

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
MARCH 28, 1996**

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 28, 1996.

AGENDA

Regular Meeting - City Council Chambers

1:00 p.m.

I ROLL CALL

II PUBLIC INPUT

III COMMUNICATIONS FROM COUNCIL AND STAFF

IV MINUTES AND WORK SESSION NOTES OF MEETING OF MARCH 21, 1996

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V NEW BUSINESS

Joint Resolution of Summit County, Park City, and the Park City School District to amend an interlocal agreement to cease the collection of school impact fees effective March 31, 1996 and to schedule public meetings regarding the disposition of school facilities impact fees

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VI OLD BUSINESS

Authorization to appeal State Engineer's denial of Park City's Change Application Protest

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VII ADJOURNMENT

The City Council will hold a retreat at the Miners Hospital Community Center, 1354 Park Avenue, from approximately 1:30 p.m. to 6:00 p.m.

Posted 3/25/96

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
MARCH 28, 1996**

I ROLL CALL

Mayor Brad Olch called the regular meeting of the City Council to order at approximately 1 p.m. at the Marsac Municipal Building on Thursday, March 28, 1996. Members in attendance were Brad Olch, Hugh Daniels, Roger Harlan, Shauna Kerr, Chuck Klingenstein, and Paul Sincock. Staff present were Toby Ross, City Manager; Jerry Gibbs, Public Works Director; and Jodi Hoffman, City Attorney.

II PUBLIC INPUT

The Mayor 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 COMMUNICATIONS FROM COUNCIL AND STAFF

Chuck Klingenstein referred to a letter from Clay Stuard regarding the issue of the refund of school impact fees and felt that his suggestion of designating the fees as charitable contributions was a good idea. Roger Harlan commented on the excellent Leadership 2000 program on Monday evening and mentioned that there are students looking for community service work; several suggestions were made. Hugh Daniels reported that the Summit County Health Board met with the Division of Air Quality on Tuesday to discuss an air quality plan. He addressed the merits of developing a proactive plan, as opposed to being in a position to formulate a remediation plan. The County can set up a plan on its own as opposed to taking direction from the state and will develop a time line for implementation. About 75% to 90% of air pollution is caused by cars.

IV MINUTES AND WORK SESSION NOTES OF MEETING OF MARCH 21, 1996

Hugh Daniels and Roger Harlan abstained as they were not in attendance. Shauna Kerr, "I move approval of the Minutes of the meeting of March 21, 1996". Paul Sincock seconded. Motion carried.

Hugh Daniels	Abstention
Roger Harlan	Abstention
Shauna Kerr	Aye
Chuck Klingenstein	Aye
Paul Sincock	Aye

V NEW BUSINESS

Joint Resolution of Summit County, Park City, and the Park City School District to amend an interlocal agreement to cease the collection of school impact fees effective March 31, 1996 and to schedule public meetings regarding the disposition of school facilities impact fees - Toby Ross reported that the County and School District have adopted this resolution and have agreed not to terminate the agreement until the end of May. He noted that public input sessions are scheduled

for April 25 at the Treasure Mountain Middle School and April 8 at Jeremy Ranch Elementary. Shauna Kerr expressed her strong concern that the meetings are not scheduled soon enough and there is great public interest in this issue. The City Manager explained that these dates were determined by the availability of the School District and Commission members. Roger Harlan agreed with Ms. Kerr and suggested that the City Council hold its own meeting to gather information or readdress the scheduling with the School District and County. Discussion ensued regarding the importance of holding joint public input sessions, having the opportunity to advertise, and it was agreed to accept the tentative schedule.

Roger Harlan, "I move to approve the Joint Resolution of Summit County, Park City, and the Park City School District to amend an interlocal agreement to cease the collection of school impact fees effective March 31, 1996 and to schedule public meetings regarding the disposition of school facilities impact fees". Chuck Klingenstein seconded. Motion carried unanimously.

VI OLD BUSINESS

Authorization to appeal State Engineer's denial of Park City's Change Application
Protest - Ms. Hoffman explained that if service is not given today, the appeal will be lost and suggested that the Council convene in closed session. John Anderson, counsel for Summit Water, stated that some of the comments filtering down to him were of concern and there seemed to be a misunderstanding. He stated that the applications have nothing to do with the Summit Water's water treatment plant. Those applications were approved by the State Engineer years ago; they will be republished and there will be a 30 day protest period. There will be an opportunity for Park City to protest the water treatment plant and it probably will be two months before there is a hearing. The applications he understood Park City will be litigating are 35-6986 and 35-7452 which were approved in the early 1980s. Summit Water has drilled wells and has been serving water out of the wells. These applications changed the points of diversions and the amount of acre feet remains the same. Mr. Anderson stated that Summit Water was surprised by the lawsuit as Park City has five pending applications and indicated that if sued, Summit Water would challenge any approvals granted to Park City. He continued that Park City is negotiating with Weber Basin and Snyderville Basin water; Summit Water's water rights are also based on Weber Basin, so Park City would be suing entities it is negotiating with. Mr. Anderson stressed that if the Council is concerned about the extent of the water treatment plant, there is still an opportunity to comment.

The City Attorney asked Mr. Anderson if he was saying that the SBSID lawsuit, which challenges the change applications for 2100 acre feet of water, has nothing to do with the treatment plant? Mr. Anderson responded that they have everything to do with the treatment plant. She asked if Mr. Anderson would stipulate the Park City is a party to the proceeding with regard to the lawsuit? Mr. Anderson stated that he would stipulate that Park City will have every opportunity to appear before the State Engineer. Ms. Hoffman emphasized that that is not the same thing and again asked if he would stipulate that Park City is a party to the proceeding and clarified that not only being able to present evidence but have appeal rights. Mr. Anderson asked how the lawsuit challenging these two approvals ties to the water treatment plant applications. Ms. Hoffman again asked if Mr. Anderson would stipulate that Park City be a party to the formal hearing and have appeal rights from the formal hearing. She added that Park City has two separate interests. As a member of the public and a participant in the formal hearing for the SBSID challenge for 2100 acre

feet of water rights and Park City has not secured a right as a party yet. That proceeding is separate from this lawsuit. Mr. Anderson stated that he would not stipulate anything. Ms. Hoffman responded that it is disingenuous to indicate to Council that they can protect their rights by not being a party, because they can not. Mr. Anderson argued that a stipulation is premature as there will be advertising and there will be a 30 day protest period. There will be an opportunity for Park City to assert a protest and if Park City is not happy with the decision, it will have appeal rights as set forth in the statute. Ms. Hoffman emphasized that the opportunity for public input is different than the rights associated with being a party. She continued that the City has an opportunity for comment on that lawsuit and an opportunity to become a party to the lawsuit, but we need a stipulation from Summit Water and the State Engineer. Ms. Hoffman noted that she has received comment from the Attorney General's Office this week that it is their intention to allow us to be a party but there is no written confirmation and the order from the State Engineer's Office indicates something else. Mr. Anderson asked how this would become a vehicle to the other if Park City does not have standing in the lawsuit right now, how would this give Park City standing. He stated that this lawsuit has nothing to do with the water treatment plant. Ms. Hoffman differed that it has nothing to do with the SBSID lawsuit, but there are many issues related to the treatment plant, which can be discussed in closed session. Paul Sincock stated that he called Mr. Morgan at the State Engineer's Office to inquire about the hearing. Mr. Morgan indicated that it is a public hearing for anyone to submit comment and that it would be informal, but he now understands that it will be a formal hearing. Shauna Kerr asked if Summit Water is going back to a new change application or if this was an intermediate review in light of litigation. Mr. Anderson indicated that the State Engineer claimed that there is a duty to readvertise the application. Mr. Anderson did not think that this lawsuit changes Park City's position, but Ms. Hoffman disagreed and felt that that was an overstatement. She explained that the two change applications, which were the subject of the SBSID lawsuit against the State Engineer and Summit Water won't be affected by this lawsuit and this lawsuit may or may not affect the water treatment plant. Ms. Hoffman felt that there is some history that would be beneficial to share with all Council members; there was a meeting with staff and Messrs. Klingenstein and Sincock last Tuesday. Mr. Anderson felt that there has been some misunderstanding and Summit Water is disappointed that there wasn't any communication regarding the lawsuit. The City Council then closed the meeting (see Memorandum of Closed Session).

Shauna Kerr, "I move that we authorize the City Attorney to appeal the State Engineer's denial of Park City's Change Application Protest". Chuck Klingenstein seconded. Shauna Kerr added language "that we also direct the City Attorney to continue to work with the Attorney General's Office to assure standing in the other pending litigation with SBSID". Chuck Klingenstein accepted the amendment. Paul Sincock stated that this is a complex issue, but felt that there should be a way for Summit Water to treat its water to better serve its customers. He felt that there has been a failure on the part of the Sewer District, County and City not to collaborate earlier for solutions. Mr. Sincock felt that treating water that you have rights to should be within the purview of any water company, including Park City. He added that he wasn't sure that all due diligence was done to try to work out a solution and doesn't lightly enter into lawsuits as it is not the best way to run City government. Mr. Sincock stated that this is an agonizing decision because he can see both sides and hopes that it can be negotiated. Motion carried.

Hugh Daniels
Roger Harlan

Aye
Aye

Shauna Kerr	Aye
Chuck Klingenstein	Aye
Paul Sincock	Abstention

VII ADJOURNMENT

With no further business, the meeting of the City Council was adjourned. The City Council then convened for the purpose of a retreat at the Miners Hospital Community Center, 1354 Park Avenue until approximately 7 p.m.

MEMORANDUM OF CLOSED SESSION

The City Council met in closed session at approximately 1:30 p.m. Members in attendance were Mayor Brad Olch, Hugh Daniels, Roger Harlan, Shauna Kerr, Chuck Klingenstein, and Paul Sincock. Staff present were Toby Ross, City Manager; Mark Harrington, Assistant City Attorney; Jerry Gibbs, Public Works Director; and Jodi Hoffman, City Attorney. Hugh Daniels , "I move to close the meeting to discuss potential litigation". Chuck Klingenstein seconded. Motion carried unanimously.

The meeting opened at approximately 2 p.m.

* * * * *

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, Deputy City Recorder



DATE: March 24, 1996
DEPARTMENT: Executive
AUTHOR: Toby Ross *TR*
TITLE: School Impact Fees
TYPE OF ITEM: legislative

SUMMARY RECOMMENDATIONS: Adopt resolution authorizing Park City and Summit County to cease collecting school impact fees after March 31 and establishing a process for determining what to do with revenue already collected.

DESCRIPTION:

A. Topic: Consideration of a joint resolution which authorizes Park City and Summit County to cease collecting school impact fees after March 31, 1996 among other things.

B. Background: Summit County, Park City and the Park City School District jointly prepared and adopted in June of 1994 an interlocal agreement to collect impact fees for new school facilities in the District caused by extraordinary, sustained growth. The County and the City imposed a school facilities impact fee of \$3393 for each primary residential unit permitted for construction within the boundary of the School District. The County and the City have collected and hold more than \$2 million in fees since June, 1994. During the 1995 legislature, state law-makers terminated local authority to collect school facilities impact fees beyond May 1, 1996.

C. Analysis: I met with representatives from Summit County and the Park City School District on March 19 to discuss the school impact fee issue. The group tentatively agreed that the parties to the interlocal agreement would:

- ◆ cease collecting school impact fees effective March 31, 1996. The City has prepared a joint resolution for action by all parties.
- ◆ conduct two public forums to seek input on what to do with money already collected. These forums are tentatively scheduled for 7:00 p.m. on April 28 (TMMS) and May 8 (Jeremy Ranch Elementary).
- ◆ prepare and distribute a press release explaining the current situation. A press release was distributed on Monday March 25 a copy of which is attached.

- ◆ sponsor a public opinion survey to be completed before the first forum. The school district will arrange for the survey.

The County, City and District want to comply with state law and to avoid unnecessary disruption in the annual building cycle associated with builders postponing their residential building permit requests until May 1, 1996 to avoid paying school facilities impact fees. It seems to be in the best interests of the jurisdictions to suspend the City's and the County's obligations to collect school facilities impact fees, to engage in a process, consistent with the spirit of the Agreement, to resolve the proper disposition of school facilities impact fees that were collected from June 1994 through March 1996, and to preserve the *status quo* among the parties during this process.

D. Department Review: The Executive, Legal and Community Development Departments have reviewed this proposal and support the recommendation.

ALTERNATIVES:

A. Approve the Request: Adopt the attached joint resolution. The County and District are expected to adopt the resolution this week.

B. Deny the Request: The Council could simply wait until May 1 when our authority to collect school impact fees will expire according to state law.

C. Continue the Item: The Council could act on this or a similar resolution anytime between March 28 and May 1.

D. Do Nothing: This would have the same effect as denying the proposal.

SIGNIFICANT IMPACTS: The resolution will eliminate the incentive for builders to wait until May 1 before requesting issuance of building permits. The financial impact should be small since we do not expect many builders to request permits until we cease collecting school impact fees.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION: Many builders will wait until we cease collecting school impact fees to request building permits. This could create unnecessary workload for the Building Department.

RECOMMENDATION: The Council should adopt a resolution which authorizes the Mayor to execute an amendment to the Agreement to incorporate the following understanding:

- a. The County and City will stop collecting school facilities impact fees on permits issued after March 31, 1996 and will take any actions necessary to amend their respective laws to rescind the imposition of school facilities impact fees for residential development permitted after April 1, 1996;
- b. The parties agree not to terminate the Agreement prior to May 31, 1996;

- c. The County, City and District agree to conduct two joint public forums in late April and early May to seek input about what to do with money already collected. The parties will seek to reach consensus on the disposition of collected school facilities impact fees on or before May 31, 1996.

Joint Resolution of Summit County, Park City and the Park City School District to amend an interlocal agreement to cease the collection of school impact fees effective March 31, 1996 and to schedule public meetings regarding the disposition of School Facilities Impact Fees.

Whereas, Summit County (County), Park City (City) and the Park City School District (District) jointly prepared and adopted in June of 1994 an interlocal agreement (Agreement) to collect impact fees to mitigate critical needs for new school facilities in the District caused by extraordinary, sustained growth;

Whereas, pursuant to the Agreement, the County passed a resolution and the City adopted an ordinance imposing a school facilities impact fee of \$3393 for each primary residential unit permitted for construction within the boundary of the District;

Whereas, the County and the City have collected more than \$2 million in school facilities impact fees since June, 1994 and pursuant to the Agreement hold such fees in escrow for a minimum of four years and a day from the date of collection;

Whereas, during the 1995 legislature, state law-makers terminated local authority to collect school facilities impact fees beyond May 1, 1996;

Whereas the County, City and District desire to comply with state law and to avoid unnecessary disruption in the annual building cycle associated with builders postponing their residential building permit requests until May 1, 1996 to avoid paying school facilities impact fees;

Whereas in light of the foregoing, it is in the best interests of the jurisdictions to suspend the City's and the County's obligations to collect school facilities impact fees, to engage in a process, consistent with the spirit of the Agreement, to resolve the proper disposition of school facilities impact fees that were collected from June 1994 through March 1996, and to preserve the *status quo* among the parties during this process.

Now Therefore, be it resolved that:

1. The County, City and the District hereby authorize a designated officer to execute an amendment to the Agreement to incorporate the following understanding:
 - a. The County and City shall stop collecting school facilities impact fees after March 31, 1996 and shall take such actions necessary to amend their respective laws to rescind the imposition of school facilities impact fees for residential development permitted after April 1, 1996;

- b. No party shall terminate the Agreement prior to May 31, 1996;
2. The County, City and District will conduct two joint public forums in late April and early May to seek input about what to do with money already collected. The parties seek to reach consensus on the disposition of collected school facilities impact fees on or before May 31, 1996.

DATED this ____ day of March, 1996.

SUMMIT COUNTY

PARK CITY SCHOOL DISTRICT

JIM SOTER

NIKKI LOWRY, PRESIDENT

ATTEST:

ATTEST:

APPROVED AS TO FORM:

APPROVED AS TO FORM:

JODY BURNETT

BLAKE OSTLER

PARK CITY MUNICIPAL CORPORATION

BRADLEY A. OLCH

ATTEST:

ANITA L. SHELDON, CITY RECORDER

APPROVED AS TO FORM:

Summit County, Park City Municipal Corporation and Park City School District

P.O. Box 1480 • Park City, UT 84060 • (801) 645-5007 • Fax: (801) 645-5078

FOR IMMEDIATE RELEASE

Date: March 22, 1996

Contacts: Sheldon Richins, (801) 645-9161;
Toby Ross, (801) 645-5007;
Don Fielder, (801) 645-5600

School Impact Fees

Park City, Utah—Summit County, Park City and the Park City School District announced their intent to amend a three-way agreement ending collection of school impact fees effective March 31, 1996. The county and city have collected more than \$2 million since the fee of up to \$3,393 per new residential unit went into effect in June of 1994. The amendment will stop the collection of school impact fees but does not resolve what to do with the money already collected. The group also announced tentative plans to conduct two public forums to seek input in late April and early May.

During the 1995 legislature, state law-makers established new standards for collecting impact fees and terminated local authority to collect school impact fees without specific authorization from the 1996 legislature. The 1996 legislature concluded without authorizing school impact fees. May 1, 1996 is the deadline established by the Utah Legislature for local entities to eliminate fees which no longer fit the criteria established by the Legislature. Amendment of the three-way agreement would stop fee collection a month before the legal mandate to avoid unnecessary disruption in the annual building cycle. Many builders have delayed requests for permits until the authority for impact fees expires.

Memorandum

Date: 3/25/96

To: The Honorable Bradley A. Olch, Mayor
Members of the City Council

CC: Toby Ross, City Manager
Jerry Gibbs, Public Works Director

From: Jodi Hoffman, City Attorney

Subject: Appeal of State Engineer's Change of Use of Summit Water

On Thursday March 21, 1996, the City Council delayed until March 28, 1996 its decision to perfect an appeal of the State Engineer's decision to change the point of diversion, the place of use, and the nature of use of 1644 acre-feet of water in the Snyderville Basin (the Appeal). Based on Council Member Paul Sincock's inquiries, staff is in the process of researching various alternatives to perfecting the appeal, including the possibility of intervention in a formal appeal proceeding before the State Engineer that recently was granted to the Snyderville Basin Sewer Improvement District. We will provide the Council with a full briefing of our research, and a recommendation based on that research, on Thursday.

