

**PARK CITY COUNCIL WORK SESSION NOTES
SUMMIT COUNTY, UTAH
MARCH 10, 2011**

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

Tom Bakaly, City Manager; Mark Harington, City Attorney; Michael Kovacs, Assistant City Manager; Matt Cassel, City Engineer; Diane Foster, Sustainability Manager; Katie Cattan, Planner; and Thomas Eddington, Planning Manager

Planning Commissioner Charlie Wintzer

Absent: Council Member Candace Erickson

1. Council questions/comments. Cindy Matsumoto commented on Library Board business. Ms. Simpson stated she attended the Mountainlands Community Housing Trust meeting and clarified the affordable housing selling and income level requirements associated with The Line Condominiums. She thanked staff for a comprehensive manager's report and Joe Kernan added that the best practices information was very useful. Alex Butwinski discussed his experiences at the legislature. He attended the Planning Commission meeting where the Park City Heights MPD is being reviewed. Mr. Butwinski stated that he continues to hear concerns from Charlie Wintzer about the construction of the Bonanza Drive Tunnel. Matt Cassel explained that the path down into the tunnel is still ten feet; the side auxiliary path on the surface was planned to be six feet but has been reduced to five.

Mayor Williams thanked staff for their hard work at the legislature. He discussed being the keynote speaker at the Women in the Mountains Conference. Diane Foster explained that this event is associated with Mountain Partners and she felt the City made some good connections at the conference.

2. Legislative update. This is the last day of the 2011 legislative session and Michael Kovacs stated that SB293, amendment to MIDA, has passed. SB301, facilitating an inter-local agreement with UTA for Salt Lake to Park City service, has passed. SB155, purchasing arrangements for construction managers, general contractors, etc. is looking like it will pass. He felt that HB313, charter schools, will hopefully stay in the House and not proceed. Mr. Kovacs advised that a decision on which state liquor stores to close will occur sometime in April. He clarified for Ms. Matsumoto that hours will be shortened in addition to store closures. Tom Bakaly understood that the state has identified 40 stores, including the Swede Alley outlet, of which five or six will be closed. Liza Simpson relayed that unfortunately profitability is not part of the criteria. Alex Butwinski explained the reason was that the rationale for closing good revenue producing stores is that people will drive anywhere to get a drink. Mr. Kovacs explained that the movie studio spot zoning bill SB231 has not moved out of

the Senate and if it doesn't move out of Rules it should be stopped. Mayor Williams expressed his appreciation of other cities defending Park City on this issue and there are many people to thank.

3. Transfer of Development Rights Overlay Zone. Planner Katie Cattan explained that on November 10, and December 1, 2010, the Planning Commission held work sessions on TDRs and on December 15, 2010, held a public hearing on the draft ordinance. On February 3, 2011 during Council Visioning the TDR concept was discussed and on February 9, 2011, the Planning Commission forwarded a positive recommendation to the City Council. She explained that the purpose of the TDR process is put a mechanism in place to protect a community's assets by placing development in other areas. During the December 1, 2010 Planning Commission work session, there were quite a few sending and receiving areas proposed on Treasure, Ridge, Alice Claim pieces and the affordable housing project across from Marsac Avenue. Receiving areas included Deer Valley and Bonanza Park. On December 15, 2010 staff was asked to return with a simplified approach and the receiving area became Bonanza Park while Treasure, Alice Claim and Ridge Avenue were extended as sending areas. On February 9, 2011, staff returned to the Planning Commission and recommended to send half of Treasure which was the number one concern of the public in terms of compatibility and protection of views. Ms. Cattan commented that the one area that the Commission and staff felt comfortable designating as receiving was Bonanza Park.

She displayed a rendering of the build-out of Bonanza Park with three story buildings totaling 432,000 square feet which is half of Treasure. The Mayor pointed out that the scenario represents 100% underground parking and everything existing going away; the reality of this happening is slim. Ms. Cattan agreed; it is all underground parking and 30% open space which is mostly setback area. The build-out here would never work commercially. In response to a question from Alex Butwinski, Ms. Cattan stated that 30% open space is required for redevelopment projects and 60% for other projects. The Mayor also noted that the result is also based on the multiplier. Ms. Cattan advised that the Commission agreed to a multiplier of 2 for Treasure with a 10% transfer. During the February 9, 2011 meeting, the Planning Commission made a recommendation to include the Alice Claim, upper and lower Ridge and Treasure Hill; existing platted lots have a multiplier of 1 for each unit equivalent with the underlying minimum square footage area allowed for a lot in that zone. Metes and bounds parcels have a multiplier of .5, would be applied and located within the SLO and would be added to either the metes and bounds parcel or the platted lot.

She stated that the Planning Commission recommended 90 development credits or a total of 183,000 square feet that could transfer to Bonanza Park. The Snowcreek commercial area was also added which has a maximum density of 90,500 square feet. The goal is to protect historic preservation, view corridors, open space, wildlife, and steep slopes. Thomas Eddington explained that the Planning Commission asked staff to study Bonanza Park because using the existing GC Zone is less than ideal. He

discussed using a form based planning approach to gain a better understanding of the design of a development. The Commission also wanted more detailed planning schemes for Bonanza so that a streetscape could be better understood. Staff was directed to create a set of design guidelines for the area and explore creating a tax increment financing district to incentivize the type of development desired. He felt that progressive base zoning would allow the City to be more creative in addressing the receipt of density. The reason for forwarding the more simplistic TDR ordinance was to get it going and to test the market. Mr. Eddington stated that the multipliers could be changed.

The Mayor spoke about incentivizing developments to provide trails and open space over the years which made projects bigger and over time these amenities became requirements for new development. He referred meeting with the Sweeneys on Treasure for over a year and there was never mention of a 2:1 multiplier, but rather a 50% build or zero option. He feared promoting the perception that if 50% of the density is moved, the Sweeneys will receive 400,000 square feet somewhere else by removing 250,000 off Treasure. Mark Harrington emphasized that the ordinance shouldn't have anything to do with the direct negotiations with the Sweeneys; it is simply enabling an incentive to shift density from one area of town to another from a planning perspective. The multiplier should be based on economics as it relates to the policy to incentivize and not relate to specific deals under consideration in the backdrop. Mr. Eddington explained the reason for the 2:1 and a 10% transfer is because the value of a credit on Treasure is higher than Bonanza Park and it may take 3:1 to move density off of Treasure Hill or Old Town lots. This formula is not set in stone and the market needs to be tested. Ms. Cattan explained that if the incentive is not sufficient, the tool will never be used. Mr. Butwinski stated that the multiplier doesn't concern him because the incentive to move any density off of Treasure is a good thing. The Mayor clarified his concern to be expectations of developers regarding entitlements. Mr. Kernan felt it would be helpful to know the per square foot values of various areas of town and 2:1 may simply represent an even trade for the developer because of the difference in values in the sending and receiving zones. The Mayor pointed out that no one knows for sure now if the multipliers are correct and they may hurt the City in future negotiations because of assigned multiplier values. Mr. Eddington acknowledged that the values are not exact and are based information obtained from tax records and assessments. They are not static and can change and he suggested completing a more thorough per square foot economic analysis of various parts of town to formulate better numbers. Cindy Matsumoto suggested using a range but Mr. Eddington explained that as a matter of fairness, the sender and receiver should have definitive numbers. Alex Butwinski felt that the TDR tool makes sense and could help in negotiations. He discussed the goal of getting density off Treasure but the Mayor emphasized that a transfer results in putting additional density in receiving areas which concerns him.

Mark Harrington pointed out that that should be his concern at a policy level, regardless of Treasure. There are two ways to do this and normally it is done the opposite way

because most cities are reacting to a project. When there is a deal with terms, the proposal has to be sent back through a planning process with the Planning Commission and the City Council. The pressure is on the Planning Commission members who know the whole time that the terms of the deal are dependent upon their affirmative action. It is not a pure planning process. Adopting an ordinance now may or may not affect the substance of Council's negotiations with the Sweeneys, but it is a purer planning process. Policy questions are addressed City-wide and clarify where and when density should be transferred to facilitate a better community and a better development pattern consistent with the infrastructure and the policy goals of Council. He emphasized that it is better to go through a process now to evaluate areas to incentivize.

The Mayor commented on the 10% which he felt was a low percentage to get this amendment through as compared to something like 30%. Thomas Eddington agreed that it was felt that 10% would be better accepted and the Planning Commission had concerns about moving too much density to Bonanza Park. Katie Cattan noted that the first step is setting up receiving and sending zones. The second step is determining the number of development credits in the sending zone and the third step is receiving MPD approval from the Planning Commission, if required. Smaller applications wouldn't have to go through the Planning Commission process but she pointed out the large lots on the map which made the Planning Commissioners comfortable with the idea that they have control. The transfer of density would not occur until something was approved in the receiving zone and then the transfer occurs.

Planning Commissioner Charlie Wintzer disclosed that he owns property in the Bonanza Park area. There was discussion about not including Treasure because of on-going negotiations with the City, but Planning Commissioners wanted to proceed and felt that 10% of Treasure is a small enough number and won't significantly change the neighborhood. The amount of Treasure as well as the multiplier can be renegotiated when a MPD is submitted and reviewed. He cautioned not getting too hung up on Treasure and urged members to decide if they want the tool or not and if so, find a way to approve it. The Mayor agreed but noted that over the past 30 years there have been hundreds of units that have been built mainly in the Snyderville Basin through an incentive program with the perception of providing a community benefit. These were not TDRs but trades and over time, the benefits became codified and were applied as requirements to developments. Mayor Williams stated he is cautious and wants to be careful about expectations of values. Mr. Wintzer shared his concern and relayed that staff was charged with inventorying the town and did not feel that 10% of Treasure in Bonanza Park is feasible. Incentivizing people to redevelop by reducing the amount of open space in half creates problems. The Mayor again spoke about prompting unrealistic expectations. Charlie Wintzer believed the difficulty in accepting the tool is that Treasure is in front of the negotiation team and he again urged members to concentrate on making the tool work and then direct the planning staff to examine sending and receiving zones. Right now, 10% does not represent enough density to worry about.

Mr. Harrington advised that legislation includes standards and should not be negotiated on a case by case basis and there is the ability to go through the process to legislatively amend the ordinance separately. He explained that some of the problem Summit County experienced was the criticism by the state that the process was handled on an individual basis and as a result of the state audit there is clear direction to have specific receiving zones, formulas and an administrative process which does not provide for a case-by-case determination. This tool can not be used on an ad hoc basis and the process has to be a fair and legislatively created. However, he agreed with Mr. Wintzer that the ordinance is not static. There was concern that the state legislature was going to further restrict municipalities' ability to implement these types of programs so staff wanted to get something in front of the Planning Commission and Council in case something happened this legislative session. It has not, so the Council has more time to work these issues out but it is an essential tool and staff encourages members to move forward. Mr. Harrington explained that the enabling legislation defines limits and adds to the tool box but if members do not want to pursue it, that decision should be made clear now. Mr. Wintzer stated that if this ordinance is adopted, the Council is committed to transfer 183,000 square feet from Treasure which is a relatively small amount but qualifies to be reviewed under the MPD process.

Joe Kernan pointed out the difference in value per square foot in Bonanza Park and Treasure which may change in the future. Mr. Butwinski recalled the Commission discussing the first 10% at 2:1 but the second 10% set at a different multiplier like 1.5:1. Mr. Wintzer concurred and advised if members are worried about the multipliers, remove them or make them 1:1. He hoped these transfers are reviewed in a MPD process so design and density are examined together and Council at that time may decide to change the multiplier. He again stated that more density will not fit in Bonanza Park than what is allowed and he doesn't see a community need for it, however he feels the ordinance is worth having as a tool. Mr. Wintzer would like the ordinance on the books so it can be further refined and again suggested a 1:1 multiplier.

Liza Simpson pointed out that the motivation last January to get the ordinance adopted no longer exists. She asked why 10% was decided when the Commission has the MPD process to work through issues. Planner Katie Cattin explained that when the Commission made a positive recommendation to forward the ordinance to the City Council, it was clearly understood that staff would return with a form-based code. If a project meets the requirements of a MPD (more than 15 hotel rooms, more than 10,000 square feet of commercial, or more than 10 residential lots), it would have to go through that process. Mr. Wintzer noted that it would have to go through the MPD process, but the square footage is part of the density. Mark Harrington interjected that it is treated as a transferred development credit which would entitle the applicant to ask for it and the burden will be on the City to disallow it. The project is not fully vested but the owner is allowed to ask up to the maximum which was a legitimate concern of Commission members.

In response to comments made by Cindy Matsumoto, Mr. Wintzer stated that this is a tool for the City but also for the development community who may do a better job at fitting density in a design. Mr. Eddington commented that the Commission asked staff to conduct a detailed analysis on other potential receiving areas to relieve Bonanza Park. Charlie Wintzer noted that Snowcreek is another area that could potentially accept density. The Mayor commented on the feasibility of undergrounding all parking in Bonanza Park and a maximum of three stories. Selecting 10% may not work in transferring density from a project area with five stories with surface parking to Bonanza Park. Cindy Matsumoto understood that this is just a tool and if a large project applies for a MPD then the ordinance can be amended. Katie Cattan clarified that this ordinance places a maximum transfer of 22 unit equivalents from the Treasure Project so if Council wanted to increase the number, the LMC would have to be amended to change the maximum to a higher number prior to the MPD process. Thomas Eddington acknowledged Ms. Matsumoto's interest in receiving more detailed information on the receiving zone before amending the ordinance. Mark Harrington stated that that is an option but ideally appropriate limitations should be provided for in the ordinance and application of the ordinance should not be done on a case by case basis. Council retains the ability to amend the ordinance but that is not ideal.

Alex Butwinski pointed out that the draft doesn't mandate transferring 10% to Bonanza Park; it provides 10% to whoever will take it. He relayed that there was a considerable discussion about Snowcreek where a lot of density could be hidden. The Alice Claim pieces could go to Bonanza Park or Snowcreek. He encouraged not spending too much time on specifics and recommended changing the multiplier from 2 to 1 to proceed with the ordinance. Mayor Williams stated that he understands that 1:1 could potentially result in no incentive and perhaps a formula of 1:1.25 is more appropriate.

Mr. Harrington asked if there areas in town members are comfortable with facilitating additional density. If members are not comfortable with this approach, he advised not proceeding but not letting the fear factor drive planning. This is a proactive opportunity to incentivize change that the LMC currently does not allow. He then asked what enabling mechanism Council wants to use to incentivize; is it a height increase in those zones, is it a multiplier, is it something else? With these two approaches, Council may be better able to focus on the policy debate. Notwithstanding, Council always has the ability to amend the LMC and reconsider something different in the future.

Liza Simpson referred to the Mayor's comments about incentives gradually morphing into code requirements and asked staff to return with some information on requiring the use of TDRs for things like additional height. Rather than focusing on doubling square footage, she suggested clarifying what developers will be required to do before any additional height is obtained through the MPD process. The Mayor acknowledged that the work on this concept is complex and he wants to be very careful in terms of protecting receiving areas. Ms. Simpson pointed out that the ordinance doesn't clearly identify the goals of the program and suggested that every steep lot in Old Town be on the sending list. Mr. Wintzer relayed that there was discussion about making all of Old

Town a sending zone but room for density in Swede Alley was recognized. The draft should include other areas that might be able to receive density like Deer Valley, Prospector, etc. Mr. Wintzer encouraged Council to move slowly. See regular meeting minutes.

4. **HPB interviews.** Council members interviewed applicants Katherine Quinlan, Kathleen Imdahl, Lauren Clark, Puggy Holmgren, and Michael Lee.

Prepared by Janet M. Scott, City Recorder

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
MARCH 10, 2011**

I ROLL CALL

Mayor Dana Williams called the regular meeting of the City Council to order at approximately 6 p.m. at the Marsac Municipal Building on Thursday, March 10, 2011. Members in attendance were Dana Williams, Alex Butwinski, Joe Kernan, Cindy Matsumoto, and Liza Simpson. Candace Erickson was absent and excused. Staff present was Tom Bakaly, City Manager; Mark Harrington, City Attorney; Phil Kirk, Police Captain; Katie Cattan, Planner; Charlie Wintzer, Planning Commissioner; and Thomas Eddington, Planning Manager.

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

1. Swearing in of Police Officers Miguel Contreras and Travis Orawiec – Police Captain Phil Kirk introduced the officers and their families and relayed the experiences and skills they will be bringing to the City. Mayor Williams administered the oath of office.
2. American Way article on Park City - American Airlines – Michael Woody, America Airlines, explained an annual American Way competition for readers called The Road Warrior. Challenges include scavenger hunts, essays, identifying skylines from around the world, etc. and since this year was a mountain theme, they came to Park City. Adam Pitlock stated he is the Executive Editor of American Way which is the oldest in-flight magazine in the country. This is the most popular issue of the year because it is their opportunity to engage both the winners and readers estimated at 3.4 to 3.6 million. He presented a framed cover of the magazine to the Mayor and thanked a number of people from the Chamber, the City and the community. Mr. Pitlock hoped everyone will enjoy the article as much as they enjoyed writing it.

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

University of Utah planning intern program - Charlie Wintzer stated that a couple of months ago, he and Thomas Eddington met with the Planning Department at the University of Utah about getting students involved in Park City planning projects. For example, there is interest in the General Plan update and holding associated forums to encourage public participation. He acknowledged there is a cost involved probably in staff time. The Mayor liked the idea and felt the program could be discussed during the review of the budget. Ms. Simpson requested that the Planning Department research the proposal and return at a work session with information before budget discussions. Alex Butwinski believed this is exciting opportunity for the City and as a part of the analysis, felt a rough idea of costs would be helpful.

IV WORK SESSION NOTES AND MINUTES OF MEETING OF FEBRUARY 17, 2011

Liza Simpson, "I move we approve the work session notes and minutes of February 17th". Alex Butwinski seconded. Motion carried.

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

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

Consideration of amendments to the Land Management Code considering adding Chapter 2.24, Transfer of Development Rights Overlay Zone and related amendments to Chapter 15, Definitions – The Mayor opened the public hearing; there were no comments from members of the audience. Cindy Matsumoto, “I move that we continue the public hearing to March 31st” - Liza Simpson seconded. Motion carried.

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

Cindy Matsumoto stated she would like staff to look at including Old Town as a sending area as it may be a good way to incentivize owners not to build to the maximum and Ms. Simpson spoke about selling Historic District square footage. She felt it important that the Planning Commission review all of density transfers, at least initially, whether they are associated with an MPD or not. Joe Kernan asked staff to explore incentives and multipliers for historic homes so density can be moved elsewhere. Ms. Simpson stated that she would also like to focus on Council's priorities at an upcoming meeting which may lead to a more concrete discussion on what the multipliers should be, if any.

Planning Commissioner Charlie Wintzer referred to the purpose statement in the draft ordinance. Ms. Simpson explained that she is concerned about the specificity of calling out the Alice Claim lot, for instance, as a sending area with the only receiving zone being Snowcreek and Bonanza when she knows there are others. Even knowing that this type of ordinance will need to be tweaked, she prefers a broader ordinance. Alex Butwinski stated that different incentives may be needed for Old Town to be designated as a sending zone. Mr. Wintzer interjected that sensitive lots defined in the Historic District would be a higher priority than typical lots. Thomas Eddington added that staff is considering layering the map with GIS and SLO zoning and then addressing the multiplier. Ms. Simpson felt that incentives for residential and commercial would be distinct. Katie Cattan stated OT1, OT2, and OT3, Alice Claim Ridge, Upper Ridge, and Lower Ridge were created specifically with borders around them so that owners would not sell off the most developable portions of those lots resulting in 10 more lots there that really aren't developable because they are between Ridge Avenue and the back of someone's house on Daly Avenue. Staff wanted to make sure that it was *all or none* in those situations and urged members not to change the way that portion of it is set up for the larger subdivision. She explained that the Planning Commission asked staff to return on December 15, 2010 with areas around the periphery of Old Town that are large enough to be subdivided in the future and she understood Council's interest in in-fill lots throughout the Historic District. Mayor Williams added that knowing the number of in-fill lots would be helpful and probably most of the lots remaining are on steep or sensitive lands. Mr. Wintzer suggested including redevelopment lots.

Liza Simpson understood the goal of the TDR program is to transfer density in already dense areas. Old Town is an anomaly because its historic density was comprised of 900 square foot

houses on an Old Town lot while the recent building pattern has been to maximize the density on the lot, build setback to setback and to the height limitation. Katie Cattan agreed that in-fill construction is jeopardizing our Historic District. Mark Harrington suggested exploring an alternative methodology which is mirrored after the oldest program in the county. The original TDR program in New York City had nothing to do with density; it was based on biometrics and specifically addressed height transfers for historic sites. He explained that historic sites could sell their height to someone else and Council may consider a hybrid approach. Liza Simpson again expressed that since time is no longer an issue that a comprehensive review can be accommodated and perhaps in a joint meeting with the Planning Commission.

Cindy Matsumoto stated that she is interested in the suggestion of transferring square footage from the Historic District. Joe Kernan mentioned that lower Park Avenue is an important area to preserve and location or visibility may be criteria for sending areas. In response to a comment from Alex Butwinski, Mark Harrington explained that once the ability to transfer density is codified, most people have a reasonable expectation to obtain approval if they comply with the terms of the enabling legislation. Mr. Butwinski believed this issues discussed by the Planning Commission.

Mayor Williams stated that he is more uncomfortable with assigning 1 as a multiplier than 1:2 because of vesting and he questioned the feasibility of transferring 10% from Treasure to Bonanza Park. Mr. Eddington urged members to consider the base zoning in Bonanza and Charlie Wintzer pointed out that the model for the area tonight illustrates the worst scenario and perhaps staff can return with some good options; maybe there is room for more density. Ms. Simpson preferred *fully formed* legislation rather than approaching this with the presumption that it can be amended. Mr. Wintzer stated that Commissioner Strachan voted against the ordinance based on that reason. Ms. Cattan relayed that the Planning Commission would like to see more research from staff but would like the tool in the toolbox.

She understood consensus to be to include Old Town and the in-fill lots and also heard interest in including the Deer Valley parking lots. Joe Kernan asked that Prospector be included. She noted that during the process, the Planning Commission kept adding more areas to look at and then moved away from adopting the tool because of the amount of research to be done. The MPDs for Deer Valley and Prospector will need to be examined and the expectation should be that amending the ordinance is likely. Mr. Kernan stated he is okay with that. She added that the Planning Commission wanted to consider Prospector but staff had not completed a full analysis on the area. Discussion ensued on creating a 1:1 multiplier with add-ons for certain circumstances. Ms. Simpson suggested framing TDRs like a MPD process where a range of options may be considered.

VI ADDITIONAL DISCUSSION – AGENDA ITEMS

None.

VII ADJOURNMENT

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

MEMORANDUM OF CLOSED SESSION

The City Council met in closed session at approximately 1 p.m. Members in attendance were Mayor Dana Williams, Alex Butwinski, Joe Kernan, Cindy Matsumoto, and Liza Simpson. Candace Erickson was absent and excused. Staff present was Tom Bakaly, City Manager; Tom Daley, Deputy City Attorney; Diane Foster, Sustainability Manager; Joan Card, Environmental Regulatory Affairs Manager; Kathy Lundborg, Water Manager; Jason Christensen, Legal intern; Thomas Eddington, Planning Manager; Michael Kovacs, Assistant City Manager; and Mark Harrington, City Attorney. Liza Simpson "I move to close the meeting to discuss personnel, property and litigation". Alex Butwinski seconded. Motion carried. The meeting opened at approximately 3 p.m. Liza Simpson, "I move to open the meeting". Joe Kernan seconded. Motion carried.

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

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

Prepared by Janet M. Scott, City Recorder

