PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
MARCH 12, 2009

PUBLIC NOTICE IS HEREBY GIVEN that the City Council of Park City, Utah will hold its regularly scheduled meeting at the Library and Education Center, Room 205, 1255 Park Avenue, Park City, Utah for the purposes and at the times as described below on Thursday, March 12, 2009.

Closed Session
2:30 p.m. Property and litigation
Work Session
4:40 p.m. Council questions/comments
5:00 p.m. Legislative update
5:20 p.m. Golf Course update **Pg 3**
5:50 p.m. Break
Regular Meeting
6:00 p.m.
I ROLL CALL
II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF
III PUBLIC INPUT *(Any matter of City business not scheduled on agenda)*
IV NEW BUSINESS (*New items with presentations and/or anticipated detailed discussions)*
1. Consideration of appointment of Special Counsel to review the vesting of the Sweeney Master Planned Development for Treasure Hill **Pg 8**
2. Consideration of approval of 333 Main Street Plat Amendment - request to continue to March 26, 2009
   (a) Public hearing
   (b) Motion to continue to March 26, 2009
3. Consideration of approval of an Ordinance approving the108 Park Avenue Replat of Lots 20 and 21 of Block 13, Park City, Utah **Pg 9**
   (a) Public hearing
   (b) Action
4. Consideration of award of contract to Fehr and Peers Transportation Consultants for Neighborhood Traffic Calming Recommendations in the amount of $31,330.
   (a) Public hearing **Pg 15**
   (b) Action
5. Consideration of approval of an Ordinance Amending Municipal Code Title 3, Chapter 3, Campaign Disclosure Ordinance **Pg 31**
   (a) Public hearing
   (b) Action

V OLD BUSINESS *(Continued items)*
VI 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.
Posted: 03/09/09 See: www.parkcity.org

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

March 2009

19 No meeting
26 Closed - personnel
Bonanza Drive Update
Racquet Club Cost Recovery
Award of contract for automated meter reading program – work and regular
Award of contract for the construction of the Snow Creek Cottages, 2060 Park Avenue
1200 Little Kate Road – Subdivision [PL-09-00632] KS
1502 Seasons Dr – Plat Amendment [PL-08-00577] KW
333 Main St – Plat Amendment [PL-08-00602] KW (continued from 3/12 mtg)
Award of Architectural-Design Contract- expanded transit storage and maintenance facility
31 Community Visioning - Community Kick-off

April 2009

1 & 2 Community Visioning - Living room Sessions
2 Consideration of a Resolution adopting an Identity Theft Prevention Program; appointing an Oversight Committee; and authorizing the City Manager to approve modifications to the Program as needed
LMC Code Amendments governing Steep Slope CUP - discussion
Soaring Wings Montessori - lease
9 **Tom gone (Phyllis acting City Mgr)**
LMC Code Amendments governing Steep Slope Conditional Use Permits - action
16 **No meeting**
23
30

May 2009

7
14 **No meeting – Dana gone**
21
28

Pending Items:

Ordinance amending Municipal Code Titles 1 and 2
Sergio ice cream franchise - PM
Amendment to fee resolution - GRAMA
Water supply and demand
Resolution amending (or replacing) Resolution No. 20-07, adopting Affordable Housing Guidelines and Standards for Park City, Utah
Carrying capacity/market analysis survey
Wild land interface issues

City Council
Staff Report

Subject:	**Park City Golf Club 2008 Season**
Author:	**Craig Sanchez, Clint Dayley**
Department:	**Golf Shop / Golf Maintenance**
Date:	**March 12, 2009**
Type of Item:	**Informational**

Recommendation: This report is for informational purposes. Staff recommends no change in fees for the upcoming golf season.

Topic:
Golf Course update

A. Background

Park City Golf Club had a strong 2008 season. The season started almost a month late due to the long winter. Although the seasonal numbers did not match the previous record setting year, the months of July and August set records for rounds and revenues.

B. Analysis

For the last five seasons Park City Golf Club has seen a steady increase in revenues and fund balance. The primary reason is that the course, with the grandfathering of season passes has become largely a daily fee course. There has not been an increase in fees for the last five years. With the state of the economy staff feels that raising rates at this time may affect total number of rounds and ultimately revenues. Many of the projects that have impacted the golf course over the last few years are now complete and we can focus on providing users with an outstanding product.

Revenues and Expenses

The golf fund is an enterprise fund and is supported solely by user fees. The following figures are fiscal year July 1 – June 30, numbers year to date, not seasonal.

	Revenues	Expenses	Difference
Budget FY2009	$808,693	$714,772	$93,921
Actual FY 2009	$891,415	$604,176	$287,239
Net Profit	+$82,722	-$110,596	+$193,318
FY 2008 Actual	$882,059	$631,781	$250,278

Revenue – Exp per Round	09	08
Revenues	$41.76	$43.96

Expenses	$28.30	$31.17
Difference	+$13.46	+$12.79

FY 2009 Revenues: +$82,722 or 10% over budget. Compared to FY 2008 we had an increase of $9,356 or 1.2%. Main factors for these increases were: strong July and August, but weaker fall numbers than previous year.
FY 2009 Expenses: -$110,596 or 15.4% under budget. Compared to FY 08 there was a decrease of $27,605 or 4.3%.
The golf fund balance at the end of FY 2008 was $644,000. These funds have been identified to provide funding for future capital renovations at the course.

Rounds

Rounds	FY 2009	FY 2008	09-08	% Change
Resident	12,301	11,461	840	7.3%
Season Pass	2,155	1,883	272	14%
Non Resident	3,142	3,815	(673)	(18%)
Punch Pass	999	557	442	80%
Tour/Lodge	1,436	1,152	284	25%
Comp	1,313	1,197	116	10%
Total	21,346	20,065	1,281	6.4%

There was an increase in rounds in every category with the exception of Non-Resident play. These increases were primarily due to strong July and August numbers due to the lack of monsoonal moisture during this period. Park Meadows Golf Club was also closed last season and we experienced increased play from their members. Senior punch pass play saw the largest percentage increase and now comprises 5% of our total play.

Current rates:

	Resident	Non Resident
9 holes	$16.00	$21.50
9 holes / car	$23.00	$28.50
18 holes	$32.00	$43.00
18 holes / car	$46.00	$57.00
Season Pass	$990.00	
Season Pass / Corporate	$2850.00	
Season Pass / Junior	$425.00	
Punch Pass / Senior	$275.00	

Rate comparisons of Utah courses. All rates are for 18 holes and include a golf car.

Golf Course	Rates
Park City – Resident	$46.00
Park City – Non Resident	$57.00

Wasatch – Soldier Hollow	$40.00
Salt Lake City – Mt. Dell	$40.00
Salt Lake County – Old Mill, S. Mountain	$40.00 - $45.00
Homestead	$40.00 - $65.00

As can be seen on above figures, Park City Golf Club's rates are comparable for the resident rate. The non – resident rate is on the high side of the rate structure. Our big concern in raising rates would be the price elasticity of our product. This summer will users be looking for the best value? Staff feels that at our current rate offers a great value for the product.

Capital Projects:

Completed projects in 2008

- Sod mounds on holes 14, 16 and 18. These mounds are comprised of soil dredged from the lake on the 18th hole.
- Completed a forward tee box on the 18th hole.
- Installed directional signage due to reconfiguration of cart paths as part of the construction of Hotel Park City.
- Remodeled the course restroom facilities, using funding from Summit County RAP tax grant.
- Installed 12 new sandstone benches, using funding from Summit Country Restaurant Tax grant.

New projects for fall 2009

- Replace the primary irrigation pump station. This 24 year old station will be replaced at a total cost of $130,000 of which $66,500 is from a Summit County RAP Tax Grant.

Attachment A: Capital project schedule.

C. Department Review:

The City Mangers Office, Budget and Grants Department, Public Works Department, and the Recreation – Library Department have reviewed this report.

Alternatives:

A. **Approve the request:** Keep fees at their current levels. Staff recommended.
B. **Deny the request:**
C. **Continue the Item:** Council could direct staff to provide further information at a future date.
D. **Do nothing:** This would have the same effect as alternative A.

Significant Impacts:
With the positive financial direction of the golf course over the last several seasons, staff feels that the current price structure will allow the golf fund to grow to provide for future projects.
Staff has identified expense cuts of 5% and 10% for the next 2 fiscal years that will be discussed during the budget process. Staff feels that the areas that were identified will not impact the playability of the golf course. However, 10% reductions will cause noticeable program changes.

Recommendation: Staff recommends no fee increase for the upcoming golf season.

PROJECT	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	10 - YEAR	TOTAL RENOVATION COST
MOWING EQUIPMENT REPLACEMENT	*Completed*	*Completed*	98,000	98,000	98,000	98,000	98,000	98,000	98,000	98,000	957,000	
IRRIGATION CONTROLLERS							***22,000***	***32,000***	***16,000***		***70,000***	***100,000***
IRRIGATION PIPING					***32,000***	***32,000***					***64,000***	***250,000***
IRRIGATION PUMPS		***32,000***	***32,000***	***32,000***					***16,000***	***32,000***	***144,000***	***170,000***
IRRIGATION HEADS											**UNSCHEDULED**	**650,000**
STREAM & SILT CONTROL							***10,000***				***10,000***	***100,000***
DREDGE 18 LAKE	*Completed*										**150,000 (COMPLETED)**	
1 & 14 TEE IMPROVMENTS	*Completed*										**50,000 (COMPLETED)**	
TEE SIGNS	*Completed*										**20,000 (COMPLETED)**	
RESTROOMS IMPROVEMENT		*Completed*									**UNSCHEDULED**	**30,000**
REBUILD 14 GREEN											**UNSCHEDULED**	50,000
GREEN CONSTRUCTION											**UNSCHEDULED**	**350,000**
FAIRWAY CONTSRUCTION											**UNSCHEDULED**	**750,000**
TEE CONSTRUCTION											**UNSCHEDULED**	**150,000**
Total CIP CONTRIBUTION		**130,000**	**130,000**	**130,000**	**130,000**	**130,000**	**130,000**	**130,000**	**130,000**	**130,000**	**1,245,000**	**2,600,000**

City Council
Staff Report

Subject: Special Counsel for Sweeney MPD
Author: Mark Harrington
Department: Legal
Date: March 9, 2009
Type of Item: Administrative

Summary Recommendations:
Appoint Jody Burnett from the law firm of Williams & Hunt as special counsel for the purpose of providing the Planning Commission with an advisory opinion regarding the vesting and validity of the Sweeney Master Planned Development as it relates to the Treasure Hill Conditional Use Permit.

Description:
Special Counsel pursuant to Municipal Code Section 2-4-11.

Background:
At the February 26, 2009 City Council meeting, the Mayor and Council directed the City Attorney to solicit representation and make a recommendation for special counsel for the purpose of providing the Planning Commission with an advisory opinion regarding the vesting and validity of the Sweeney Master Planned Development as it relates to the Treasure Hill Conditional Use Permit. On February 27, 2009, the City Attorney sent Requests for Proposals ("RFP") to attorneys at six law firms based in Salt Lake City with a deadline of March 6th. Additionally, one Summit County attorney and another Salt Lake firm asked for and were provided the RFP earlier this week.

Analysis:

Three law firms responded with proposals: Ballard Spahr (Thomas Bennett/Mark Gaylord), Jones Waldo (Vince Rampton/Greg Cropper), and Williams & Hunt (Jody Burnett). The City Attorney recommends that the Mayor and Council appoint Jody Burnett as special counsel based upon the following:

1. Mr. Burnett clearly has the most land use experience representing local governments in vesting cases and he is regarded state-wide as one of Utah's foremost land use experts;
2. Absence of any local conflict of interest or incompatible private representation or affiliation; and
3. Lowest hourly rate.

Recommendation:
Appoint Jody Burnett from the law firm of Williams & Hunt as special counsel for the purpose of providing the Planning Commission with an advisory opinion regarding the vesting and validity of the Sweeney Master Planned Development as it relates to the Treasure Hill Conditional Use Permit.

City Council
Staff Report

Subject: **108 Park Avenue Replat**
Author: **Katie Cattan**
Date: **March 12, 2009**
Type of Item: **Administrative – Plat Amendment**

PARK CITY
1884
PLANNING DEPARTMENT

Summary Recommendations

Staff recommends that the City Council review the plat amendment application, conduct a public hearing and consider approving the 108 Park Avenue Replat according to the findings of fact, conclusions of law and conditions of approval outlined in the attached ordinance.

Topic

Applicant:	Dawn and Gregg Vagstad, Owners
Location:	108 Park Avenue
Zoning:	Historic Residential (HR-1)
Adjacent Land Uses:	Residential
Reason for Review:	Plat amendment require Planning Commission review and City Council approval

Background

On May 14, 2007, the City received a completed application for a plat amendment for the existing lot at 108 Park Avenue. The plat amendment was a correction to the existing Lot A of the Morison Resubdivision, recorded in 1996. When the applicant had the property surveyed to create building plans, the surveyor realized a discrepancy between the existing subdivision plat and the existing Block 13 of the Park City Survey. This discrepancy shortened the existing property by approximately 1.5 feet and increased the width approximately .22 of a foot.

The applicant proposes to amend the plat for Lot A of the Morrison Resubdivision to correct the previously recorded error. The lot is currently vacant. The Planning Department has received a historic district design review application and a steep slope conditional use permit (CUP) application. Action must be taken on the Plat Amendment prior to staff moving forward on the HDDR and Steep Slope CUP.

On February 25, 2009, the Planning Commission reviewed the plat amendment application. No concerns or public input were raised during the meeting. The Planning Commission forwarded a unanimous positive recommendation to the City Council.

Analysis

The purpose of the application is to have the property lines reflect the original lot lines of Lots 21 and 22 of Block 13 of the Park City Survey. There is an existing discrepancy between the Park City Survey and the Lot A of the Morison Resubdivision recorded in 1996. The discrepancy shortens the existing property by approximately 1.5 feet and increased the width approximately .22 of a foot.

The Alaska House, a historic miner lodge, is located on the south-east corner of the property. Due to the existing encroachment of the Alaska House, City Staff required that the applicant work with the owner of the Alaska House to put into place an encroachment and snow shed agreement in the form of a recordable document. While working with the owner of the Alaska house, the applicant decided to quitclaim the land below the Alaska House to the owner of the Alaska House. They also had a maintenance and snow shed agreement recorded at the County.

There is also an existing roof encroachment from the home located on Lot 19 to the north of the property. The applicant provided the neighbor with a grant of easement for encroachment, maintenance, snow shed, and snow storage which was recorded at the County.

The plat amendment will result in one lot of record. The proposed lot will comply with the Land Management Code (LMC) requirements for a minimum width of 25 feet and a minimum lot size of 1,875 square feet. The new lot will be 2,195 square feet in area. The original Morrison Resubdivision contained 2130.8. The increased length in the amended plat results in a square footage gain of 65 feet after deeding the land beneath the Alaskan House to its current owner. All future applications submitted to the City for development must comply with the Land Management Code at the time of application.

Planning Staff finds there is good cause for the plat amendment as it will repair a recorded plat that was incorrect due to surveyor error and it will provide agreements between neighbors for existing encroachments. The proposed plat will also reflect current ownership of the entire property. Staff finds that the plat will not cause undo harm on any adjacent property owners because the proposal meets the requirements of the Land Management Code and all future development will be reviewed for compliance with requisite Building and Land Management Code requirements.

The property is located in the HR-1 zone. Therefore, prior to the issuance of any Building Permit for a conditional or allowed use, the Planning Department must review the proposed plans for compliance with Historic District Design Guidelines and the Land Management Code.

Department Review

The Planning Department has reviewed this request. The City Attorney and City Engineer will review the plat for form and compliance with the LMC and State Law prior to recording. The request was discussed at multiple Staff Review Meetings where representatives from local utilities and City Staff were in attendance. Issues which were brought up during the Staff meeting have been resolved.

Notice

Notice of this hearing was sent to property owners within 300'. Legal notice was also put in the Park Record.

Public Input

No comments have been received by staff at the date of this writing.

Alternatives

1. The City Council may approve the 108 Park Avenue Replat as conditioned or amended; or
2. The City Council may deny the 108 Park Avenue Replat and direct staff to make Findings for this decision; or
3. The City Council may continue the discussion on the 108 Park Avenue Replat.

Significant Impacts

There are no significant fiscal or environmental impacts from this application.

Consequences of not taking the Suggested Recommendation

The lot would remain as is and the property lines would not reflect the entirety of the property.

Recommendation

Staff recommends that the City Council hold a public hearing for the 108 Park Avenue Replat and consider approving the plat amendment based on the findings of fact, conclusions of law and conditions of approval outlined in the attached ordinance.

Exhibits

Exhibit A – Proposed Ordinance

I:\Cdd\Katie\Subdivision\2009\108ParkAve

Ordinance No. 09-

AN ORDINANCE APPROVING THE 108 PARK AVENUE REPLAT OF LOTS 20 AND 21 OF BLOCK 13, PARK CITY, UTAH

WHEREAS, the owner of the properties known as 108 Park Avenue, has petitioned the City Council for approval of a plat amendment for the existing Lot A of the Morrison Re-Subdivision Record of Survey; and

WHEREAS, the property was properly noticed and posted according to the requirements of the Land Management Code; and

WHEREAS, proper legal notice was sent to all affected property owners; and

WHEREAS, the Planning Commission held a public hearing on February 25, 2009, to receive input on the 108 Park Avenue Plat Replat; and

WHEREAS, the Planning Commission, on February 25, 2009, forwarded a positive recommendation to the City Council; and

WHEREAS, on March 12, 2009, the City Council approved the 108 Park Avenue Replat; and

WHEREAS, it is in the best interest of Park City, Utah to approve the 108 Park Avenue Replat.

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

SECTION 1. APPROVAL The above recitals are hereby incorporated as findings of fact. The 108 Park Avenue Replat as shown in Attachment 1 is approved subject to the following Findings of Facts, Conclusions of Law, and Conditions of Approval:

Findings of Fact:

1. The property is located at 108 Park Avenue.
2. The lot area of lot 17 is approximately 2195 square feet.
3. The zoning is Historic Residential (HR-1).
4. The neighborhood is characterized by single family new and historic homes, as well as duplexes and multi-family homes.
5. The 108 Park Avenue Replat will amend Lot A of the Morrison Re-Subdivision which was recorded with incorrect lot lines due to surveyor error. The length of the side lot lines and the width of the rear lot line were surveyed incorrectly in the Morrison Re-subdivision. The correct length of the North Property line is 52.44 feet, the correct length of the South Property line is 33.17’, and the Rear Lot line to the East is 53.65 feet.
6. The area of Lot 21 of Block 13 underlying the existing Alaskan House of Lots 6 and 7 of Block 13 will be simultaneously quit claim deeded to the owner of Lots 6

and 7 of Block 13 during recording.

7. The minimum lot size in the HR-1 zone is 1,875 square feet for a single family home.
8. The area of the amended lot is approximately 2195 square feet.
9. The minimum lot width in the HR-1 zone is 25 feet.
10. The lot width of the amended lot is 50 feet.
11. All findings within the Analysis section are incorporated herein.

Conclusions of Law:

1. There is good cause for this subdivision.
2. The subdivision is consistent with the Park City Land Management Code and applicable State law.
3. Neither the public nor any person will be materially injured by the proposed subdivision.
4. As conditioned the subdivision is consistent with the Park City General Plan.

Conditions of Approval:

1. The City Attorney and City Engineer review and approval of the final form and content of the plat for compliance with the Land Management Code and conditions of approval is a condition precedent to recording the plat.
2. City approval of a construction mitigation plan is a condition precedent to the issuance of any building permits.
3. The applicant will record the subdivision at the County within one year from the date of City Council approval. If recordation has not occurred within one year's time, this approval and the plat will be void.
4. The area of Lot 21 of Block 13 underlying the existing Alaskan House of Lots 6 and 7 of Block 13 will be simultaneously quit claim deeded to the owner of Lots 6 and 7 of Block 13 during recording.

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

PASSED AND ADOPTED this 19th day of March 2009.

PARK CITY MUNICIPAL CORPORATION

____
Dana Williams, Mayor

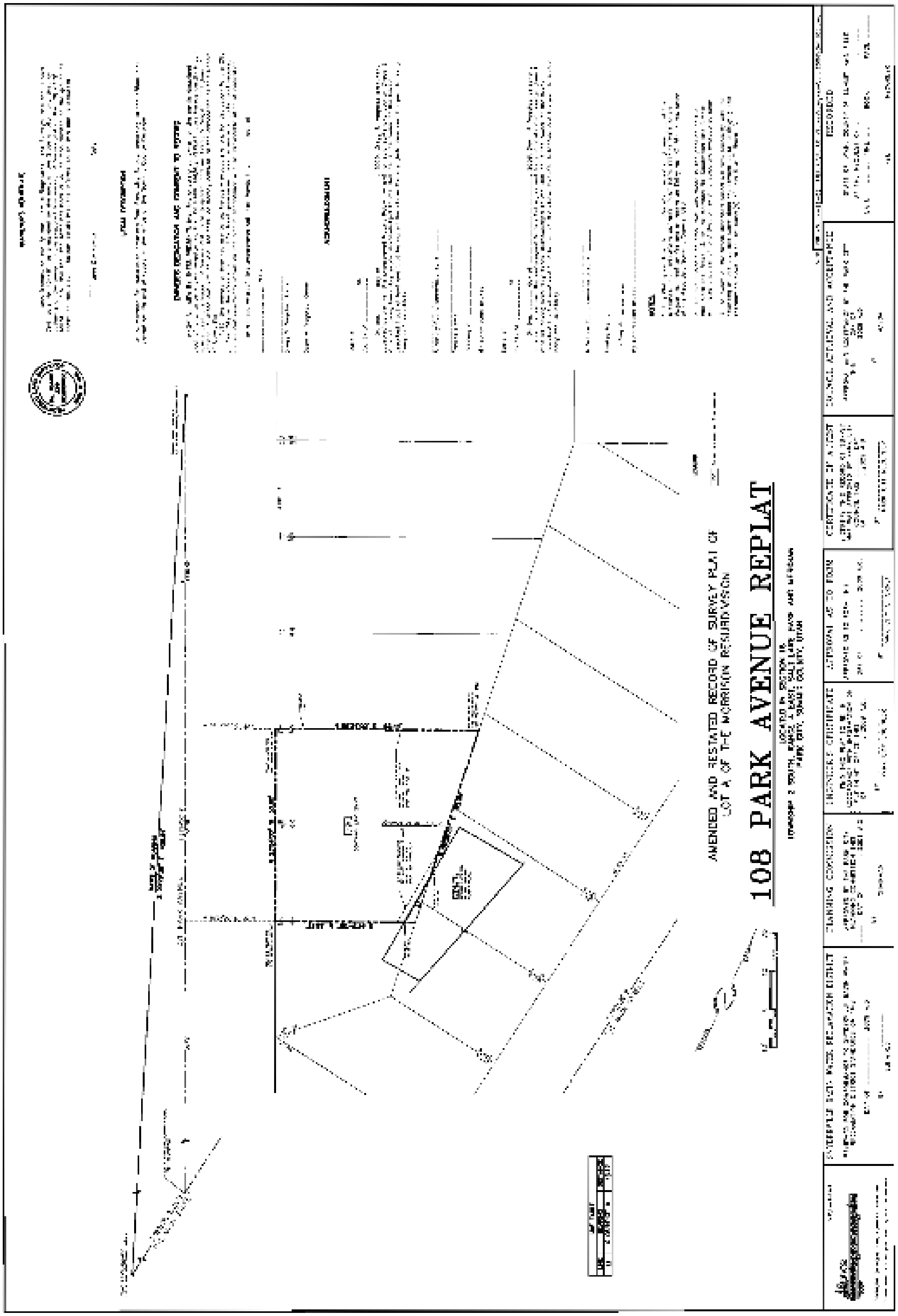
Attest:

____
Janet M. Scott, City Recorder

Approved as to form:

____
Mark D. Harrington, City Attorney

Attachment 1



City Council
Staff Report

Author: Heinrich Deters/Jonathan Weidenhamer
Subject: Traffic Calming RFP contract award
Date: March 12, 2009
Type of Item: Administrative - Award of Contract

Summary Recommendation –
Authorize The City Manager to enter into a service provider agreement with Fehr & Peers Transportation Consultants to make Neighborhood Traffic Calming Recommendations in the amount of $31,330 in a form approved by the City Attorney.

Topic: Service Provider Agreement for Neighborhood Traffic Calming Recommendations

Background:
Several of the approved walkability projects identified a series of neighborhood traffic calming issues. The WALC recommendations identified hiring a professional firm to conduct a series of technical studies and make recommendations to support neighborhood traffic calming efforts. An RFP was issued February 7, 2009. Seven firms responded. A seven member selection team comprised of the following members reviewed the proposals:

Jonathan Weidenhamer – Economic Development Manager
Heinrich Deters- Trails Coordinator
Matt Twombly –Parks Planner and Project Manager
Jerry Gibbs - Public Works Manager
Phil Kirk –Police Captain
Matt Cassel – City Engineer
Alex Butwinski – Citizen at Large

The seven firms who responded and their proposals are as follows:

Fehr & Peer's Transportation Consultants	$29,830
Horrock's Engineering	$87,756
InterPlan	$32,907
Hales Engineering	$21,940
Al Naif Consulting and Engineering	$10,250
WLB Group	$92,000
Kittleson & Associates Inc	Not to exceed $50,000

Analysis:
Selection of a firm was based on the following criteria:

1. Traffic Calming program experience and consulting services to municipalities
2. Experience with walkable/bikeable community planning
3. Qualifications on Technical and Educational Support Needs
4. Ability to be responsive and available to City Staff and the affected neighborhoods
5. Cost effectiveness

Fehr & Peers Transportation Consultants were chosen because of their project approach and demonstration of experience on similar projects. The study is scheduled to begin immediately with the compilation of background information (pedestrian, bicycle, and vehicle counts; as well as existing road way conditions), a stakeholder's charrette, draft plan, public open house and presentation to the NTMP committee (see Scope of Services attached to the Agreement Exhibit A Addendum A). The schedule calls for Council approval of recommendations by June, 2009. The dates for the public open house once finalized will be well publicized.

Upon approval of the recommendations, and depending on the nature of the proposed recommendations, staff will procure the services of an engineer to design any capital improvements recommended and then upon completion of the design and engineering bid the contracts for the improvements. Depending on the recommendations some improvements (striping, signs) may be performed by the City.

Department Review: This report has been reviewed by representatives of Sustainability, Legal Departments and the City Manager's Office and their comments have been integrated into this report.

Alternatives:

A. **Approve the request, and authorize the City Manager to execute the service provider agreement as attached: (Staff recommendation)**
B. Modify the request: Council could choose to modify the agreement, which would likely delay the schedule of the project with approval by June.
C. Deny the request: Council could choose to not continue with the project at this time.
D. Continue the Item: Council may feel there is not enough information to make a decision, which will delay the project and the proposed schedule.
E. Do Nothing: Same effect as continuance.

Significant Impacts:
There is currently approximately $1.4 million budgeted for Traffic Calming in WALC bond funds based on WALC recommendations. Depending on the approved recommendations, Public Works and other City staff resources may be required to complete the recommended improvements.

Staff Recommendations:
Authorize The City Manager to execute the attached service provider agreement with Fehr & Peers Transportation Consultants to make Neighborhood Traffic Calming Recommendations in the amount of $31,330 in a form approved by the City Attorney.

Exhibits:
Exhibit A - Professional Services Provider Agreement

Exhibit A

PARK CITY MUNICIPAL CORPORATION SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into in duplicate this ____ day of _____________, 2009, by and between PARK CITY MUNICIPAL CORPORATION, a Utah municipal corporation, ("City"), and Fehr & Peers Transportation Consultants, a Utah corporation ("Service Provider").

WITNESSETH:

WHEREAS, the City desires to have certain services and tasks performed as set forth below requiring specialized skills and other supportive capabilities; and

WHEREAS, sufficient City resources are not available to provide such services; and

WHEREAS, the Service Provider represents that the Service Provider is qualified and possesses sufficient skills and the necessary capabilities, including technical and professional expertise, where required, to perform the services and/or tasks set forth in this Agreement.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, the parties hereto agree as follows:

1. SCOPE OF SERVICES.

The Service Provider shall perform such services and accomplish such tasks, including the furnishing of all materials and equipment necessary for full performance thereof, as are identified and designated as Service Provider responsibilities throughout this Agreement and as set forth in the "Scope of Services" attached hereto as "Addendum A" and incorporated herein (the "Project"). The total fee for the Project shall not exceed **$31,330** Dollars.

2. TERM.

The term of this Agreement shall commence on the date of execution on this Agreement and shall terminate on July 31, 2009 or earlier, unless extended by mutual written agreement of the Parties.

3. COMPENSATION AND METHOD OF PAYMENT.

A. Payments for services provided hereunder shall be made monthly following the performance of such services.

B. No payment shall be made for any service rendered by the Service Provider except for services identified and set forth in this Agreement.

C. For all "extra" work the City requires, the City shall pay the Service Provider for work performed under this Agreement according to the schedule attached hereto as "Addendum B," or if none is attached, as subsequently agreed to by both parties in writing.

D. The Service Provider shall submit to the City Manager or his designee on forms approved by the City Manager, an invoice for services rendered during the pay period. The City shall make payment to the Service Provider within thirty (30) days thereafter. Requests for more rapid payment will be considered if a discount is offered for early payment. Interest shall accrue at a rate of six percent (6%) per annum for services remaining unpaid for sixty (60) days or more.

E. The Service Provider reserves the right to suspend or terminate work and this Agreement if any unpaid account exceeds sixty (60) days.

4. <u>REPORTS AND INSPECTIONS</u>.

A. The Service Provider, at such times and in such forms as the City may require, shall furnish the City such statements, records, reports, data, and information as the City may request pertaining to matters covered by this Agreement.

B. The Service Provider shall at any time during normal business hours and as often as the City may deem necessary, make available for examination of all its records and data with respect to all matters covered, directly or indirectly, by this Agreement and shall permit the City or its designated authorized representative to audit and inspect other data relating to all matters covered by this Agreement. The City may, at its discretion, conduct an audit at its expense, using its own or outside auditors, of the Service Provider's activities, which relate directly or indirectly, to this Agreement.

5. <u>INDEPENDENT CONTRACTOR RELATIONSHIP</u>.

A. The parties intend that an independent Service Provider/City relationship will be created by this Agreement. No agent, employee, or representative of the Service Provider shall be deemed to be an employee, agent, or representative of the City for any purpose, and the employees of the Service Provider are not entitled to any of the benefits the City provides for its employees. The Service Provider will be solely and entirely responsible for its acts and for the acts of its agents, employees, subcontractors or representatives during the performance of this Agreement.

B. In the performance of the services herein contemplated the Service Provider is an independent contractor with the authority to control and direct the performance of the details of the work, however, the results of the work contemplated herein must meet the approval of the City and shall be subject to the City's general rights of inspection and review to secure the satisfactory completion thereof.

6. SERVICE PROVIDER EMPLOYEE/AGENTS.

The City may at its sole discretion require the Service Provider to remove an employee(s), agent(s), or representative(s) from employment on this Project. The Service Provider may, however, employ that (those) individuals(s) on other non-City related projects.

7. HOLD HARMLESS INDEMNIFICATION.

A. The Service Provider shall indemnify and hold the City and its agents, employees, and officers, harmless from and shall process and defend at its own expense any and all claims, demands, suits, at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against the City arising out of, in connection with, or incident to the execution of this Agreement and/or the Service Provider's defective performance or failure to perform any aspect of this Agreement; provided, however, that if such claims are caused by or result from the concurrent negligence of the City, its agents, employees, and officers, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Service Provider; and provided further, that nothing herein shall require the Service Provider to hold harmless or defend the City, its agents, employees and/or officers from any claims arising from the sole negligence of the City, its agents, employees, and/or officers. The Service Provider expressly agrees that the indemnification provided herein constitutes the Service Provider's limited waiver of immunity as an employer under Utah Code Section 34A-2-105; provided, however, this waiver shall apply only to the extent an employee of Service Provider claims or recovers compensation from the City for a loss or injury that Service Provider would be obligated to indemnify the City for under this Agreement. This limited waiver has been mutually negotiated by the parties, and is expressly made effective only for the purposes of this Agreement. The provisions of this section shall survive the expiration or termination of this Agreement.

B. No liability shall attach to the City by reason of entering into this Agreement except as expressly provided herein.

8. INSURANCE.

The Service Provider shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Service Provider, their agents, representatives, employees, or subcontractors. The Service Provider shall provide a Certificate of Insurance evidencing: (*amend the following insurance requirements as applicable*)

A. General Liability insurance written on an occurrence basis with limits no less than one million dollars ($1,000,000) combined single limit per occurrence and two million dollars ($2,000,000) aggregate for personal injury, bodily injury and property damage.

The Service Provider shall increase the limits of such insurance to at least the amount of the Limitation of Judgments described in Section 63-30d-604 of the Governmental Immunity Act of Utah, as calculated by the state risk manager every two years and stated in Utah Admin. Code R37-4-3.

B. Automobile Liability insurance with limits no less than one million dollars ($1,000,000) combined single limit per accident for bodily injury and property damage.

C. Professional Liability (Errors and Omissions) insurance written on claims made basis with limits no less than one million dollars ($1,000,000) combined single limit per occurrence.

D. Workers Compensation insurance limits written as follows:
Bodily Injury by Accident $1,000,000 each accident;
Bodily Injury by Disease $1,000,000 each employee, $1,000,000 policy limit

E. The City shall be named as an additional insured on the insurance policies, as respect to work performed by or on behalf of the Service Provider and a copy of the endorsement naming the City as an additional insured shall be attached to the Certificate of Insurance. The Certificate of insurance shall warrant that the City shall receive thirty (30) days advance notice of cancellation. The City reserves the right to request certified copies of any required policies.

F. The Service Provider's insurance shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

9. TREATMENT OF ASSETS.

Title to all property furnished by the City shall remain in the name of the City and the City shall become the owner of the work product and other documents, if any, prepared by the Service Provider pursuant to this Agreement (contingent on City's performance hereunder).

10. COMPLIANCE WITH LAWS.

A. The Service Provider, in the performance of this Agreement, shall comply with all applicable federal, state, and local laws and ordinances, including regulations for licensing, certification and operation of facilities, programs and accreditation, and licensing of individuals, and any other standards or criteria as described in this Agreement to assure quality of services. Unless otherwise exempt, the Service Provider is required to have a valid Park City Business License.

B. The Service Provider specifically agrees to pay any applicable fees or charges which may be due on account of this Agreement.

11. NONDISCRIMINATION.

A. The City is an equal opportunity employer.

B. In the performance of this Agreement, the Service Provider will not discriminate against any employee or applicant for employment on the grounds of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap; provided that the prohibition against discrimination in employment because of handicap shall not apply if the particular disability prevents the proper performance of the particular worker involved. The Service Provider shall ensure that applicants are employed, and that employees are treated during employment without discrimination because of their race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to: employment, upgrading, demotion or transfers, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and programs for training including apprenticeships. The Service Provider shall take such action with respect to this Agreement as may be required to ensure full compliance with local, state and federal laws prohibiting discrimination in employment.

C. The Service Provider will not discriminate against any recipient of any services or benefits provided for in this Agreement on the grounds of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap.

D. If any assignment or subcontracting has been authorized by the City, said assignment or subcontract shall include appropriate safeguards against discrimination. The Service Provider shall take such action as may be required to ensure full compliance with the provisions in the immediately preceding paragraphs herein.

12. ASSIGNMENTS/SUBCONTRACTING.

A. The Service Provider shall not assign its performance under this Agreement or any portion of this Agreement without the written consent of the City, and it is further agreed that said consent must be sought in writing by the Service Provider not less than thirty (30) days prior to the date of any proposed assignment. The City reserves the right to reject without cause any such assignment.

B. Any work or services assigned hereunder shall be subject to each provision of this Agreement and property bidding procedures where applicable as set forth in local, state or federal statutes, ordinance and guidelines.

C. Any technical/professional service subcontract not listed in this Agreement, must have express advance approval by the City.

13. CHANGES.

Either party may request changes to the scope of services and performance to be provided hereunder, however, no change or addition to this Agreement shall be valid or binding upon either party unless such change or addition be in writing and signed by both parties. Such amendments shall be attached to and made part of this Agreement.

14. MAINTENANCE AND INSPECTION OF RECORDS.

A. The Service Provider shall maintain books, records and documents, which sufficiently and properly reflect all direct and indirect costs related to the performance of this Agreement and shall maintain such accounting procedures and practices as may be necessary to assure proper accounting of all funds paid pursuant to this Agreement. These records shall be subject at all reasonable times to inspection, review, or audit by the City, its authorized representative, the State Auditor, or other governmental officials authorized by law to monitor this Agreement.

B. The Service Provider shall retain all books, records, documents and other material relevant to this Agreement for six (6) years after its expiration. The Service Provider agrees that the City or its designee shall have full access and right to examine any of said materials at all reasonable times during said period.

15. POLITICAL ACTIVITY PROHIBITED.

None of the funds, materials, property or services provided directly or indirectly under the Agreement shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office.

16. PROHIBITED INTEREST.

No member, officer, or employee of the City shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

17. MODIFICATIONS TO TASKS AND MISCELLANEOUS PROVISIONS.

A. All work proposed by the Service Provider is based on current government ordinances and fees in effect as of the date of this Agreement.

B. Any changes to current government ordinances and fees which affect the scope or cost of the services proposed may be billed as an “extra” pursuant to Paragraph 3(C), or deleted from the scope, at the option of the City.

C. The City shall make provision for access to the property and/or project and adjacent properties, if necessary for performing the services herein.

18. <u>TERMINATION</u>.

A. Either party may terminate this Agreement, in whole or in part, at any time, by at least thirty (30) days written notice to the other party. The Service Provider shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Service Provider shall promptly submit a termination claim to the City. If the Service Provider has any property in its possession belonging to the City, the Service Provider will account for the same, and dispose of it in a manner directed by the City.

B. If the Service Provider fails to perform in the manner called for in this Agreement, or if the Service Provider fails to comply with any other provisions of the Agreement and fails to correct such noncompliance within three (3) days written notice thereof, the City may immediately terminate this Agreement for cause. Termination shall be effected by serving a notice of termination on the Service Provider setting forth the manner in which the Service Provider is in default. The Service Provider will only be paid for services performed in accordance with the manner of performance set forth in this Agreement.

19. <u>NOTICE</u>.

Notice provided for in this Agreement shall be sent by certified mail to the addresses designated for the parties on the last page of this Agreement.

20. <u>ATTORNEYS FEES AND COSTS</u>.

If any legal proceeding is brought for the enforcement of this Agreement, or because of a dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the prevailing party shall be entitled to recover from the other party, in addition to any other relief to which such party may be entitled, reasonable attorney’s fees and other costs incurred in that action or proceeding.

21. <u>JURISDICTION AND VENUE</u>.

A. This Agreement has been and shall be construed as having been made and delivered within the state of Utah, and it is agreed by each party hereto that this Agreement shall be governed by laws of the state of Utah, both as to interpretation and performance.

B. Any action of law, suit in equity, or judicial proceeding for the enforcement of this Agreement, or any provisions thereof, shall be instituted and maintained only in any of the courts of competent jurisdiction in Summit County, Utah.

22. <u>SEVERABILITY</u>.

A. If, for any reason, any part, term, or provision of this Agreement is held by a court of the United States to be illegal, void or unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.

B. If it should appear that any provision hereof is in conflict with any statutory provision of the state of Utah, said provision which may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform in such statutory provisions.

23. <u>ENTIRE AGREEMENT</u>.

The parties agree that this Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are excluded. Further, any modification of this Agreement shall be in writing and signed by both parties. Failure to comply with any of the provisions stated herein shall constitute material breach of contract and cause for termination. Both parties recognize time is of the essence in the performance of the provisions of this Agreement. It is also agreed by the parties that the forgiveness of the
nonperformance of any provision of this Agreement does not constitute a waiver of the provisions of this Agreement.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed the day and year first hereinabove written.

PARK CITY MUNICIPAL CORPORATION
1354 Park Avenue

Post Office Box 1480
Park City UT 84060-1480

____
Tom Bakaly, City Manager

Attest:

____
Jan Scott, City Recorder

Approved as to form:

____
Polly Samuels McLean Assistant City Attorney

SERVICE PROVIDER
Fehr & Peers Transportation Consultants
John Nepstad Principal Planner
2180 South 1300 East, Suite 220
Salt Lake City, UT. 84106

Tax ID#: _______________________

____
Signature

____
Printed name

____
Title

STATE OF UTAH)
) ss.
COUNTY OF SUMMIT)

On this ____ day of ________________, 2009, Jon Nepstad personally appeared before me _____________________________, whose identity is personally known to me/or proved to me on the basis of satisfactory evidence and who by me duly sworn/affirmed, did say that he is the Principal Planner of Fehr & Peer's Corporation by Authority of its Bylaws/Resolution of the Board of Directors, and acknowledged that he signed it voluntarily for its stated purpose as Principal Planner for Fehr & Peer's, a Utah corporation.

____
Notary Public

ADDENDUM "A"

SCOPE OF SERVICES

II. PROJECT UNDERSTANDING AND APPROACH

The traffic calming projects identified in the RFP had their genesis in recommendations made by WALC, the walkability committee. The WALC recommendations are intended to fulfill the obligations of the walkability bond approved by Park City voters in 2007. Considerable thought and attention went into developing these recommendations, and it is not our role to re-invent or second-guess them. Rather, it is our role to help Park City staff implement these projects in the most technically sound and cost-efficient manner, following national standards and guidelines to meet project goals. Furthermore, it is our role to educate the public and decision-makers on the value of traffic calming devices and programs, and serve as the voice of third-party, objective technical experts.

Park City Traffic Calming
Week Starting

	3/9/2009	3/16/2009	3/23/2009	3/30/2009	4/6/2009	4/13/2009	4/20/2009	4/27/2009	5/4/2009	5/11/2009	5/18/2009	5/25/2009	6/1/2009	6/8/2009
Task 0 - Finalize Scope	■													
Milestone 1 - Contract - 3/13/09	★													
Task 1.1 - Background Information		■	■											
Task 2.1 - Stakeholders Charrette				■										
Milestone 2 - Charrette - 3/13/09 and 4/1/09				★										
Task 2.2 - Draft Plan Development					■	■	■	■	■					
Task 2.3 - Public Meeting - 4/20/09							★							
Milestone 3 - Draft Plan to Park City - 5/5/09									★					
Milestone 4 - NTMC meeting - 5/13/09										★				
Task 3 - Formulate Final Plan										■	■	■		
Milestone 5 - City Council - 6/4/09													★	

Step 1: Preliminary Work

Task 1.1 – Background Information

Because we are aware of the previous work in Park City, we have already reviewed the WALC recommendations, Park City's traffic calming policy, the Walkability Study, and prior traffic calming reports completed for the City. These documents provided valuable information in terms of context for the proposed recommendations, and desired format for recommendations that we will provide. Previous reports have established a desired format for traffic calming recommendations; while we do not intend to reinvent the wheel, we can certainly strengthen the wheel by adding more spokes. For instance, we would suggest evaluating relevant and valuable crash data, and addressing potential enforcement and educational approaches for traffic calming in addition to engineering solutions.

The Fehr & Peers team will work to improve upon prior efforts and fill the gaps where needed and applicable. In addition, we will collect available data from City staff and other sources including, but not limited to:

- Traffic information, including speeds, volumes, and collision records, for the project locations
- Roadway characteristics such as the presence of parking, pavement conditions, and signage and striping inventory
- Transit data such as routes, stop locations, and identification of high-activity transit stops
- Emergency routes and access locations
- Bicycle and pedestrian counts at the project locations, indicating numbers of each, directional paths of travel, and general cyclist characteristics (commuter vs. recreational)

Our staff has already collected data on existing pavement widths, roadway conditions, sidewalk locations and widths, pavement markings, and signage. This information will be summarized in a Baseline Conditions technical memorandum, providing Park City with an excellent inventory of existing conditions.

Step 2: Develop Alternatives and Recommendations

Task 2.1 – Stakeholders Charrette

There is no substitute for collaborative planning. Using the expertise of Reid Ewing, Fehr & Peers will facilitate a two-day charrette with members of the Neighborhood Traffic Management Committee (NTMC) and our project team to tour the project sites, evaluate traffic and pedestrian conditions in the field, and generate several traffic calming alternatives to address concerns. In addition to the City departments in the NTMC, these groups should be included as well: the fire department, Park City Transit, Park City School District, and maintenance. Preliminary recommendations and solutions developed through the stakeholders charrette will be discussed with the NTMC on April 8, 2009, as identified in the RFP. Following the April 8th meeting, Fehr & Peers will proceed to develop the draft plan.

Task 2.2 – Draft Plan Development

Using the process identified in Task 2.1 as a springboard, we will prepare a document addressing traffic calming plans for the project sites. The plan will document the issues associated with the need for traffic calming, summarize the information and data gathered, identify two to four proposed alternatives to address issues at each project site, and make a recommendation for the most appropriate solution. Our alternatives analysis will include cost, advantages and disadvantages, schematics, operations and maintenance concerns, and photo simulations of proposed alternatives. This information will be useful in communicating proposed alternatives plan to the public.

Task 2.3 – Public Meetings

Well known to Park City staff, Fehr & Peers' public involvement strategists will advertise for and facilitate a neighborhood meeting to educate the public on traffic calming concepts and describe the proposed alternatives for the project sites. The meeting will have the following structure:

- Brief opening presentation (10-20 minutes) on the benefits of traffic calming and the facets of traffic calming programs.
- After the presentation, the meeting will have an open-house format with displays showing:
  - Project sites
  - Issue identification
  - Relevant data
  - Two to four proposed solutions for each project site
- Meeting attendees can provide feedback on proposed solutions using comment cards.
- Visualization station with project sites and issues identified on Google Earth.

Once we have heard from the public, we will compile a draft document for review by the NTMC and will meet with the committee on May 13, 2009, as identified in the RFP. Upon receiving approval from the NTMC on proposed solutions, we will present technical findings and recommendations to the City Council. While the RFP did not specifically request a Planning Commission meeting, it is our experience in working with Park City that Planning Commission members also wish to be kept apprised of projects. We would happily meet with the Planning Commission in a work session per direction from staff.

Step 3: Formulate Final Recommendations

Based on the feedback received from the NTMC and from the neighborhood, City Council, and (proposed) Planning Commission meetings, we will formulate final recommendations for the traffic calming projects. Preliminary design drawings, as needed, will be developed for preferred solutions and cost estimates will be refined in order to help prepare Park City for the construction phase. It is our understanding that design beyond a preliminary stage is not desired for this project; should that change, we would be delighted to provide final design drawings for proposed improvements.

Park City Walkable Community & Traffic Calming Recommendations

Task	Description	Jon Nepstad	Maria Vyas	Reid Ewing	Kyle Cook	Jeff Gulden		Total Hours by Task		TOTAL COST BY TASK
1	**Recommendations**							**Total Task**	**140**	**$ 17,860**
A	Evaluation		4	2	16				22	$ 2,510
B	Review of Policies		2	4		2			8	$ 1,230
C	Develop and Provide Recommendations (Charette)	4	16	16	8	16			60	$ 8,620
D	Technical Support		4		8	2			14	$ 1,610
E	Conceptual Traffic Plans		2		32	2			36	$ 3,890
2	**Presentations to Staff & Neighborhood Com.**							**Total Task**	**42**	**$ 5,480**
A	Prelim Discussion (Charette wrap-up)	4	4	4	4	4			20	$ 2,920
B	Final Project Recommendations		2	2	16	2			22	$ 2,560
3	**Public Meeting Support**							**Total Task**	**16**	**$ 2,440**
A	Neighborhood Meeting	4	4						8	$ 1,220
B	City Council Meeting	4	4						8	$ 1,220
4	**Final Recommendations**							**Total Task**	**28**	**$ 3,450**
A	Report, Maps	2	16	1	8	1			28	$ 3,450
Total Hours		18	58	29	92	29			226	
Rate		$185	$120	$175	$105	$145				
Total Labor Cost										**$29,230**
Direct Costs - Mileage, Travel										$600
Total Estimate										**$29,830**

*After reviewing the existing traffic counts provided by PCMC, the consultant has requested an additional $1500 to perform further traffic and pedestrian counts within the projects scope. Final contract services total $31,330

City Council
Staff Report

Author: Cindy LoPiccolo, Executive Department
Subject: Ordinance Amending Municipal Code Title 3, Chapter 3, Campaign Disclosure
Date: March 12, 2009
Type of Item: Legislative

Summary Recommendations:

Consideration of the proposed Ordinance amending Title 3, Chapter 3, of the Park City Municipal Code.

DESCRIPTION

Topic:

Amendment of Park City Municipal Code Title 3, Chapter 3, Campaign Disclosure.

Background:

Chapter 3 of the Ethics Code was adopted by the City Council of Park City to promote the integrity of the City, and require public campaign disclosure pursuant to Utah State code in regard to City municipal elections.

State legislation is reviewed annually and legislative actions affecting municipal campaign disclosure are incorporated into the City's Ethics ordinance. At this time, 2008 Legislation pertaining to procedures governing public inspection of campaign finance statements has been incorporated into this proposed ordinance.

Utah State code provides that a municipality may require greater disclosure of campaign contributions and expenditures than is required by the state. On May 31, 2007, Council approved amendment of Title 3, Chapter 3, to reflect minimum state code requirements in regard to campaign finance reporting and an additional requirement for candidates to file a campaign finance statement prior to a Primary Election was eliminated. Opposition was expressed by the local media that it was their opinion it was in the best interest of the voters and public to have access to campaign finance information prior to Primary Elections. Council concurred public disclosure was important and this matter should be re-addressed.

Analysis:

The purpose of this proposed amendment to the City's Ethics Code in regard to campaign financing, is to return campaign reporting requirements to what they were prior to amendment in 2007, and secondly to properly reflect recent state code requirements and procedures concerning campaign disclosure.

Prior to 2007 one additional reporting requirement was in affect that required candidates to file a campaign finance statement seven days prior to a Primary Election. In 2007 it was eliminated as it was not a state code requirement. The purpose of this additional requirement is to provide greater campaign finance disclosure to the public.

City staff reviewed and included current State Code requirements adopted by the legislature at its 2008 General Session and prepared an Ordinance that reflects current definitions and outlines reporting requirements, procedures, and deadlines that governs the disclosure of campaign contributions and expenditures.

Department Review:
The City Attorney and City Manager have reviewed this matter.

ALTERNATIVES

A. Approve the amendments to Title 3, Chapter 3, of the Municipal Code of Park City, and adopt the proposed Ordinance as presented.
B. Modify the Ordinance. If after public input and discussion the Council desires further changes, it should direct staff accordingly.
C. Continue the item and provide direction to staff.

RECOMMENDATIONS

Consider the amendments to Title 3, Chapter 3, of the Municipal Code of Park City, and adopt or modify the Ordinance as appropriate.

Ordinance No. 09-

AN ORDINANCE AMENDING TITLE 3, CHAPTER 3, CAMPAIGN DISCLOSURE, OF THE MUNICIPAL CODE OF PARK CITY, AND RESCINDING OF ORDINANCE 07-31

WHEREAS, an Ethics Code has been adopted by the City Council of Park City, Utah to establish guidelines for ethical standards of conduct for all City officers and employees; and

WHEREAS, Title 3, Chapter 3 of the Ethics Code has been adopted by the City Council of Park City, Utah to require campaign disclosure by City candidates and Election Official procedures in conformance with Utah State Code Section 10-3-208; and

WHEREAS, the Election Official has reviewed and incorporated 2008 legislative amendments and requirements of the Utah State Code for municipalities in regard to public inspection and copying of campaign financial disclosure statements; and

WHEREAS, pursuant to State Code Section 10-3-208(3)(a)(ii) a municipality may, by ordinance require greater disclosure of campaign contributions and expenditures than is required, and

WHEREAS, the Council finds in order to provide public disclosure of campaign finance expenditures and contributions to the public prior to each City election, a requirement for an additional financial statement is appropriate in order to cover the period prior to a Primary Election; and

WHEREAS, the City Council finds that the proposed changes to Chapter 3 of the Ethics Code are appropriate and necessary to reflect State legislative amendments and requirements, and the City's requirements concerning municipal campaign disclosure.

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

SECTION 1. AMENDMENT TO TITLE 3, CHAPTER 3, OF THE PARK CITY MUNICIPAL CODE AND RESCINDING OF ORD. 07-31 Ordinance No. 07-31 is hereby rescinded, and Title 3, Chapter 3, of the Municipal Code of Park City hereby amended as follows and table of contents adjusted accordingly:

TITLE 3 - ETHICS

CHAPTER 3 - CAMPAIGN DISCLOSURE

3- 3- 1. PURPOSE.

It is the intent of this section to encourage candidates for the office of Mayor or Council member to follow the basic principles of decency, honesty, and fair play in order that, there be fairly conducted campaigns and that the citizens of Park City may exercise their constitutional right to vote, free from dishonest and unethical practices.

3- 3- 2. DEFINITIONS.

(A) **CAMPAIGN STATEMENT**. Sworn election campaign contribution and expenditure statement prepared and executed by a candidate.

(B) **CAMPAIGN COMMITTEE**. A committee of citizens formed to campaign for a specific candidate.

(C) **CANDIDATE**. Any person who:

(1) Files a declaration of candidacy for an elected office of the City; or

(2) Received contributions or made expenditures or consents to another person receiving contributions or making expenditures with a view to bringing about such person's nomination or election to such office; or

(3) Causes on his or her behalf, any written material or advertisement to be printed, published, broadcast, distributed or disseminated which indicates an intention to seek such office.

(D) **CONTRIBUTION**.

(1) Any of the following when done for political purposes:

(a) A gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value, or on behalf of a candidate, or a candidate's election committee.

(b) An express, legally-enforceable contract, promise, or agreement to make a gift, subscription, donation, loan, advance, or deposit of money or anything of value to or on behalf of a candidate, or a candidate's election committee.

(c) Any transfer of funds from a political committee, a party committee, another candidate, an officeholder, or a campaign committee to a candidate, or a candidate's election committee.

(d) Compensation paid by any person or committee, other than the candidate, or the candidate's election committee, for person services rendered for, but without charge to, the candidate or the candidate's election committee;

(e) Goods or services provided at less than fair market value to, or for the benefit of a candidate, or a candidate's election committee.

(2) For the purposes of this Chapter, contributions other than money or its equivalent shall be deemed to have a value equivalent to the fair market value of the contribution.

(3) "Contribution" does not include:

(a) services provided without compensation by an individual or individuals volunteering their time on behalf of a candidate, or a candidate's election committee;

(b) money lent to a candidate or a candidate's election committee, at market rate, in the ordinary course of business.

(E) **DISBURSEMENT**. Monies, transfers, or other withdrawals from a fund for any purpose.

(F) **EXPENDITURE**.

(1) Any disbursement from contributions, receipts or from the separate bank account as required by this Chapter;

(2) A purchase, payment, donation, distribution, loan, advance, deposit, gift of money or anything of value, made by or on behalf of a candidate or a candidate's election committee for political purposes;

(3) An express, legally-enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money or anything of value, by or on behalf of a candidate or the candidate's election committee for political purposes;

(4) A transfer of funds between political or party committees and a candidate's election committee; or

(5) Goods or services provided to or for the benefit of another candidate or another candidate's election committee for political purposes at less than fair market value.

(6) Expenditure does not mean services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate.

(G) **ELECTION OFFICIAL**. The City Recorder or designee.

(H) **FINANCIAL STATEMENT**. A statement disclosing contributions, expenditures, receipts, donations, or disbursements that is required by this Chapter.

(I) **POLITICAL PURPOSE**. An act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any candidate for public office at any primary or general election.

(J) **REPORTING DATE**. (i) ten (10) days before primary or municipal general election, for a campaign finance statement required to be filed no later than seven (7) days before a municipal primary or general election; and (ii) the day of filing, for a campaign finance statement required to be filed no later than thirty (30) days after a municipal primary or general election.

(K) **REPORTING LIMIT**. $50.

(~~J~~L) **SUROGATE**. Any committee, party, organization, or other person or group who holds or maintains a fund for the benefit of an elected official.

3- 3- 3. SEPARATE BANK ACCOUNT REQUIRED.

(A) Each candidate or candidate's personal election committee shall deposit each contribution received in one or more separate campaign accounts in a financial institution.

(B) The candidate or candidate's personal campaign committee may use the monies in those accounts for political purposes only.

(C) A candidate or a candidate's personal campaign committee may not deposit or mingle any contributions received in a personal or business account.

(D) If a person is no longer a candidate, surplus campaign funds must be dispersed pursuant to criteria in Section 3- 3- 6 below and reported in the candidate's final campaign statement.

3- 3- 4. CONTRIBUTIONS TO CANDIDATES - LIMITATIONS.

(A) No person shall make cash contributions, the total of which exceeds fifty dollars ($50.00), during any one campaign, to any candidate or his or her authorized election campaign committee, with respect to any election for City office; however, there shall be no limit as to the amount contributed by a person or entity to an election committee or candidate if that contribution is made in the form of a personal or certified check or bank draft.

(B) The acceptance of anonymous contributions is prohibited. Any anonymous contribution received by a candidate or election committee shall be transmitted to the City Treasurer for deposit in the general fund.

3- 3- 5. CAMPAIGN CONTRIBUTIONS AND EXPENDITURES TO BE REPORTED.

Each candidate or election campaign committee must file a sworn campaign contribution and expenditure finance statement, that reports all of the candidate's itemized and total campaign contributions, including in-kind and other non-monetary contributions, and campaign expenditures, as of the reporting date; as follows:

(A) **SWORN ELECTION CAMPAIGN CONTRIBUTION AND EXPENDITURE FINANCE STATEMENT - CONTENT**. The campaign finance statements shall include a detailed listing of each monetary and service contribution received and expenditure made, as follows:

(1) **Contributions**. A list of campaign contributions more than fifty dollars ($50.00) received by, or on behalf of, the candidate or his/her election committee, including:

(a) the name and address of the contributor;

(b) the date contribution was received;

(c) dollar amount contributed or fair market value of service contributed; and

(f) a net balance of contributions for the period.

(2) **Contributions Fifty Dollars ($50.00) or Less**.

(a) For all individual contributions or public service assistance $50 or less, a single aggregate figure may be reported without separate detailed listings.

(b) Two (2) or more contributions from the same source that have an aggregate total more than $50 may not be reported in the aggregate, but shall be reported separately per section (1) above.

(3) **Expenditures**. A list of expenditures made and obligations incurred as a part of the campaign effort shall include:

(a) the name and address of every recipient to whom disbursement was made;

(b) the amount expended or for each nonmonetary expenditure, the fair market value of the expenditure;

(c) the date of payment; and

(d) a net balance of expenditures for the period.

(4) **Statements Balances**. Each campaign statement shall include the net balance from the previous statement, if any, and show a net balance from the last statement plus all receipts minus all expenditures.

(B) **REPORTING SWORN ELECTION CAMPAIGN CONTRIBUTION AND EXPENDITURE FINANCE STATE IN THE EVENT OF A PRIMARY ELECTION – DEADLINE**. In the event a Primary Election is required, every candidate running for the office of Mayor or City Council shall file an initial campaign statement with the election official at least seven (7) calendar days preceding the date of the primary election. See criteria outlined in Section (A).

(C~~B~~) **REPORTING FINAL SWORN ELECTION CAMPAIGN CONTRIBUTION AND EXPENDITURE FINANCE STATEMENT BY CANDIDATES ELIMINATED IN PRIMARY - DEADLINE**. Those candidates eliminated in the primary election must file a final campaign finance statement with the election officer within thirty (30) calendar days after the primary election reporting any and all campaign contributions, including in-kind and other non-monetary contributions received, and any and all campaign expenditures made, pursuant to criteria outlined in Section (A) above.

The final campaign finance statement shall contain a paragraph signed by the candidate certifying that, to the best of the candidate's knowledge, all receipts and all expenditures have been reported as of the date the statement is executed, and that there are no bills or obligations outstanding and unpaid except as set forth in that report.

Refer to Section 3-3-6 below concerning disposition of surplus campaign funds.

(D~~C~~) **REPORTING SWORN ELECTION CAMPAIGN CONTRIBUTION AND EXPENDITURE FINANCE STATEMENT PRECEDING MUNICIPAL GENERAL ELECTION - DEADLINE**. Every candidate eligible for the office of Mayor or City Council in the general election shall file a campaign finance statement with the election official at least seven (7) calendar days preceding the date of the general municipal election reporting campaign contributions, including in-kind and other non-monetary contributions received before the close of the reporting date, and campaign expenditures made through the close of the reporting date, pursuant to criteria outlined in Section (A) above.

(E~~D~~) **REPORTING FINAL SWORN ELECTION CAMPAIGN CONTRIBUTION AND EXPENDITURE FINANCE STATEMENT - DEADLINE**. All candidates in the general election must file a final campaign finance statement with the election official within thirty (30) days after the general election reporting campaign contributions, including in-kind and other non-monetary contributions received before the close of the reporting date, and campaign expenditures made through the close of the reporting date, pursuant to criteria outlined in Section (A) above.

The final campaign finance statement shall contain a paragraph signed by the candidate certifying that, to the best of the candidate's knowledge, all receipts and all expenditures have been reported as of the date the statement is executed, and that there are no bills or obligations outstanding and unpaid except as set forth in that report.

Refer to Section 3-3-6 below concerning disposition of surplus campaign funds.

(F~~E~~) **AMENDED FINAL SWORN ELECTION CAMPAIGN CONTRIBUTION AND EXPENDITURE FINANCE STATEMENT**. In the event a candidate or candidate's campaign committee receives a contribution or makes expenditure after the candidate's final campaign finance statement has been submitted to the election officer, an amended final sworn campaign finance statement must be filed with the election official within five (5) days of receipt of the contribution.

A campaign finance statement required under this section is considered filed if it is received in the City Recorder's office by 5 p.m. on the date that it is due.

3- 3- 6. DISBURSEMENT OF SURPLUS CAMPAIGN FUNDS.

Surplus campaign funds held by the candidate or candidate's committee must be disbursed at the end of the campaign. Disbursement is normally accomplished by returning contributed monies or other tangible contributions to the contributor, or donating the contributions to a non-profit organization.

The disbursement of any surplus campaign funds must be reported in the final campaign finance statement.

3- 3- 7. FAILURE TO FILE CAMPAIGN FINANCE STATEMENT.

(A) Pursuant to U.C.A. 10-3-208(6), if a candidate fails to file a campaign statement before the municipal general election by the deadline specified above in Section 3-3-5(D):

(1) The election official shall if practicable, remove or have removed the candidate's name from the ballot by blacking out the candidate's name before the ballots are delivered to voters; or

(2) If removing the candidate's name from the ballot is not practicable, the election official shall inform the voters by any practicable method that the candidate has been disqualified and that votes cast for the candidate will not

be counted; and

(3) The election official may not count any votes for that candidate.

(B) Notwithstanding Sections (A) above, a candidate who files a campaign finance statement seven (7) days before a municipal general election is not disqualified if the statement details accurately and completely the information required under Section 3-3-5(A), except for inadvertent omissions or insignificant errors or inaccuracies; and the omissions, errors, or inaccuracies are corrected in an amended report or in the next scheduled report.

3- 3- 8. NOTIFICATION BY ELECTION OFFICIAL.

The municipal clerk, recorder or election official shall, at the time the candidate for municipal office files a declaration of candidacy and again fourteen (14) days before each municipal general election, notify the candidate in writing of:

(A) the provisions of this statute or this ordinance governing the disclosure of campaign contributions and expenditures;

(B) the dates when the candidate's campaign finance statement is required to be filed; and

(C) the penalties that apply for failure to file a timely campaign finance statement, including the statutory provision that requires removal of the candidate's name from the ballot for failure to file the required campaign finance statement when required.

3- 3- 9. PUBLIC INSPECTION.

~~The election official shall accept, at all times prior to the election, all completed forms that are properly subscribed to by a candidate for public office and shall make them available as a public record open for public inspection.~~

(A) The Election Official shall make each campaign finance statement filed by a candidate available for public inspection and copying no later than one (1) business day after the statement is filed, and

(B) make the campaign finance statement filed by a candidate available for public inspection by:

(1) posting an electronic copy or the contents of the statement on the City's website no later than seven (7) business days after the statement is filed; and verifying that the address of the City's website is provided to the Utah Lieutenant Governor pursuant to the requirements of U.C.A. 20A-11-103(5), as amended; or

(2) submitting a copy of the statement to the lieutenant governor for posting on the website established by the lieutenant governor under U.C.A. 20A-11-103, as amended, no later than two (2) business days after the statement is filed.

3- 3- 10. CIVIL ACTION.

(A) Any private party in interest may bring a civil action in district court to enforce the provisions of this section or any ordinance adopted under U.C.A. 10-3-208, as amended.

(B) In a civil action filed under Subsection (A), the court may award costs and attorney's fees to the prevailing party.

SECTION 2. EFFECTIVE DATE. This Ordinance shall become effective upon publication.

PASSED AND ADOPTED this day of , 2009.

PARK CITY MUNICIPAL CORPORATION

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Mayor Dana Williams

Attest:

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Janet M. Scott, City Recorder

Approved as to form:

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Mark D. Harrington, City Attorney