use corrugated metal pipe (CMP) to allow for greater energy dissipation in the conduit. The pipe material change may require a check of pipe capacity due to the change in "n" value.
- (b) Reduce the slope on the pipe. This would require additional cleanout boxes to avoid deep excavations.
- (c) Modify the cleanout boxes to serve as energy dissipator manholes.
- (d) Place a flow restrictor at the entrance to the flagstone drain until down-gradient improvements are completed. Velocity considerations are still required to be examined.
- e. If the hydraulic capacity calculations allow, place a reducer in the pipe after the initial pipe entrance section and utilize a smaller diameter pipe down-gradient. We have previously used this method on a UDOT State Road design project, resulting in a pipe cost savings and maintaining hydraulic requirements due to the steep slopes.

We have established a tentative schedule for the project as follows:

May 13, 1992	Receive direction from SBSID regarding sanitary sewer improvements.
May 13, 1992	Discuss revised scope of project with SBSID and PCMC.
June 5, 1992	Final design complete for 95% design review by SBSID and PCMC.
June 22, 1992	Notice to Bidders
July 9, 1992	Open Bids

Please contact me at your convenience to discuss these issues and the tentative schedule.

Respectfully,

ECKHOFF, WATSON & PREATOR ENGINEERING



Roger W. McClain
Project Manager

cc: file EP27098914

PCMC\KINGRD\DESIGN.LTR

COUNCIL AGENDA REPORT

DATE: 3/30/95
DEPARTMENT: Legal
AUTHOR: Mark Harrington
TITLE: Private Property Protection Ordinance
TYPE OF ITEM: Legislative

SUMMARY RECOMMENDATIONS: Adopt the proposed ordinance which incorporates the changes requested by Council at their last meeting.

DESCRIPTION:

A. Topic.

The ordinance addresses city action which may constitute a constitutional taking.

B. Background.

The state legislature recently adopted the Private Property Protection Act ("Act"), UCA § 63-90-1 et al, which requires local governments to adopt guidelines to help identify possible constitutional takings. The Act mandates the adoption of a review procedure of city action and an appeal procedure for aggrieved property owners. A public hearing was held March 16th, 1995. No public comment was received.

C. Analysis.

The composition of the Takings Appeal Board was changed pursuant to the Council's direction to staff at their meeting on March 16th, 1995. The Board shall be composed of three members of the Board of Adjustment unless time constraints or a conflict of interest prevents them from hearing the matter. In that case, the City Manager shall appoint sufficient members to hear the matter.

D. Department Review.

The Administrative, Community Development and Legal Departments have reviewed the ordinance.

ALTERNATIVES:

1. Adopt the ordinance as proposed. This is the recommended action.
2. Direct staff to make specific changes to the proposed ordinance. No action is not an alternative because the ordinance is required by state law.

SIGNIFICANT IMPACTS: Since the ordinance essentially codifies the legal Department's current review process, staff impacts are minimal. The ordinance does lengthen an applicant's deadline for filing an appeal from ten to thirty days on matters regarding a constitutional taking.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION: The Act mandates adoption of an ordinance addressing constitutional takings. The City Council risks violating state law by not taking the recommended action.

RECOMMENDATION: Adopt the ordinance as proposed.

AN ORDINANCE ESTABLISHING A PROCEDURE OF REVIEW AND GUIDELINES FOR ACTIONS THAT MAY INVOLVE A CONSTITUTIONAL TAKING; AND ESTABLISHING AN APPEAL PROCEDURE FOR CONSTITUTIONAL TAKINGS, PURSUANT TO MANDATES OF THE PRIVATE PROPERTY PROTECTION ACT

WHEREAS, the City intends to promote the protection of private property rights and to prevent the physical taking or exaction of private property without just compensation; and

WHEREAS, the City wishes to establish a procedure and guidelines pursuant to UCA § 63-90-1 et al, as amended, to help identify actions that might result in the physical taking or exaction of private property; and

WHEREAS, a public hearing on the proposed procedural amendment to the Land Management Code was held on March 16th, 1995; and

WHEREAS, the City Council has determined that this ordinance is the best interest of the residents of Park City;

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

SECTION I. AMENDMENT. A new Section 1.23 of the Land Management Code of Park City is hereby created to read as follows:

1.23 **CONSTITUTIONAL TAKINGS REVIEW AND APPEAL**. In order to promote the protection of private property rights and to prevent the physical taking or exaction of private property without just compensation, the City Council and all Commissions and Boards shall adhere to the following before authorizing the seizure or exaction of property:

(a) **Takings Review Procedure**. Prior to any proposed action to exact or seize property by the City Council or any Commission or Board, the City Attorney shall review the proposed action to determine if a constitutional taking requiring "just compensation" would occur. The City Attorney shall review all such matters pursuant to the guidelines established in subsection (b) herein. Upon identifying a possible constitutional taking, the City Attorney shall, in a confidential, protected writing, inform the City Council, Commission or Board of the possible consequences of its action. This opinion shall be advisory only and no liability shall be attributed to the City for failure to follow the recommendation of the City Attorney.

(b) **Takings Guidelines**. The City Attorney shall review whether the action constitutes a constitutional taking under the Fifth or Fourteenth Amendments to the Constitution of the United States, or under Article I, Section 22 of the Utah Constitution. The City Attorney shall determine whether the proposed action bears an essential nexus to a legitimate governmental interest and whether the action is roughly proportionate and reasonably related to the legitimate governmental

interest. The City Attorney shall also determine whether the action deprives the private property owner of all reasonable use of the property. These guidelines are advisory only and shall not expand nor limit the scope of the City's liability for a constitutional taking.

(c) Appeal. Any owner of private property who believes that his/her property is proposed to be "taken" by an otherwise final action of the City may appeal the City's decision to the Takings Appeal Board within thirty (30) days after the decision is made. The appeal must be filed in writing with the City Recorder. The Takings Appeal Board shall hear and approve and remand or reject the appeal within fourteen (14) days after the appeal is filed. The Takings Appeal Board, with advice from the City Attorney, shall review the appeal pursuant to the guidelines in subsection (b) herein. The decision of the Takings Appeal Board shall be in writing and a copy shall be given to the appellant and to City Council, Commission or Board that took the initial action. The Takings Appeal Board's rejection of an appeal shall constitute final City action.

(d) Takings Appeal Board. There is hereby created a three member Takings Appeal Board. The City Manager shall appoint three current members of the Board of Adjustment to serve on the Takings Appeal Board. If, at any time, three members of the Board of Adjustment cannot meet to satisfy the time requirements stated in subsection (c), the City Manager shall appoint a member or sufficient members to fill the remaining vacancies.

SECTION II. ANNUAL REVIEW. The City Attorney shall review these guidelines annually and recommend changes as warranted by the current status of the law. Nothing herein shall prevent the City Attorney from considering subsequent legal standards established by the legislature or case law after the adoption of this section.

SECTION III. AMENDMENT. Chapter 2 of the Land Management Code of Park City is hereby amended by adding a new definition to read as follows:

Constitutional Taking. Final action(s) by the City involving the physical taking or exaction of private real property that require compensation to a private real property owner because of the mandates of the Fifth or Fourteenth Amendments to the Constitution of the United States, or of Article I, Section 22, of the Utah Constitution.

SECTION IV. EFFECTIVE DATE. This ordinance shall become effective upon publication.

PASSED AND ADOPTED this 30th day of March , 1995.

PARK CITY MUNICIPAL CORPORATION

Bradley A. Olch, Mayor

Attestation by:

Anita Sheldon, City Recorder

Approved as to Form:

Mark D. Harrington, Asst. City Attorney



COUNCIL AGENDA REPORT

DATE: March 23, 1995
DEPARTMENT: Community Development Department
AUTHOR: Megan B. Ryan
TITLE: Ratification of Housing Action Plan and Resolution 7-95
TYPE OF ITEM: Legislative

SUMMARY RECOMMENDATIONS:

Adopt Resolution 7-95 and the Housing Action Plan, Resolution 8-95, as modified at the March 16, 1995 City Council meeting.

DESCRIPTION:

A. Topic.

Housing Action Plan, Resolution 8-95, and Resolution 7-95.

B. Background.

On March 16, 1995 the City Council held a second public hearing on a Housing Action Plan, Resolution 8-95, and on proposed modifications to Resolution 37-91. After public input modifications were made to both the proposed Housing Action Plan and Resolution 7-95.

C. Analysis

The Housing Action Plan, Resolution 8-95, and Resolution 7-95 have been modified to reflect the Council's priorities. Consideration of increasing the housing requirement for annexations was added to the "High" priority list in the Housing Action Plan to reflect the Council's desire that any change be

considered simultaneously with Goal #1. Staff will now prepare a work program based on the available resources and Council priorities.

ALTERNATIVES

- A. Adopt the Housing Action Plan, Resolution 8-95, and Resolution 7-95.
- B. Modify the Housing Action Plan, Resolution 8-95, and Resolution 7-95 and adopt at the next scheduled Council meeting.
- C. Postpone action and direct staff as to action required.

RECOMMENDATION:

Adopt Resolution 7-95 and the Housing Action Plan, Resolution 8-95 as modified at the March 16, 1995 City Council meeting.

EXHIBITS

EXHIBIT A - Housing Action Plan, Resolution 8-95

EXHIBIT B - Resolution 7-95

EXHIBIT A

Resolution No. 8-95

A RESOLUTION DIRECTING STAFF TO IMPLEMENT A HOUSING ACTION PLAN FOR PARK CITY, UTAH

WHEREAS, the City Council has determined that affordable housing is an important objective of the community; and

WHEREAS, the City Council has determined to strengthen existing affordable housing programs and funding guidelines to provide and encourage the construction of a diverse range of housing units throughout the community; and

WHEREAS, the City Council acknowledges the year long work and dedication of the Housing Advisory Task Force and has incorporated its recommendations on housing strategies for Park City, and;

WHEREAS, the City Council will encourage and facilitate the production of affordable housing units throughout the community but will not directly build affordable housing; and

WHEREAS, the City Council acknowledges that various aspects of the Housing Action Plan may be modified due to fiscal or legal constraints;

NOW, THEREFORE, BE IT RESOLVED by the City Council of Park City that the following Housing Action Plan be adopted as follows:

SECTION 1. CURRENT IMPLEMENTATION.

- CONTINUE TO OFFER UP TO \$5,000 IN FEE WAIVERS AND GRANTS
- MAKE A CONTINUED COMMITMENT TO ALLOCATE AN ANNUAL BUDGET FOR HOUSING
- CONTINUE TO WORK WITH PRIVATE DEVELOPERS AND APPLY FOR STATE AND FEDERAL FUNDS
- SUPPORT SUMMIT COUNTY IN ADOPTING A HOUSING ELEMENT THAT INCLUDES A BROAD CROSS SECTION OF PARTICIPATION AND ALLOWS FOR AFFORDABLE HOUSING RESERVE ZONING DISTRICTS
- UTILIZE EXISTING HOUSING BUDGETS TO:

1. Acquire affordable units for municipal employees for rental, lease, to purchase, or acquisition.
2. Provide municipal employees with mortgage down-payment assistance in the form of low interest equity loans. Promote program to private employers as an example.
3. Develop capacity of non-profit and local low income housing consortiums. Help to create a one-stop housing resource center with rental assistance, tenants' rights and housing market information for use by the community. Possible locations at Miner's Hospital or Library and Education Center.

SECTION 2. DEFINITION. The primary goal of the Housing Action Plan (HAP) is to increase the supply of housing that is affordable to people who live or work in Park City. The HAP outlines a set of goals and describes programs that are designed to meet those goals.

The HAP sets the direction for future work and exploration in the area of affordable housing and in itself does not have any force of law. Each legislative action item will require City Council review and approval prior to its implementation.

The goals have been generally grouped by Council priority but priorities have not been established within groups. Programs will be explored in a sequence to be determined by staff or the City Council. The programs that have the highest probability of producing the greatest results with minimal impact on staff resources will receive preference in implementation.

SECTION 3. HOUSING ACTION PLAN.

HIGH

1. GOAL: Explore the creation of an Affordable Housing Standard for new commercial development in the City and the existing ski resorts.
2. GOAL: Reactivate the Housing Authority and meet quarterly to review progress and direction of programs and policies. Restructure the Housing Authority as an appointed board instead of the City council and include representation of a Summit County official. Encourage Summit County to adopt a housing element.
3. GOAL: Consider increasing the requirements to provide affordable housing in annexations to 15%.

MEDIUM

4. GOAL: Consult, cooperate, or contract with non-profit organizations to provide housing

services and to enhance their capacity in achieving affordable housing goals.

5. GOAL: Actively involve the other entities suggested by the Task Force (County, ski resorts, etc.) in taking responsibility for affordable housing. Assist the resorts in creating seasonal rental opportunities by encouraging off-season partnerships with the University, Chamber/Bureau, and seasonal municipal employees.
6. GOAL: Research and return to the Council with a plan that would create an affordable housing standard for master planned developments, Chapter 10 and conditional use permits (per Resolution No. 37-91).
7. GOAL: Acquire sites or dedicate City-owned sites for affordable housing projects in cooperation with private developers.
8. GOAL: Explore mechanisms for the financing the acquisition of land for affordable housing sites. Engage public in the process.

LOW

9. GOAL: Purchase in fee, purchase an interest, or facilitate the purchase of older restricted affordable units and place a deed restriction on utilize housing inventory matrix to track expiration dates on such projects.
10. GOAL: Consider revision to Land Management Code Chapters 10 and 11 to allow the Planning Commission flexibility in reviewing affordable housing projects to consider reductions in open space and parking requirements for resort properties, projects in close proximity to an employment source or other such criteria as specified by the City Council.
11. GOAL: Research and develop a program that would commit additional funds to the Historic District Grant Program earmarked to securing deed restrictions and/or affordability requirements on City assisted rehabilitated units. Expand parameters of current \$5,000 per residential unit subsidy to include City-wide rehabilitation projects.
12. GOAL: Explore the creation of an affordable housing standard for all new subdivisions within the City. This standard could be an encouragement of accessory apartments, caretakers' units, deed restrictions, land donation or by producing a like product on site.
13. GOAL: Research how to include new developments that are not in a subdivision, annexation, master planned development, or commercial project into affordable housing solutions. This alternative would more equitably share the costs of providing housing across the entire community.
14. GOAL: Research, pursue, and support new dedicated funding sources for housing at the

legislative level like the real estate transfer tax and the restaurant tax. Encourage the legislature to dedicate permanent funds, not surplus, or discretionary one-time funding for affordable housing programs.

15. GOAL: Educate and disseminate information to the public by conducting an annual housing symposium or in conjunction with a community education program.

SECTION 3. EFFECTIVE DATE. This Resolution shall become effective upon ratification.

PASSED AND ADOPTED this 16th day of March, 1995.

RATIFIED this 30th day of March, 1995.

PARK CITY MUNICIPAL CORPORATION

Mayor Bradley A. Olch

Attest:

Janet M. Scott, Deputy City Recorder

Approved as to form:

Mark D. Harrington, Asst. City Attorney

EXHIBIT B

Resolution No. 7-95

RESOLUTION REPEALING RESOLUTION NO. 8-93 AND ADOPTING AFFORDABLE HOUSING GUIDELINES AND STANDARDS FOR PARK CITY, UTAH

WHEREAS, the City Council has identified affordable housing as an action target in its work program for 1995 through 1996; and

WHEREAS, the City Council adopted Resolution No. 37-91 on December 5, 1991 which establishes policies to support and increase affordable housing in Park City; and

WHEREAS, it is the determination of this Council that it is in the best interest of the community to formulate guidelines and standards so that there are consistent and established criteria for review of project applications, annexation petitions, resort or ski area expansions, and other development actions where affordable housing is an issue; and

WHEREAS, the Council has considered standards in other resort communities, housing studies conducted for Park City, Housing and Urban Development Standards, and input from the Affordable Housing Task Force;

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

SECTION 1. ADOPTED HOUSING STANDARDS AND GUIDELINES.

Resolution No. No. 8-93 is hereby repealed and the adopted housing standards and guidelines shall be as follows:

These standards shall apply to all new and outstanding housing obligations as notified per Resolution No. 6-94. Prior agreements on density or configuration shall take precedence over these standards but all rental rate guidelines and time limitations as described below shall apply:

1. Minimum Unit Size Standards:

Studio	400 square feet
1 bedroom	550 square feet
2 bedroom	700 square feet
3 bedroom	850 square feet
4 bedroom	1,000 square feet

2. Maximum Rent Guidelines:

Studio	\$425
1 bedroom	525
2 bedroom	675
3 bedroom	825
4 bedroom	975

Modifications to the maximum rent guidelines and minimum unit standards may be made based upon such factors as housing configuration (detached) provisions of public benefits, such as shared common living areas, or additional project amenities.

The maximum rent guidelines will be adjusted annually in consideration of the Consumer Price Index (CPI) and Park City Rental Surveys.

3. Maximum City Assistance Standard. \$5,000 regardless of unit size or configuration.

4. Limitation Period. 40 years minimum regardless of unit size. First right of refusal and/or option to purchase shall be granted to the City. The City shall have 90 days to respond or assign the above-described rights.

This limitation period may be reduced based upon the provision of additional public benefits such as preservation of historic structures as negotiated by the City Council.

5. Requirements for Annexations. Ten percent (10%) of the total project unit equivalent shall be provided as a minimum affordable housing contribution. A two bedroom unit size shall be the minimum standard that will satisfy this requirement. Land donation, or acquisition of off-site, deed-restricted units that meet the minimum standard unit size, shall also satisfy this requirement. The developer may request satisfaction of this obligation through a housing payment that is equivalent to the market cost of construction of a unit.

The strategy for meeting the housing obligation must be specified prior to issuance of final plat approval. Phasing and satisfaction of this obligation shall be described in the annexation agreement for each project. The intent of this Resolution is to ensure that the affordable housing requirement is satisfied in direct proportion to the original sale of lots within the project.

6. Unit Equivalents for Affordable Housing Obligations (Land Management Code, Section 10):

Studio	.50
1 bedroom	.75

2 bedroom	1.00
3 bedroom	1.25
4 bedroom	1.50

7. Guidelines for Affordable Housing Obligations:

Studio	\$ 44,000
1 bedroom	55,000
2 bedroom	71,500
3 bedroom	88,000
4 bedroom	104,500

These figures were derived from a recent estimate of the cost of providing a two bedroom unit of affordable housing. These estimates include financing and title costs, land costs, construction costs, and contingency costs. The City Council will reevaluate these figures as market changes occur.

SECTION 2. EFFECTIVE DATE. This Resolution shall take effect upon ratification by the City Council.

PASSED AND ADOPTED this 16th day of March, 1995.

RATIFIED this 30th day of March, 1995.

PARK CITY MUNICIPAL CORPORATION

Mayor Bradley A. Olch

Attest:

Janet M. Scott, Deputy City Recorder

Approved as to form:

Mark D. Harrington, Asst. City Attorney



CITY COUNCIL REPORT

DATE: March 30, 1995
DEPARTMENT: Community Development Department
AUTHOR: Janice Lew
TITLE: 703 Park Avenue and 664 Woodside Avenue CAD Appeal
TYPE OF ITEM: Adjudicative

SUMMARY RECOMMENDATIONS: The staff requests the City Council hear testimony from the applicant, staff and any other interested person and determine that the Historic District Commission (HDC) fairly applied the Preservation Ordinance.

DESCRIPTION:

A. Topic.

PROJECT STATISTICS

Applicant:	Burnis and Betty Watts
Location:	703 Park Avenue and 664 Woodside Avenue
Proposal:	Denial of CAD Appeal
Zoning:	HR-1 and HRC
Adjacent Land Uses:	Residential and Commercial
Date of Appeal:	February 20, 1995
Project Planner:	Janice Lew

B. Background.

On March 16, 1995, the Council heard the Watts' appeal in a public hearing to reverse the HDC's decision to deny their Certificate of Appropriateness for Demolition (CAD) request. At that time, action on the appeal was continued to March 30, 1995. The Council also decided to schedule a site visit.

C. Analysis.

All CAD applications for historically significant structures are subject to review by the HDC to determine whether an economic hardship will result from a denial. **The burden falls upon the applicant** to present evidence which demonstrates an unreasonable economic hardship. Based upon an analysis of the information submitted by the applicants, the HDC found that the property in question should in fact produce a "reasonable rate of return". The property was purchased for a total of \$44,000 and has now been appraised at approximately \$495,000 in its present condition. Please refer to your March 16th packet for a full analysis of the applicant's appraisal.

In judging the application, the Commission specifically found that:

1. For 664 Woodside Avenue - Because the structure is in fair condition and has been used as rental property since 1977, denial of the CAD would not deprive the owner of all reasonable use of the property.
2. For 703 Park Avenue including the garage - Because the home is in excellent condition and the structures currently function as a residential dwelling and accessory building, denial of the CAD would not deprive the owner of all reasonable use of the property.
3. No information was submitted to demonstrate that the structures could not be feasibly moved or relocated.

ALTERNATIVES:

- A. If the Council believes the HDC has fairly applied the Preservation Ordinance, the Council should uphold the denial of the CAD and direct the staff to prepare findings and conclusions to reflect its decision.
- B. If the City Council believes the HDC has unfairly applied the law to the facts, the Council should reverse the HDC's decision to deny the CAD and direct the staff to prepare findings and conclusions to reflect its decision.
- C. The City Council may continue the hearing for more information and discussion or to take additional testimony at the following meeting and reschedule the item for action at that meeting.

SIGNIFICANT IMPACTS:

If the City Council sustains the CAD denial, the owner may not legally demolish the structures. The owner may not re-apply for demolition for a period of three years from the date of the HDC's final decision, unless the building, structure or site is structurally unsound or substantial changes in circumstances have occurred other than those caused

by the negligence or intentional act of the owner, in which case the owner may apply as conditions warrant.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION:

If the City Council overturns the HDC's decision and approves the CAD, the owner may proceed to demolish the structures after obtaining a demolition permit from the Building Department. As a condition of demolition approval, the Council should require the owner to provide documentation of the site according to the standards of the Historic American Building Survey (HABS). Approval of a CAD would be valid for one year.

RECOMMENDATION:

The Council should hear testimony, if offered, from the applicant and staff and then from any other interested person at the hearing. Based upon the facts as presented to the City Council, the staff requests the Council determine that the HDC fairly applied the Preservation Ordinance to the facts. The Historic District Commission recommends the City Council use any and all means available to explore all avenues and possibilities in keeping with the current zoning which would culminate in the continued use or adaptive reuse of the structures.

EXHIBITS: Please refer to your March 16th packet for supplementary information or call the staff planner for another copy.