

**PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
MARCH 5, 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 5, 2009.

Closed Session

2:00 p.m. Property and litigation

Work Session

3:00 p.m. Shuttle to Police Facility, 2060 Park Avenue
Emergency operations training – return to Room 205
4:20 p.m. Council questions/comments
4:30 p.m. Legislative update
4:40 p.m. Sister Library site visit – Linda Tillson P. 4 - 6
5:10 p.m. 2009 Sundance Film Festival debrief (see separate cover) P. 7 - 15
(a) Presentation by staff
(b) Public input
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 approval of the Malecki Settlement Agreement in the amount of \$200,000 regarding all claims associated with a January 29, 2008 pedestrian/bus accident

2. Consideration of ratification of a contract with DLS Consulting Inc. for lobbying services in the amount of \$60,000, in a form approved by the City Attorney

P. 16 - 19

V OLD BUSINESS (*Continued items*)

Consideration of an Ordinance approving amendments to the Land Management Code of Park City, Utah to address revisions to General Provisions and Procedures regarding appeals and reconsideration process by the Planning Commission; review

procedures by the Board of Adjustment; and review procedures for conditional use permits, administrative conditional use permits, and administrative permits. Chapter 2- Modifications to 15-2.5-10 Heber Avenue Subzone in the HRC district; ROS and CT district revisions regarding temporary uses and setback exceptions and anemometer and wind turbine towers; and revisions in various districts regarding outdoor dining, outdoor grills, outdoor events, temporary structures, and setback and building height exceptions. Chapter 3- Off-street Parking. Chapter 4- Supplemental Regulations regarding temporary structures, tents, and vendors. Chapter 6- Master Planned Developments regarding appeals of Planning Commission action. Chapter 10- Board of Adjustment procedures for appeals. Chapter 11- Historic Preservation Board regarding process and procedures. Chapter 12- Planning Commission regarding review of Steep Slope CUP and procedures. Chapter 15- Definitions regarding various terms (Public hearing and possible recommendation to City Council) P. 20 - 64

- (a) Public hearing
- (b) Action

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: 03/02/09

See: www.parkcity.org

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

March 2009

- 5 **Jim gone**
12 Closed session – (2 hours)
 Legislative update - work
 Golf course update - work
 Cost recovery for Racquet Club - work
 Award of contract – traffic calming
 Ordinance Amending Municipal Code Title 3, Chapter 3, Campaign Disclosure
 Ordinance – amendments to Municipal Code Titles 1 and 2 - Mark
 Land Management Code – Amendments SS CUP TE
 108 Park Avenue – Plat Amendment [PL-07-00110] KC
 333 Main St – Plat Amendment [PL-08-00602] KW
19 **No meeting**
26 Legislative update
 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
 Award of Architectural-Design Contract- expanded transit storage and
 maintenance facility

April 2009

- 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
 Award of contract – Park City website
9 **Tom gone**
16 **No meeting**
23
30

May 2009

- 7
14 **No meeting – Dana gone**
21
28

Pending Items:

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

Author: Linda Tillson
Subject: Sister Library Site Visit (Nepal)
Date: March 5, 2008
Type of Item: Informational



Recreation Library
Department

Summary Recommendations:

The Bimal Library in Dharan, Nepal is doing excellent work providing library services to the community despite their very limited resources. The Library Board Members are currently focusing on more effective ways to market services to children by partnering with local schools. They have drawn up plans to expand the current facility, which has reached capacity for the current collection of approximately 3000 items. The items donated by the Park City Library provide the bulk of newer titles offered at the Bimal Library. Since the library has no funds to purchase books they are reliant upon donations from Park City and other visitors of their facility.

Description:

A. Topic:

Sister Library Site Visit in Dharan, Nepal

B. Background:

On February 9, 2004 the Park City Library Board began a sister library relationship with the Bimal Library located in Dharan, Nepal. The idea was proposed by Park City resident, Jim Powell, who became acquainted with the Ghurka soldiers from Dharan, Nepal during World War II, when he served in the 10th Mountain Division. For the past five years each library has sent books and other materials to their sister institution as well as collaborated via e-mail on a variety of library topics related to the provision of library materials and services for the community.

As a part of this partnership, Rohit Rai from Dharan, Nepal visited the Park City Library in January of 2006. He did an internship for a month during which he learned about Park City Library's youth & adult programming, cataloging practices, collection development, library management, library software, circulation procedures, and customer service.

In furtherance of the sister library program Linda Tillson visited the Bimal Library in Dharan, Nepal in December 2008. Jim Powell funded the site visit for which the following goals were identified:

- Assess what has been accomplished at the Bimal Library in terms of improvements attributed to the sister library relationship.
- Determine whether continuance of project and further support is warranted.
- Identify feasibility of further projects listed below and prioritize them:

- o Technology/computerization improvements
- o Services for children
- o Media for checkout (Do locals have VCR's, DVD players and/or CD players)
- Provide an informational presentation about the Park City Library and its services for Dharan Library staff and board as well as local officials.
- Highlight other Park City community amenities such as free bus system, playgrounds, skate park and playing fields.
- Contact Room to Read to discuss the potential of a partnership in providing better library resources and educational materials for Dharan.
- Discuss furthering reciprocity of sharing of materials, i.e. Dharan sending more materials to the Park City Library.
- Investigate possibility of a pen pal program between children in Dharan and Park City.

C. Analysis:

Nepal is a country that faces many challenges. They are not able to meet many of the basic needs of their population such as clean water, adequate food supplies, basic sanitation, clean air and electricity. Currently, all cities in Nepal including Kathmandu are on a "load shedding" schedule during which residents and businesses have no power for twelve hours each day.

Providing basic library services in a country that faces such hardships is challenging but worth the effort. The Bimal Library's patrons are very grateful for the limited resources available to them. Mr. Gurung, the library's founder, is a firm believer in the importance of libraries and education. He began the library in memory of his 19 year old son, Bimal, who was killed in an automobile accident. His son was a poet and the library hosts a poetry competition in his memory each year. Mr. Gurung and the library board members demonstrate a tremendous commitment to the library and community by volunteering their time to open the library and serve library users.

The sister library program has been a very worthwhile effort, which should be continued and expanded:

- Park City Library Staff with expertise in serving children can work with Bimal Library Staff to help them get started in offering childrens' programming.
- The Park City Library can assist the Bimal Library in the area of technology by providing ideas on some basic types of computer software, which could be utilized to register library users and check books out electronically.
- The simple color-coded system of cataloging developed by Room-to-Read could provide a simple basis for classifying books by subject.
- A principal in Dharan has enthusiastically agreed to work with Park City to begin a pen pal program for Class 6 (6th grade).
- Due to a lack of resources it is not feasible at this time for the Bimal Library to match the donations sent by Park City but they have agreed to continue to send some locally published materials which would not otherwise be available to Park City Library users.

- The Dharan Rotary Club is interested in a potential project with the Park City Rotary Club, which would benefit the Bimal Library.

Both libraries share a common vision of providing the best service possible to their respective communities. Park City Library staff can provide expertise from the perspective of a library with more advanced technology and resources and can learn from some of the Bimal Library's innovations, successes and simple solutions.

D. Department Review:

The Recreation Library Team and City Manager have reviewed this report.

Alternatives:

No action is requested. This is an informational report.

City Council Staff Report



Subject: Event Debrief- 2009 Sundance Film Festival
Author: Max J. Paap
Department: Sustainability
Date: March 5, 2009
Type of Item: MFL- Informational Update

Summary Recommendation:

This report is an informational update. Council should review the wrap-up report which includes the status of the performance of the 2009 Supplemental Plan approved on October 16, 2008. Council should also re-affirm the continued cooperative effort between the Sundance Institute and Park City Municipal Corporation to provide open and responsive communication to the citizens, visitors, and businesses to better ensure responsible mitigation for those impacted by events of this magnitude. Staff will return to Council in the fall to roll out plans for the 2010 Sundance Film Festival and address any comments brought forth from this public input opportunity.

Background:

In October of 2005 Park City Municipal Corporation and the Sundance Institute entered into a long term agreement for eleven (11) years, 2007 through 2018 with an option to renew for an additional ten (10) years. The Sundance Institute has agreed to tri-annually review the dates of the festival to reduce possible conflicts for sections of the business community where they can, while maintaining the success of the festival.

Section 1.2 of the Agreement refers to annual review of the Supplemental Plans, which details the implementation and operational plans with respect to those functions of the Use Areas that may change with each annual Festival. The Supplemental Plans and any annual modifications are a material part of the Agreement. Generally, Supplemental Plans for future Festivals will follow Supplemental Plans for the previous Festival unless changes that are mutually acceptable to the Parties will promote the efficient and successful operation of the Festival. Failure of the Parties to agree on changes to current Supplemental Plans will result in use of the immediately prior year's Supplemental Plans.

Analysis:

In 2008 Council asked that plans be rolled out earlier for the 2009 festival. On October 16, Council met at Sundance offices to review issues. This Supplemental Plan review also occurred earlier than usual. The Supplemental Plan for the 2009 Sundance Film Festival contained the following modifications:

- Updated Main Street and Park Avenue Parking , Traffic mitigation and Circulation Plan
- Closure and programming of Town Lift and Main Street between 7th and 9th Streets
- Film screenings at Temple Har Shalom and supporting shuttle stop
- Prior approval of the 2009 Supplemental Plan for the Racquet Club Venue

On February 3rd, 2009 Park City Municipal staff held an internal de-brief to discuss all aspects of the 2009 festival. Park City and the Sundance Institute met on February 18th, 2009 to jointly de-brief on the 2009 festival. Overall, both parties agreed that the 2009 festival was a success. Sundance's annual third party economic analysis of the festival is still being completed, but early data indicates a slight increase in ticket sales although the number of overall visitors seemed to be down from the previous few years (see Transit data below). This is attributed to the obvious reduction in non-festival events and ambush commercial activities. Sundance will provide a verbal report of preliminary findings at the Council meeting. Exhibit A is a summary of the issues raised at the joint de-brief session. A more detailed analysis of the 2009 Supplemental changes will be addressed under each of the following headings.

Main Street & Park Ave – Parking, Circulation, and Traffic Management Plan (Drop and Load Zones & Employee and Construction Permits)

Drop and Load zones were created along both sides of Main Street between 9th Street and the Swede Alley intersection to the south of the Brew Pub Parking Lot. This plan began on Tuesday, January 13, 2009, two days before the festival actually began to help facilitate an easier and more efficient move-in on Main Street. These drop and load zone were created in 2007 on the west side of Main Street and have the support of both City Staff, Sundance and the HMBA. PCMC Staff monitored traffic flows and parking inventories and had the ability to return the east side of Main Street to the Pay and Display Program during the second week of the Festival as traffic impacts wane. These zones were manned from 12:00 pm until 8:00 pm on a daily basis. These zones provide for deliveries and other service activity and keep traffic flowing freely. After 8:00 pm they functioned as taxi drop and loads zones, which again improved traffic flow.

- *As a whole, both PCMC and Sundance agreed that the Traffic Mitigation plan, which includes parking, circulation and traffic management plan, facilitated a safe and low impact festival. True to form, the first weekend was the busiest and public safety access and public transportation were able to move about with little problem.*
- *Taking the paid parking off of both the east and west side of Main Street provided ease in deliveries and private transportation providers. The drop and load zone in Swede Alley also proved to be successful in keeping transit routes flowing freely.*
- *On the first Tuesday of the festival PCMC was notified by HMBA membership that there was some concern that traffic flows were down and they wanted to restore some portion of the Pay and Display parking back to some portions of Main Street. PCMC Parking and Sustainability met on Tuesday, January 20 and analyzed parking data compiled by Ampco parking at the entrances of the pay booths at China Bridge. The data showed that that there was a marked drop in pay customers. On Wednesday morning (1/21) the pay and display parking was returned to the east side of Main Street for the duration of the festival.*
- *Sundance and PCMC met with HMBA on February 24 and their membership had comment on both the early implementation of drop and loads on Main (Tuesday, January 13) and keeping the drop and load spaces intact after the flows of the festival seemed to drop. PCMC and Sundance agreed to still look at implementing*

the drop and load zone on Main Street, but to better monitor and adjust the mix of parking options for the 2010 festival.

- *Park Avenue parking restrictions worked well, and will look to be expanded to 10th Street in 2010.*

Employee Permits and Construction

Due to the closure of the North Marsac parking lot for the Marsac building remodel, Staff opened the entire roof of China Bridge to employee permit holders. This accommodated permit holders with the same number of spaces as in previous years and allowed Staff to easily monitor permit demand and overflow. In order to offset revenue loss from this change and for drop/load changes on Main Street, Staff changed the premium permit price for a guaranteed parking place to \$350 (an increase of \$50).

- *The entire roof of China Bridge was open to the publically available 'CB' pass. This enabled most Main Street and Old Town employees and residents ample parking. PCMC received no negative comments.*
- *There were no negative comments from the \$50 increase to the guaranteed premium parking pass.*

Closure and programming of Main Street between 7th and 9th Street, including the Town Lift Plaza.

The Town Lift Plaza, and public streets and sidewalks on Main Street between 7th and 9th Street were Official Sundance Venues this year, and closed to parking and vehicular traffic. The purpose was to provide a central gathering Festival location for festival-goers and the local community. Sundance was responsible for all programming and activities within this area, and used the area beginning January 12th through January 26th.

This venue resulted from the success of staff efforts and a commitment from Sundance towards increasing long term partnerships on Main Street. For this first year, the Town Lift plaza was jointly programmed with official Sundance sponsors and activities.

- *The closure of the street did not get off to a good start, as there were a few issues with the permitting of the tent through PCMC Building.*
- *Traffic flows were a bit busy the first weekend, but for the most part manageable. Increased signage and staffing at the intersection of 7th and Main St. made the intersection safe for both pedestrians and vehicular traffic.*
- *HMBA did comment that they thought that the closure of Main on Tuesday before the festival seemed a bit premature. With the erection of the Town Lift tent and the tent of the street simultaneously necessitated the early closure. PCMC will work with the applicant to decrease the amount of time the street is closed pre-festival in 2010.*
- *Programming of the tent went smoothly during the daytime hours when it served as the Music Café'. Night programming was challenging, but did not receive many negative comments or complaints..*

The HMBA submitted the following formal comments following our meeting:

Parking/Street Closures:

Businesses represented asked that the City and event organizers to consider reducing the number of days the street is closed for set up/tear down on lower Main Street to reduce customer impact

Businesses also want to revisit the no-parking issue on upper Main Street. One consideration could be to allow for parking on one side of the street following the first weekend.

Businesses want the City to consider reducing the cost of parking at China Bridge following the first weekend as well, as it seemed the garage was underutilized the second week of the festival and that approach may help with employee parking.

Circulation:

Businesses want the city to consider relocating the Music Café back to upper Main Street to maximize the foot traffic by festival attendees.

Businesses asked that the signage/entryway to the venue area on lower Main street be improved considerably, as proposed in the original SFF plan. Many felt that the street closure, combined with the uninviting appearance of the tent and venue left much to be desired in the way of attracting foot traffic to lower Main.

Businesses asked that the festival and City consider ways to improve night activity throughout the street, especially in connecting and optimizing official activity on both ends of Main.

Film screenings at Temple Har Shalom

In 2009, Sundance screened a full schedule of films at the Temple Har Shalom off of SR 224. Five screenings per day were programmed at the venue. Because the theater seats 260 people and there are only 70 parking spaces Sundance used 1251 Kearns Blvd. (the Yard) as the park and ride for that venue and hired dedicated transit to service that venue. This was a private carrier that ran on a dedicated shuttle route, apart from PCMC Transit. The current plan had the the private carrier pulling off of SR 224, into the Temple parking lot to drop off and pick up theater patrons. At no time did the shuttle service the venue directly on SR 224. PCMC Transit identified no concerns regarding this shuttle stop as long as the service is provided by a private carrier. Sundance agreed to this. This was an official shuttle stop for the 2008 Film Festival.

Use of this location as an official transit stop was conditioned on the stop being built and operated to Building Code standards for access, lighting, safety, etc., and successful integration into and any separate Special Event approvals and operational planning for activities at the Yard. Sundance worked with the property owner to address necessary operational set-up.

- *Sundance has indicated the venue was a success for their screening purposes.*

- *The parking at The Yard was also a success, and was well used. Improvements for 2010 would be to look to improve the entry surface to the transit stop, add more heaters and shelter. (It was muddy due to the warm weather during the festival)*

Racquet Club Venue/Use Area Operation

The supplemental plan was approved on April 24, 2008. City Council approved Sundance to hold the Closing Awards Party on the final Saturday, January 24th of the 2009 Festival at the Racquet Club. Council also approved an 8 pm start-time for the last screening in 2009 and has agreed to the change in scheduling. Council additionally asked that Sundance incorporate a functioning customer service feedback Line for the 2009 Festival, to which Sundance has complied. This Supplemental review does not re-open that plan, and keeps it as approved by Council in April.

- *Sundance implemented the plan approved by Council. A report on the customer service feedback line is attached.*
- *Operationally, more barricades are needed along Little Kate; the order for barricades and placement will be adjusted for the 2010 festival.*

Department Review:

The Transit, Parking, Streets, Sustainability, Police, Building, and Legal Departments have reviewed this report and have made their comments.

Significant Impacts:

By allowing the public to provide input on the operations of the festival it provides an open and responsive line of communication to mitigate any major impacts.

Recommendation:

Re-affirm the continued cooperative effort between the Sundance Institute and Park City Municipal Corporation to provide open and responsive communication to the citizens, visitors, and businesses to better ensure responsible mitigation for those impacted by events of this magnitude. Allow PCMC Staff and Sundance to return on the fall with Supplemental Plans for the 2010 festival.

Exhibit A- Wrap Notes

Exhibit B- Sundance Feedback Line Report

2009 Sundance Wrap - Park City Municipal Summary

Transportation

- **shuttle ridership**
- Ridership was down around 14 %- 224,00 total riders that equates to 30,000 fewer riders than 2008.
- Due to this drop there was an increase in the cost per rider.
- There was an estimate that 3-5 % increase in the amount of guests that walked due to the unusually warm weather.
- **shuttle stops –**
 - o discussed improving snow removal, street sweeper frequency, Albertson's stop and CSC staffing, garbage, Eccles and Racquet club barricades, drainage issues at RC east side stop, Yard mud and street parking issues, recycling receptacles, and taxi information/conflicts
- **2009/2010 issues**
 - o **Redstone**
 - o Recommendation for route until 2:00 am in 2010; every hour after midnight.

Sponsors

- **Rules of the Road**
 - o Need to provide earlier and with more information
 - o Set agreed upon deadline
 - o Add information about Operational Permit
- **Code enforcement**
- **Event permits**
- **Licenses – temporary business on Main**
- 47 in 2008/ 23 in 2009
- Consider application deadline for 2010

Press

- **Shooting permits and requirements**
- Down significantly in 2009

Main Street

- **Barricades**
- **Traffic mitigation**
- **Pedestrian Hospitality**
- **Unofficial venue load outs mid festival**
- Numbers were down- need to capture these at the license level
- **2010 plan**
- Adjust dates for complete closure both pre and post-fest. Use HMBA and Public Debrief to finalize plan.

Signage approvals

- **Timeline**
- Institute had approvals on time/ good coordination

- **code enforcement**
- No major issues- proactive permitting probably helped

Lower Main Street Music Café & Venue

- Coordination w/ Best Events
- **2010 plan- venue look n feel; pedestrians; restrooms**
- Plans and Set up will be earlier

Parking

- **China bridge**
- 170- \$350 passes in 2009
- Monitoring guidelines and strategy for adjustment.
- **Gateway**
- **Main Street**
- barricade plan
- Again- monitor and have ability to give back more pay and display parking
- No snow removal issues
- **Park Ave**
- 100 block of Park- need to barricade in 2010
- New sign at Box of Rocks
- Consider no parking to 10th street (extend from 9th)
- **Swede Alley**
- Look into dedicated parking to service Elks.
- **Deer Valley**
- ongoing use and effectiveness of Deer Valley parking
- **Richardson Park and Ride**
- coordinate intervals if operational in 2010
- **Anderson Lumber(The Yard)**
- Success for Temple use
- Site definition for parking of Homestake Condo residents; on-street issues.
- **Parking passes**

Snow Removal

Garbage/Recycling

- Had to provide more dumpsters on Swede for first weekend
- Adjust plan on Lower main
- Increase attention to pre-fest meeting with Allied Waste
- **Library**
- **venue operations and cleaning**
- **Parking**

Racquet Club

- **venue operations**
- **Complaint /comment line** -See attached report
- **Parking**
- Barricades on both sides of Little Kate to Lucky John needed
- Few taxis in Racquet Club Drive early on- PD started to monitor later
- work with HOA to mitigate parking issues

- **shuttle stop**
- Water build- new sidewalk may address
- **Awards**
- **2010 plan**
 - o **Coaches**
 - o Best integration in years; plan for parking Awards night
 - o **remodel plan**

Inspections/Permits

Emergency Management

- Good plan integration with city

Police

- **red flag management**
- protests
- **Staffing- Main Street**
- consider more roving foot patrol

Feedback Line Report 2009 Sundance Film Festival

We have had a customer service hotline for years that operates between the hours of 8am - 7pm. This year we extended this service to cover the hours from 7pm - midnight and trained our agents to be prepared for local feedback regarding our operations and to forward ALL operations related messages directly to Sarah Pearce for follow up.

How did we get the word out about this feedback line?

Park Record, KPCW, Information Booths and Box Offices, Door to door flyer distribution to neighbors around the Racquet Club.

We received an average of 100 calls per day during the Festival and of those calls we received 12 calls between 7pm - 10pm and one or two calls between 10pm - midnight.

All calls were answered by our customer service agent who immediately alerted Sarah Pearce when it was operational related. All calls and emails were responded to on the same day with one exception (call came in at 10:19pm and was responded to the next day).

City staff was alerted immediately on all operational comments and copied on all responses.

Of the 1000 total calls received by Customer Service during the Festival ALL of them were ticketing and general festival information questions with the exception of 6 calls which were operational complaints from one Racquet Club neighbor.

Detail on Operational complaints:

During the Festival

4 calls from Racquet Club neighbor - 2 regarding parking lot operations. One request was to adjust the lights which we did immediately. One was a complaint about truck operations in the lot after 9:30pm during set up.

2 regarding parking/traffic issues in the neighborhood - We reminded our staff they should not be directing patrons to park in the neighborhoods and alerted City Staff of the complaint.

* It should be noted, we heard that some homeowners in the neighborhood were selling parking in their driveways which could be contributing to this behavior.

There were also several email exchanges in response to my responses with the same neighbors.

After the Festival

We received one email from another Racquet Club neighbor after the Festival regarding set up and tear down days. He requested that we cut back on the amount of days it takes to set up and tear down. I responded within the same day thanking him for his feedback, explaining that we are already under tight time constraints and this year was the same amount of days as in the past. I also told him that I continue to look for ways to reduce the impact.

DATE: March 5, 2009
DEPARTMENT: Executive
AUTHOR: Tom Bakaly, City Manager
TITLE: Legislative Consulting Services by
DLS Consulting
TYPE OF ITEM: Administrative- Consulting Services

SUMMARY RECOMMENDATION: The City Council should ratify an expenditure for DLS consulting services in a form approved by the City Attorney's Office in the amount of \$60,000.

DESCRIPTION:

Topic: Consulting services relating to pending State Legislation.

Background:

As the City Council is aware, current bills at the State Legislature may implicate discussions with the Air Force and pending Military Installation Development Authority Act . Due to the unique nature of the legislation, the Utah League of Cities and Towns staff recommended that Park City pursue individual assistance to help monitor pending state legislation.

Park City was made aware of the particulars of SB216 only last week as the legislation was un-released (it was a "boxcar") until that time. The City was forced to react very quickly in order to preserve the City's ability to influence the bill.

Analysis:

Given the complexities of the State Legislative processes and the frequent necessity to communicate our interests with members of the State Legislature, Staff believes our interests at the State Legislature need hands-on management.

Volume I of the City's Budget, Chapter 5, Part II – Contracting and Purchasing Policy, Section E(3) exempts professional services agreements from competitive bidding process but it requires agreements over \$20,000 to be approved by Council. Section D – Exceptions provides the City Manager the ability to execute an emergency contract and inform the City Council as soon as reasonably possible. Staff finds the need for these services meets the Exceptions identified below:

D. Exceptions

Certain contracts for goods and services shall be exempt from bidding provisions. The manager shall determine whether or not a particular contract or purchase is exempt as set forth herein.

1. Emergency contracts which require prompt execution of the contract because of an imminent threat to the safety or welfare of the public, of public property, or of private property; circumstances which place the City or its officers and agents in a position of serious legal liability; or circumstances which are likely to cause the City to suffer financial harm or loss, the gravity of which clearly outweighs the benefits of competitive bidding in the usual manner. The City Council shall be notified of any emergency contract which would have normally required their approval as soon as reasonably possible.
2. Projects that are acquired, expanded, or improved under the "Municipal Building Authority Act" are not subject to competitive bidding requirements.
3. Purchases made from grant funds must comply with all provisions of the grant.
4. Purchases from companies approved to participate in Utah State Division of Purchasing and General Services agreements and contracts and under \$100,000 are not subject to competitive bidding requirements.

The City Council was informed individually prior to authorizing DLS Consulting to proceed with services. This meeting is the first available meeting at which Council could approve the expenditure. Because the bill deals with property adjacent to city property, as well as the health, safety and welfare power of the City over land within its boundaries and/or annexation area, and there was likely only a limited opportunity to affect the legislation, staff determined in conjunction with individual discussions with the Council that the gravity of the situation outweighed advance approval of the agreement. Even though the policy may not require subsequent ratification at a meeting, staff agreed that it was appropriate and more within the intent of the policy to publically notice and ratify the expenditure.

Scope of Services: The overall objective of the consulting service is to prevent state legislative actions from enabling development inconsistent with local zoning, and help the City facilitate a long term solution for the Air Force that complies with County and City codes. The term of the services shall be from February 20, 2009 through December 31, 2009.

D. Department Review: This staff report has been reviewed by the City Manager's Office, and the Legal Department.

ALTERNATIVES: Our experience demonstrates that there are avenues within State Legislature that we have limited ability or experience in addressing. Dealing with the state government is complex, and we have no guarantees of success.

A. Ratify the Expenditure: City Council could ratify the expenditure of \$60,000 with DLS Consulting for legislative consulting issues.

B. Reject the Expenditure: City Council could reject the contract and ask staff to

perform another selection process and/or different terms. DLS would likely file a termination claim based upon the emergency authorization to proceed.

C. Continue the Item: The item could be continued for further discussion.

SIGNIFICANT IMPACTS: The costs of DLS Consulting services are \$60,000. This cost was paid out of Risk Management and will be apportioned to City operating and capital budgets based on benefit.

CONSEQUENCES OF NOT TAKING THE RECOMMENDED ACTION: This is hard to assess as we may or may not be successful influencing the pending bill with or without the help of DLS or any other consultant. However, in the past we have found having a consulting has been instrumental in implementing City goals at the legislative level.

RECOMMENDATION: The City Council should ratify an expenditure for DLS consulting services in a form approved by the City Attorney's Office in an amount of \$60,000.



City Council Staff Report

Subject: Land Management Code Amendments **Planning Department**
Author: Kirsten A. Whetstone, AICP
Date: March 5, 2009
Type of Item: LMC Amendments

Summary Recommendations

Staff recommends the City Council conduct a public hearing, discuss proposed amendments to the Land Management Code for Chapters 1, 2, 3, 4, 6, 10, 11, 12, and 15, and consider approving these amendments according to the findings of fact and conclusions of law as outlined in the draft ordinance.

Topic

Project Name: LMC Amendments
Applicant: Planning Department
Proposal: Revisions to the Land Management Code

Background

On October 22 and November 12, 2008, the Planning Commission conducted public hearings and reviewed LMC Amendments of a general and substantive nature resulting from an annual review of the City's development code. These amendments include certain items discussed during review of the revised Historic District Design Guidelines, pertaining to process, appeals, and review; however they do not include specific items related to Steep Slope Conditional Use Permits such as Building Height and Building Footprint calculations that are subject to a separate staff report and review schedule.

On November 12, 2008, the Commission forwarded a positive recommendation to the City Council.

On December 11, 2008, City Council conducted a public hearing and discussed these amendments as forwarded to them by the Planning Commission. The Council remanded several items back to Planning Commission for further discussion and consideration. Council asked the Planning Commission to review four specific items, as outlined below.

City Council requested discussion by the Planning Commission on the following issues (see Dec 11, 2008 City Council Minutes, Exhibit J): 1) appeals of PC action on City Funded Projects to heard by the Board of Adjustment, 2) fences and walls greater than 6' reviewed as administrative conditional uses to be listed under the Conditional Uses rather than Allowed Uses with footnote indicating that the review is administrative and noticing applies, 3) nightly rental uses as a Conditional Use subject to a Master Planned Development in the Community Transition (CT) zone, and 4) other minor changes suggested by the Council to make the code clearer, such as definitions for Special Events, Outdoor Events, and Accessory Structures.

On February 11, 2009, the Planning Commission conducted a public hearing and discussed the LMC Amendments as outlined below (see minutes Exhibit K). The Planning Commission agreed that Nightly Rental uses should not be allowed in the CT zone on grounds that the use is not consistent with the purposes of the zone. The Commission also forwarded a positive recommendation on the other three items as outlined below and reflected in Exhibits A-I.

On February 11, 2009, the Planning Commission also considered amendments related to the City's sustainability goals for wind energy, including allowing Anemometers and Anemometer towers as an administrative conditional use in the ROS and CT zoning districts and allowing Small Wind Energy Systems, including wind turbines, as a conditional use in the same districts (see Exhibit B). The Commission voted to forward a positive recommendation to City Council on these proposed changes.

Analysis

This analysis includes a summary of the amendments remanded back to the Commission from City Council for further review and recommendation and proposed amendments to implement the City's sustainability goals related to wind energy.

Amendments remanded back to the Planning Commission from City Council for further consideration and recommendation

1) **Appeals of PC action on City Funded Projects** heard by the Board of Adjustment-Section as follows:

Section 15-1-18(C). Appeals of Planning Commission.

The original amendments added language stating that final action by the Planning Commission on Conditional Use permits and Master Planned Developments involving City Funded Development may be appealed to the Board of Adjustment. All other final action by the Commission concerning Conditional Use Permits and Master Planned Developments may be appealed to the City Council.

This amendment came about due to feedback from staff and citizens appealing City owned projects. The BOA would have less of a perceived conflict and could review appeals in an expedient and fair manner. This change may create conflict between City Council and the Board of Adjustment; however City Legal Staff believe that appeals to the BOA are appropriate in these cases. (Exhibit A)

The Council discussed this issue and did not agree as a group (see Exhibit J- minutes of the meeting) whether the change was appropriate and requested further discussion by the Planning Commission. Prior discussion was that appeals shall go to BOA, and current language provides discretion by Council by stating "may" go to BOA.

The Council was in agreement in its suggestion related to changes to **Section 15-15-1.44 City Funded Development** to change the term to **City Development** and to

delete the language of “when the City provides more than 50% of the estimated construction costs”. City projects refer to projects where the City is the Applicant.

Staff discussed this issue further and recommends that the language state that the Board of Adjustment, at the direction of the City Council, may hear appeals/call ups. The Council could hear them or could decide to have the Board of Adjustment hear them, depending on the specifics of the application.

On February 11, 2009, the Planning Commission asked for clarification of this item and forwarded a positive recommendation to Council on these changes as recommended by the Staff (see Exhibit A).

2) **Fences and walls** greater than 6 feet reviewed as administrative conditional uses should be listed under the Conditional Uses rather than Allowed Uses with footnote indicating that the review is administrative and noticing applies. The Council suggested the change to provide criteria for review, rather than have them as allowed uses. Staff has made these changes to appropriate Sections of Chapter 2. (Exhibit B) Noticing for administrative conditional uses is addressed in Chapter 1 (Exhibit A). The change is to list Administrative Conditional uses in the Conditional Uses list rather than in the Allowed Uses list. All administrative conditional and conditional uses are noticed by posting the property and sending courtesy mailings. Conditional uses also include a published legal notice notifying of the hearing date.

On February 11, 2009, the Planning Commission asked for clarification of the change and forwarded a positive recommendation to City Council as shown in Exhibit B.

3) **Nightly rental** uses as a Conditional Use subject to a Master Planned Development in the Community Transition (CT) zone as stated in **Section 15-2.23- 2. Uses**. Council discussed the issue of Nightly Rental as a Conditional in the CT district (see Exhibit J- minutes) and did not reach agreement and requested the Planning Commission revisit this issue. The Council wished to have input from the Planning Commission on the pros and cons, such as potential conflicts of locating nightly rental in the vicinity of affordable housing and market rate homes or second homes.

On February 11, 2009, the Planning Commission discussed these changes, reviewed zoning districts that allow and prohibit nightly rentals and recommended that nightly rentals not be allowed within the CT zoning district (see Exhibit K) on grounds that the use is not consistent with the purpose statements of the district.

Purpose statements of the CT zone (See Section 15-2.23-1) include references to low density development that relates to open space, recreation, training, tourism, community health; public and quasi public development, expanded open space, limits on commercial and residential uses, designs that minimize visual impact of development and preserve environmentally sensitive areas, transit oriented uses, and recreation facilities. Nightly Rental is defined in the LMC as “the rental of a Dwelling Unit or any portion thereof, including a Lockout Unit, for less than thirty (30) days to a

single entity or Person. Nightly Rental does not include the Use of Dwelling Units for Commercial Uses.”

Allowing Nightly Rental within an MPD would not in and of itself allow hotels, motels, and other lodging uses, unless the MPD also specifically allowed those uses. These transient lodging uses are not allowed in the CT zone. Nightly Rental use occurs within single-family homes and condominium units and is either an allowed use (RD, RDM, RM, HRM, HR-1, HR-2, HRC, HCB, RC, E, RCO, GC, and LI) or a conditional use (HRL) depending on the zoning district.

Nightly rental uses are not permitted within the SF district, with the exception of designated lots in the Prospector. Nightly rental uses could be specifically addressed in the MPD Development Agreement, to specify the location, percentage of units, time of year, type of unit, or other controls that are found to be appropriate for the specific MPD. Affordable Housing developments, projects, and units are typically deed restricted to prohibit the use of affordable units for nightly rentals. The Planning Commission therefore recommended the language in Exhibit B for the CT zone.

4) **Additional minor changes** suggested by the Council to make the code clearer, such as definitions for Special Events and Outdoor Events, revising purpose statements in ROS and CT, clarifying references to the Sensitive Lands Overlay language in the CT zone, remove references to Title 6 under Outdoor Events and Music and leave it as “No violation of the City’s Noise Ordinance”, and various typos and section reference number changes. (Exhibits A- I).

On February 11, 2009, the Planning Commission forwarded to Council a positive recommendation on these changes.

LMC Amendments to address the City’s sustainability goals related to wind energy.

Staff recommends additional amendments to the CT and ROS districts to address the City’s sustainability goals related to wind energy (see Exhibit B), as follows:

In consultation with the City’s Sustainability Department, Planning Staff has prepared LMC amendments to allow, as a Conditional Use, Wind Turbines for small wind energy systems and turbines in the CT and ROS districts, subject to specific review criteria and regulations as outlined in Exhibit B. Staff is also recommending that anemometers and anemometer towers, installed to measure wind energy potential, be included in the ROS zone as a Conditional Use.

Wind energy is playing a growing role in the generation and supply of electricity throughout the State. Staff recently attended a presentation on the topic of Wind Zoning: Best Practices and Model Ordinance, presented by Sara Baldwin of Utah Clean Energy, a non-profit organization partnering to build the new clean energy economy. Wind zoning addresses common issues raised by wind turbines, including height, sound, visual

impact, wildlife, and land use impacts. See related wind energy information in attached Exhibit L (In the Public Interest, How and Why to Permit Small Wind Systems, A Guide for State and Local Governments).

Small Wind Energy Systems are defined as “all equipment, machinery, and structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to storage, electrical collection and supply equipment, transformers, service and access roads, and one or more turbines, which have a rated nameplate capacity of 100 kW or less.”

Proposed Small Wind Energy Systems amendments include definitions and language regulating height; setbacks to inhabited structures, overhead power lines, property lines, public roads, etc; minimum blade height above the ground, color and finish of tower and turbines, lighting if required by FAA, signs and advertising, access and safety, and sound. Site clearing and maintenance issues are addressed, as well as minimum lot size. Requirements for application requirements for Conditional Use permits and building permits, as well as conditions for removal and decommissioning of abandoned systems are also addressed. Associated definitions are included in Chapter 15.

On February 11, 2009, the Planning Commission forwarded a positive recommendation on the proposed changes related to small wind energy systems allowing Anemometers and Anemometer Towers as an Administrative Conditional Use and Small Wind Energy Systems as a Conditional Use in the ROS and CT zoning districts.

Department Review

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

Process

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

Notice

Legal notice of a public hearing was posted in the required public spaces and published in the Park Record.

Public Input

Public hearings, conducted by the Planning Commission and City Council, are required prior to adoption of Land Management Code amendments. The public was properly and legally noticed as required by the Land Management Code.

Alternatives

- Approve the Land Management Code amendments as recommended by the Planning Commission; or

- Deny the Land Management Code amendments and provide Staff direction on preparing findings to support this decision; or
- Continue action on the amendments.

Significant Impacts

There are no significant fiscal impacts on the City as a result of these amendments. The amendments provide clarifications of processes and procedures, definitions, LMC section references, and interpretations of the Code for streamlined review and consistency of application between Sections. Amendments to allow Anemometers and Anemometer towers and Small Wind Energy systems in the ROS and CT zoning districts are consistent with City Council goals to begin to explore alternative energy and promote sustainability, by allowing wind speed to be measured in these areas and by providing specific review criteria for Small Wind Energy Systems. These amendments may provide fiscal benefits in the future.

Consequences of not taking the Suggested Recommendation

Not taking the suggested recommendation will leave the LMC unchanged and may result in lack of clarity or consistency regarding processes and procedures, definitions, LMC section references, and specific interpretation of Sections of the Code. Small Wind Energy Systems will not be permitted in the ROS and CT zoning districts.

Recommendation

Staff recommends the City Council conduct a public hearing, discuss the proposed amendments to the Land Management Code as described in this report and as redlined in the Exhibits A - I, and consider approving the amendments based on the findings of fact and conclusions of law found in the draft ordinance.

Exhibits

Ordinance

Exhibit A- LMC Chapter One- General Provisions and Procedures

Exhibit B- LMC Chapter Two- Zoning Districts

Exhibit C- LMC Chapter Three- Off-Street Parking

Exhibit D- LMC Chapter Four- Supplemental Regulations

Exhibit E- LMC Chapter Six- Master Planned Development

Exhibit F- LMC Chapter Ten- Board of Adjustment

Exhibit G- LMC Chapter Eleven-Historic Preservation

Exhibit H- LMC Chapter Twelve- Planning Commission

Exhibit I- LMC Chapter Fifteen- Definitions

Exhibit J- Minutes of December 11, 2008, City Council meeting.

Exhibit K- Minutes of February 11, 2008 Planning Commission meeting.

Exhibit L- Excerpts from AWEA Model Zoning Ordinances and Utah Clean Energy

Exhibits are under separate cover.

Exhibits are posted on the City Website and hard copies are available upon request at the Planning Department.

Ordinance - 09

**AN ORDINANCE APPROVING AMENDMENTS TO
THE LAND MANAGEMENT CODE
OF PARK CITY, UTAH, TO ADDRESS
REVISIONS TO
CHAPTERS 1, 2, 3, 4, 6, 10, 11, 12, and 15**

WHEREAS, the Land Management Code is designed and enacted to implement the objectives of the Park City General Plan; to protect the general health, safety, and welfare of Park City's citizen's and property owners; to maintain the quality of life and experience for its residents and visitors; and to preserve the community's unique character and values; and

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

WHEREAS, the City Council goals include creating a sustainable community by encouraging conservation and renewable alternative energy use and production; and

WHEREAS, Chapter 1- General Provisions and Procedures, provides a description of general provisions and procedures of the LMC and the City desires to clarify these provisions and procedures as outlined in the staff report; and

WHEREAS, Chapter 2- Zoning Districts, provides a description of requirements, provisions and procedures specific to the various Zoning Districts and the City desires to clarify and revise these requirements, provisions and procedures as outlined in the staff report, including the following: revise side setback exceptions for patios, decks, pathway; revise building pad and footprint exceptions; revise Heber Avenue Subzone boundary; include anemometers and anemometer towers as an administrative conditional use and Small Wind Energy Systems as a conditional use in the ROS and CT zones; include sidewalks, trails, patios, and plazas in the FPZ area between 30' and 100' as a regulated Allowed Use; allow minor changes or upgrades to existing signs in the FPZ with an Administrative conditional use permit; include additional residential Allowed uses, Conditional Uses, and Administrative Conditional Uses within the CT zone; and

WHEREAS, Chapter 3- Off-Street Parking, provides regulations regarding off-street parking and the City desires to clarify and revise these regulations to include additional landscaping areas and geotechnical reports for Parking Lots, to include the CT zone as a district subject to commercial parking lot requirements, to clarify parking

restrictions on driveways, and to clarify these regulations as outlined in the staff report; and

WHEREAS, Chapter 4- Supplemental Regulations, provides supplemental regulations regarding fences and walls, telecommunication facilities, home occupation, child care, temporary structures and tents, special events and overcrowding, and the City desires to clarify and revise these regulations as outlined in the staff report; and

WHEREAS, Chapter 6- Master Planned Developments, provides regulations, requirements, and procedural requirements regarding Master Planned Developments and Unit Equivalents, and the City desires to clarify and revise these regulations and procedures as outlined in the staff report; and

WHEREAS, Chapter 10- Board of Adjustment, provides regulations and procedural requirements for the Board of Adjustment, and the City desires to clarify and revise these regulations regarding expiration of terms and election of chair, as outlined in the staff report; and

WHEREAS, Chapter 11- Historic Preservation, provides regulations and procedural requirements for the Historic Preservation Board and regarding Historic Preservation in Park City and the City desires to clarify and revise these regulations regarding terms and election of chair, as outlined in the staff report; and

WHEREAS, Chapter 12- Planning Commission, provides regulations and procedural requirements for the Planning Commission and the City desires to clarify and revise these regulations regarding election of chair and procedure for review of consent items, as outlined in the staff report; and

WHEREAS, Chapter 15- Definitions, provides clarity of meaning for words used in the Land Management Code and amendments to existing definitions and new definitions are necessary to clarify terms that appear on recorded plats and other documents that are not currently defined in the Code. The City desires to clarify these terms by including and/or revising the following definitions in the Land Management Code (Agriculture, Ancillary Structure, Anemometers, Accessory Building, City Development, Helipad, Heliport, Helistop, Final Action, Floor Area, Recreation Facilities, Residential Use, Special Events, Temporary Improvement, Vantage Point, and Wind Energy Systems; and

WHEREAS, these amendments are changes identified during the 2008 annual review of the Land Management Code that provide clarifications of processes and procedures, definitions, LMC section references, and interpretations of the Code for streamlined review and consistency of application between Sections.

WHEREAS, Park City wishes to advance the use of wind energy and to encourage the development of independent and qualifying power production and cogeneration facilities to promote a diverse array of economical and sustainable energy

resources in an environmentally acceptable manner, and to conserve our finite and expensive energy resources and provide for their most efficient and economic utilization;

WHEREAS, Park City wishes to provide clarity to the process of developing renewable energy projects in the CT and ROS zone that are consistent with City Council goals to promote alternative energy; and

WHEREAS, Park City finds that wind energy is a renewable and non-polluting energy resource and that wind energy can help offset growing energy and peak power demands; and

WHEREAS, properly crafted renewable energy installation ordinances can help communities facilitate greater access to wind energy, preserve community and neighborhood character, protect adjacent residential and commercial developments as compatible adjoining uses, and protect and promote the public health, safety, and general welfare; and

WHEREAS, amendments to allow anemometers, anemometer towers and small wind energy systems in the CT and ROS zone are consistent with City Council goals for alternative energy; and

WHEREAS, the Planning Commission duly noticed and conducted a public hearing at the regularly scheduled meetings on October 22 and November 12, 2008, and on February 11, 2009, and forwarded a positive recommendation to City Council; and

WHEREAS, the City Council duly noticed and conducted a public hearing at its regularly scheduled meeting on December 11, 2008 and remanded the LMC amendments back to the Planning Commission for discussion of several items; and

WHEREAS, the City Council duly noticed and conducted a public hearing at its regularly scheduled meeting, on March 5, 2009; and

WHEREAS it is in the best interest of the residents of Park City, Utah to amend the Land Management Code to be consistent with the Utah State Code and the Park City General Plan, and to be consistent with the values and identified goals of the Park City community and City Council to protect health and safety, maintain the quality of life for its residents, promote wind energy, and preserve the community's unique character.

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

SECTION 1. AMENDMENT TO CHAPTER 1 OF THE LAND MANAGEMENT CODE. Chapter 15-1 is hereby amended as attached hereto as Exhibit

A. The Planning Director shall resolve conflicts or cross-references from other provisions of the LMC to Chapter 15-1.

SECTION 2. AMENDMENTS TO CHAPTER 2 OF THE LAND MANAGEMENT CODE. Chapter 15-2 is hereby amended as attached hereto as Exhibit B. The Planning Director shall resolve conflicts or cross-references from other provisions of the LMC to Chapter 15-2.

SECTION 3. AMENDMENTS TO CHAPTER 3 OF THE LAND MANAGEMENT CODE. Chapter 15-3 is hereby amended as attached hereto as Exhibit C. The Planning Director shall resolve conflicts or cross-references from other provisions of the LMC to Chapter 15-3.

SECTION 4. AMENDMENTS TO CHAPTER 4 OF THE LAND MANAGEMENT CODE. Chapter 15-4 is hereby amended as attached hereto as Exhibit D. The Planning Director shall resolve conflicts or cross-references from other provisions of the LMC to Chapter 15-4.

SECTION 5. AMENDMENTS TO CHAPTER 6 OF THE LAND MANAGEMENT CODE. Chapter 15-6 is hereby amended as attached hereto as Exhibit E. The Planning Director shall resolve conflicts or cross-references from other provisions of the LMC to Chapter 6.

SECTION 6. AMENDMENTS TO CHAPTER 10 OF THE LAND MANAGEMENT CODE. Chapter 15-10 is hereby amended as attached hereto as Exhibit F. The Planning Director shall resolve conflicts or cross-references from other provisions of the LMC to Chapter 10.

SECTION 7. AMENDMENTS TO CHAPTER 11 OF THE LAND MANAGEMENT CODE. Chapter 15-11 is hereby amended as attached hereto as Exhibit G. The Planning Director shall resolve conflicts or cross-references from other provisions of the LMC to Chapter 11.

SECTION 8. AMENDMENTS TO CHAPTER 12 OF THE LAND MANAGEMENT CODE. Chapter 15-12 is hereby amended as attached hereto as Exhibit H. The Planning Director shall resolve conflicts or cross-references from other provisions of the LMC to Chapter 12.

SECTION 9. AMENDMENTS TO CHAPTER 15 OF THE LAND MANAGEMENT CODE. Chapter 15-15 is hereby amended as attached hereto as Exhibit I. The Planning Director shall resolve conflicts or cross-references from other provisions of the LMC to Chapter 15.

SECTION 10. EFFECTIVE DATE. This Ordinance shall be effective upon publication.

**PARK CITY COUNCIL WORK SESSION NOTES
SUMMIT COUNTY, UTAH
DECEMBER 11, 2008**

Present: Mayor Dana Williams; Council members Candace Erickson; Roger Harlan; Jim Hier; Joe Kernan; and Liza Simpson

Tom Bakaly, City Manager; Tom Daley, Deputy City Attorney; Ron Ivie Chief Building Official; Jon Weidenhamer, Economic Development Manager

Jim Banister and Robin Rankin, Spectrum DNA; Katie Smith, Park City Institute for Public Policy

1. Council questions/comments. Liza Simpson thanked Human Resources for organizing a great Christmas party and reported on a Board of Realtors affordable housing marketing campaign. Candace Erickson publicly thanked County Commissioner Ken Woolstenhume for his service on the Board of Health and reported on the air monitor program. She discussed Recreation Advisory Board business, specifically the design of the Racquet Club improvements; VCBO has been responsive to the community's needs, which is resulting in a better design. The Museum construction is on time and on budget and the Dungeon Party is tomorrow night at the Elks Club. She encouraged the public to shop locally. Jim Hier congratulated staff on the Christmas event held at the Ice Arena for the first time this year, which was a resounding success. He attended a Ski Utah meeting at Solitude and reported that the Legislature allocated \$10 million for tourism. The Deer Valley Celebrity Ski Fest was another great event. Roger Harlan also commented on the quality of the employee Christmas Party and shared Arts Advisory Board discussions from the meeting held last night. He added that the Board of Education voted to raise the compensation levels for teachers.

Mayor Williams reported on Mosquito Abatement business speaking to a University of Utah planning class. He discussed a lecture at the Swaner dedication given by Robert Kennedy Jr., who described a proposal for promotion of the use of electric cars and conveniently changing out batteries for charged units at service stations. The Mayor suggested taking the Racquet Club design to the schools so there is an opportunity for the kids to comment. He referred to Council member Simpson's complaint to the Police Department about the behavior of an aggressive timeshare salesman on Main Street and encouraged the Legal Department to explore pulling Westgate's business license because of these continuing and annoying violations. Ron Ivie presented Council with an award the City received from the Park City Homebuilders Association in recognition of our green building education program which began here and is now state-wide.

2. Economic Development Grant updates:

2. Consideration of authorization of the following insurance premium payments for public entity liability, workers compensation, property, and crime insurance covering a one-year period from January 1, 2009 through January 1, 2010:

(a) \$105,622 to States Self-Insurers Risk Retention Group, Inc. ("States") for public entity broad form liability insurance;

(b) \$158,234 to Workers Compensation Fund ("WCF") for workers compensation insurance;

(c) \$66,993 to Lloyds of London for property insurance;

(d) \$6,564 to Zurich American for boiler/machinery insurance;

(e) \$5,757 to Hartford Insurance Company for property insurance covering Marsac-Swede Condominium Owners Association (460 Swede Alley, Units 1 and 2): Senior City Recorder Cindy LoPiccolo explained that Marsh provides insurance brokerage services for Park City. The 2009 recommendation covers public entity liability, workers compensation, property and crime insurance. The City experienced two bad years of claims for workers compensation which could have resulted in \$50,000 in additional premium. She explained that after staff reviewed the files, it was discovered that some claims were misidentified and the premium was actually lowered by about \$10,000 from last year. The Mayor invited public input; there was none. Candace Erickson, "I move we authorize insurance premium payments listed from (a) to (e)". Jim Hier seconded. Motion unanimously carried.

3. Consideration of an Ordinance approving a one year extension of the Jupiter View Estates Subdivision approval, located at 1376 Mellow Mountain Drive and One Eagle Way South, Section 8 Township 2 South, Range 4 East, Salt Lake Base and Meridian, Park City, UT – Kirsten Whetstone explained that the subject plat was approved by the City Council on November 29, 2007 and the applicant is requesting an extension to November 29, 2009. The extension is needed to complete the utility plans and to record the final plat; she described the location of the property. The Mayor opened the public hearing and with no comments from the audience, closed the hearing. Joe Kernan, "I move we approve the request for a one year extension of the Jupiter Estates Subdivision in accordance with the staff report". Roger Harlan seconded. Motion unanimously carried.

4. Consideration of an Ordinance approving amendments to the Land Management Code of Park City, Utah to address revisions to Chapters 1, 2, 3, 4, 6, 10, 11, 12 and 15 - Kirsten Whetstone explained that amendments address substantive issues and housekeeping matters. She pointed out the recommendation that appeals on Conditional Use Permits and Master Planned Developments on City projects go to the Board of Adjustment rather than the City Council. The Mayor confirmed that this was crafted to avoid the perception of a conflict and Roger Harlan stated that he is not supportive of this amendment. The City is rarely the developer and for the Council to

abrogate its responsibility to a non-elected body is inappropriate. He added that he is not surprised when there are concerns voiced by a segment of the public about City projects but feels comfortable about the Council acting in a legal manner. In response to a question from Jim Hier, the City Manager explained that appeals of staff decisions go to the Planning Commission and then to the Board of Adjustment if appealed. There was discussion that MPDs and CUPs, approved by the Planning Commission, are appealed to the City Council and it is proposed that only City-funded projects would go to the BOA. Joe Kernan stated that he doesn't have a problem using another public body for appeals in these instances because appointees are skilled and unbiased. Roger Harlan indicated his confidence in board members but feels Council members are better prepared to make decisions in these matters. Joe Kernan expressed his support of the amendment. Candace Erickson referred to the appeal of the Snow Creek Housing Project where there were general objections but also allegations that the City did not meet the Code. Staff proved that the process was not flawed so that the final decision was not based on feelings but legal fact. It bothers her to put these decisions in the hands of an appointment body but in the long run, it removes the question of whether the Council can be objective in hearing an appeal on a project it supports. Unfortunately there is no other elected body to hear an appeal on City funded projects. Jim Hier pointed out that if the Council is not serving on the appellate board, members could testify at hearings and could present a case to a third party which is not possible acting as judges. Kirsten Whetstone stated that the purpose of directing appeals of City funded projects to the BOA is to eliminate any perceptions of bias.

Key amendments to Chapter 2 relate to the Heber Avenue subzone to include properties east of Park Avenue not just east of Main Street in the HRC District, primarily affecting the Kimball Art Center. The HRC subzone limits the amount of non-residential floor area which may limit expansion for classrooms, galleries, retail and storage. Mai Street is zoned HCB. In response to a question from the Mayor, Ms. Whetstone clarified that administrative CUPs would still include notice, however administrative permits would not. For instance, the administrative permit for a fence over six feet in height would require notification to affected properties owners but would not require a 14 day published legal notice in the paper. Some uses that require administrative permits include temporary tents and structures not associated with special events. She explained that there are some zones where bed and breakfasts are allowed uses and some where they are an administrative uses. Ms. Whetstone suggested creating table of listing administrative permits and administrative CUPs; whether this should be in the Code or for Council's use was not decided. Joe Kernan expressed that not many people read legal notices which could be waste of taxpayers' money for administrative approvals and felt it is much more effective to post properties and mail courtesy notices.

With regard to amendments to the historic zones, Ms. Whetstone emphasized that they do not relate to steep slope CUPs or changes to the Code based on the proposed

revised Historic District Guidelines. In response to a question from Jim Hier, Ms. Whetstone explained the logic in changing six feet or higher walls and fences in historic districts to administrative approvals which will still require review by the Planning Director and City Engineer and require building permits. Mr. Hier insisted that these should be administrative conditioned on criteria rather than allowed uses and pointed out other areas of the Code that should better clarified. Tom Eddington felt that language could be crafted to describe the use as conditional and allow for the administrative permitting process. Candace Erickson pointed out that a six foot wall in Old Town can be visually impactful. The amendment addressing requiring steep slope CUPs to appear on the Consent Agenda rather than under New Business for Planning Commission meetings is a housekeeping matter.

Jim Hier stated that how 40 feet is measured needs to be defined relating to the steep slope analysis by the Planning Commission and suggested that it be measured from the start of the exposed above-ground structure to the top of the roof whether it be on the up or down side of Old Town streets or whether there is a day-lighted basement. This removes questions regarding grade. Candace Erickson preferred 27 feet. Kirsten Whetstone felt measuring height could be diagrammed. Jim Hier added that this would prevent development on steep slopes from continuing to step back and Ms. Whetstone recommended language that stepping-back a structure doesn't result in increases to overall building height. Bay windows are included in the calculation of the footprint and the section was reworded.

Kirsten Whetstone discussed the HRC zone, more specifically, subzone regulations limiting non-residential square footage. She reiterated that the Kimball Art Center is located in this zone and if the amendments are approved, would be subject to the subzone. Jim Hier suggested that special events and outdoor events be defined in the LMC. Kirsten Whetstone pointed out that there is information in the supplemental section but agreed that it would be good to have these terms defined.

The Mayor noted his surprise to find agriculture as an allowed use in the CT Zone. Kirsten Whetstone assured Mr. Hier that child care and child care centers are defined in the Code. Roger Harlan questioned allowing nightly rentals in the CT Zone. Planner Whetstone stated that this was discussed by the Planning Commission in context of the PC Heights Annexation. There was concern that the preliminary MPC was not resort oriented enough because it was affordable housing and single family homes like many residential subdivisions and didn't really meet the purpose statement of the zone. Nightly rentals are typically prohibited in single family zones. The PC Heights applicants were asked to revise the MPD to integrate resort housing with the affordable and single family housing. Planning staff felt nightly rentals should be an option in the CT Zone and emphasized that MPDs are required to build any type of housing in this zone. Through the MPD review, the Planning Commission could identify whether

and/or where affordable housing is appropriate. She felt wording nightly rental, subject to the MPD requirement, might be a good idea. Liza Simpson stated that the Planning Commission has requested that this chapter be remanded to them. She understood there was a fair amount of discussion on nightly rentals but not all members were in attendance. The decision to allow nightly rentals in the CT Zone as a conditional use was made late in the evening. There was discussion about potential non-conforming uses because of short-term athlete housing for USSA and NAC. Jim Hier pointed out that the NAC does not have a MPD and would like to remove nightly rentals from the CT Zone. Nightly rentals increase traffic and it should not be an allowed use. Ms. Whetstone relayed that nightly rental traffic counts suggest that rentals produce less traffic than single family. Mr. Hier did not agree and the Mayor suggested that the Planning Commission review this and all of the changes suggested by Council tonight. Joe Kernan felt that data on nightly rental traffic generation would be helpful. The City Manager asked if nightly rentals should be included in the annexation agreement and Mr. Hier did not feel that was necessary. Other members wanted time to think about it. Joe Kernan did not feel nightly rentals pose negative impacts because they are empty a lot of the time and nuisances are monitored by Code Enforcement. Mr. Kernan felt that night rentals would work well in the single family homes on large lots or condominium buildings. Jim Hier felt that placing nightly rentals next to affordable housing makes the neighborhood more transient. Discussion ensued that the underlying zone determines density not the sensitive lands ordinance.

The Mayor asked members for additional comments and Liza Simpson expressed that sending appeals of City funded projects to the BOA may send a message that the Council could not deliberate openly and honestly on the Snow Creek Project. Candace Erickson stated that there is the perception of bias.

Jim Hier referred to Mr. Stovach's public input comments about steep slope amendments and reduction in square footage. He explained that the ordinance is pending and an alternative would be to impose a moratorium until the approach is finalized. Reducing the size of structures in Old Town is the right thing to do.

The Mayor opened the public hearing; there was none. Jim Hier noted that direction should be to remand to Planning Commission with the suggested changes made tonight and review of nightly rentals in the CT Zone and Tom Bakaly added appeals of City funded projects. Liza Simpson, "I move that we remand the Land Management Code changes to the Planning Commission for review of our suggestions and comments and further discussion of the CT Zone and the Board of Adjustment change and continue to a date uncertain". Joe Kernan seconded. Motion unanimously carried.

VIII ADDITIONAL DISCUSSION – AGENDA ITEMS

EXHIBIT K

DRAFT

PARK CITY MUNICIPAL CORPORATION
PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS
MARSAC MUNICIPAL BUILDING
FEBRUARY 11, 2009

COMMISSIONERS IN ATTENDANCE:

Chair Jack Thomas, Rory Murphy, Dick Peek, Julia Pettit, Evan Russack, Adam Strachan
Charlie Wintzer

EX OFFICIO:

Planning Director, Thomas Eddington; Principle Planner, Brooks Robinson; Kirsten Whetstone,
Planner; Katie Cattan, Planner; Jeff Davis, Planner; Matt Cassel, City Engineer, Kent Cashel,
Transportation ; Polly Samuels McLean, Assistant City Attorney

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REGULAR MEETING - 6:30 p.m.

I. ROLL CALL

Chair Thomas called the meeting to order at 7:20 p.m. and noted that all Commissioners were present.

Item #5

Land Management Code Amendments - Chapters 1,2,3,4,6,10,11,12, and 15.

Planner Kirsten Whetstone stated that the Planning Commission had forward a positive recommendation to the City Council on a series of LMC amendments to Chapters 1,2,3,4,6,10,11,12 and 15. The City Council reviewed the amendments page by page and sent it back to the Planning Commission for additional discussion on specific items.

Planner Whetstone noted that the first item related to appeals of Planning Commission action on what were previously called City funded projects. The Staff worked with the Legal Department and other City departments to include language that gives the City Council the ability to have the Board of Adjustment review such appeals of City projects if the Council so desired. They all agreed that City funded projects should be defined as City projects. Planner Whetstone read the definition of City project as defined in the Definitions section.

Planner Whetstone stated that the second item was fences and walls. She noted that in every zoning district where they have lists of allowed versus conditional uses, a change was made to put fences and walls under allowed uses with a footnote stating that these would be administrative conditional use permits. Planner Whetstone reported that the City Council was more comfortable leaving fences and walls on the conditional use list with a footnote saying that the review would be as an administrative conditional use. It would still require noticing as required for a conditional use permit, but not publication of a legal notice.

Planner Whetstone stated that the third item was nightly rentals. The recommendation from the Planning Commission to the City Council was that nightly rental uses should be a conditional use in the CT zone. The City Council discussed the issue but could not reach agreement and requested that the Planning Commission revisit this item. The Staff had included the wording from the CT zone in a separate packet. Nightly rentals are listed as a conditional use in the CT zone subject to master plan development.

Commissioner Murphy asked if the concern from the City Council centered around whether night rentals should be a conditional use or an allowed or whether it should be available at all in the CT Zone.

Council member Liza Simpson noted that some of the Commissioners had requested that this item come back to the Planning Commission because they had made a decision late at night after a long agenda.

Council member Simpson believed the Staff had come up with an elegant way to solve the unresolved debate regarding appeals to the City Council on City projects. She explained that some of the Council members thought that because they were elected and not appointed the City Council should take that responsibility. At the same time, they were cognizant of the fact that they took heat over Snow Creek and some felt the City Council could not judge that project clearly. In an effort to weigh those two aspects, the Council sent it back to the Planning Commission for further discussion. Council member Simpson reiterated her opinion that the Staff had done an excellent job resolving the matter.

Commissioner Strachan was unclear as to the issue with City Council. In his opinion, the conflict would still exist if the Board of Adjustment hears the appeal. It is still the City hearing a City application. He was unsure why the conflict would be different. Ms. Simpson replied that the general idea was that the Board of Adjustment was a little more arms length away. In her opinion, it should be heard by the City Council. She believed that all who serve on the City Council are able to look at these projects objectively, listen to the public and the Planning Commission and make a decision without weighting the project unfairly because it is a City project. Others had concerns about that perception. Council member Simpson thought Commissioner Strachan had asked a valid question. She was open to any ideas the Planning Commission might have.

Planner Whetstone reviewed a handout she had prepared that provided information on nightly rentals in other zones. They are conditional in the HRL zone and allowed in the other H zones. Nightly rentals are prohibited in the ROS and POS zones. They are allowed in all other zones except the SF zone.

Commissioner Russack wanted to know what had spurred the desire to have a six foot fence or wall be an administrative approval. Chair Thomas agreed that given the length and the visual impact, it should have to come before the Planning Commission. Commissioner Russack asked

if the administrative approval would be for a straightforward conditional use permit for a fence, which is different than a conditional use permit for building on a steep slope that would have a wall greater than six feet. She replied that this was correct. Commissioner Russack was comfortable with the administrative approval under those circumstances.

Commissioner Pettit clarified that fences and walls were moved from an allowed use to conditional use.

Planner Whetstone noted that the second part of the amendments relate to sustainability and the wind energy ordinance. She asked if the Planning Commission wanted to discuss this part separately from the items already discussed.

Commissioner Pettit asked if they would also be looking at solar access. Planner Whetstone replied that solar collectors are permitted now. She suggested adding language stating that solar collectors should be level with the roof.

Planner Whetstone noted that the Staff was using this opportunity to have a public hearing on the additional amendments to CT and the ROS districts to address sustainability goals related to wind energy. In consultation with the Sustainability Department, the Staff prepared these amendments to allow wind turbines for small wind energy turbines in the CT and ROS Districts as conditional uses. Those would be subject to specific review criteria and regulations, which are outlined in the ROS and CT districts. Planner Whetstone stated that some of the criteria addresses location, setback, height, lot size, design, lighting, noise, signs, permits, visual analysis, system condition, and removal and replacement conditions.

Planner Whetstone remarked that the small wind energy system is defined as all equipment machinery structures, towers and turbines and a building to convert the wind to electricity, including but not limited to storage, electrical collections, supply, equipment, transformers, service access roads and one or more turbines which have a rated capacity of 100 kilowatts or less.

Planner Whetstone stated that the proposed amendments include definitions and language regulating the items listed. Site clearing and maintenance issues were also addressed. Planner Whetstone pointed out that anemometers are recommended to be an administrative conditional use permit. Planner Whetstone stated that the City has plans and funding for a wind turbine and an anemometer was placed between the hospital and the ice rink to measure the wind resource.

The Staff recommended that the Planning Commission conduct a public hearing, discuss any of the amendments and consider forwarding a positive recommendation to the City Council based on the findings of fact and conclusions of law found in the draft ordinance.

Chair Thomas opened the public hearing.

There was no comment.

Chair Thomas closed the public hearing.

Commissioner Wintzer noted that he had not attended the first meeting when the Planning Commission voted to allow nightly rentals, which is why he asked that this issue be revisited. He sat on the task force for two years and nightly rentals in the CT zone was never mentioned. He recalled that the CT zone was contemplated as a separate area of Park City and it was not

compared to other zones. It is the entrance corridor and it was a place to mix affordable housing units within neighborhoods. Commissioner Wintzer believed that you run of the risk of losing neighborhoods when you allow nightly rentals. He could not support nightly rentals in the CT zone at this point without further study. Commissioner Wintzer had not attended the first meeting and could not understand why the Planning Commission had voted in favor of allowing nightly rentals.

Commissioner Pettit stated that in looking at the handout of what is allowed in different zones she noted that nightly rentals are prohibited in the ROS zone. Commissioner Pettit believed that tourism was the driving force in their first discussion for allowing nightly rentals; however, the purpose statement for CT zone only makes one reference to the tourism element. She was trying to think of the ramifications if nightly rentals are allowed as a conditional use. Commissioner Pettit thought nightly rentals was inconsistent with the other elements of the purpose statement and she was leaning against allowing it in the CT zone.

Commissioner Russack was pleased to hear the objections to nightly rentals, since he was the only person in their previous discussion who questioned why it would be allowed in that zone. Commissioner Russack fully agreed with Commissioners Pettit and Wintzer.

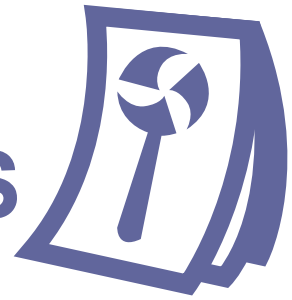
Chair Thomas and Commissioners Murphy, Peek and Strachan concurred. Planner Whetstone stated that she would strike nightly rentals from the amendments.

Commissioner Pettit referred to the amendments regarding wind energy and assumed that the language was similar to model ordinances seen in other jurisdictions. She was very supportive of anything the City could do to encourage renewable energy development in the appropriate areas. Planner Whetstone stated that Commissioner Pettit was correct in her assumption. This was taken from the model ordinance and the Staff had attended a presentation by the State to Summit County regarding wind energy and ordinances.

MOTION: Commissioner Murphy made a motion to forward a POSITIVE recommendation to the City Council for the LMC amendments as outlined in the February 11, 2009 Staff report for Chapters 1,2,3,4,6,10, 11, 12 and 15, with the change that nightly rental uses in the CT zone is a prohibited use and not a conditional use. Commissioner Wintzer seconded the motion.

VOTE: The motion passed unanimously.

SMALL WIND FACTSHEETS

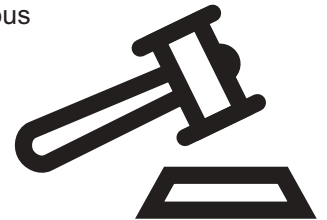


Zoning Ordinances

Many existing zoning ordinances contain restrictions, which while not intended to discourage the installation of small wind turbines, can substantially increase the time and costs required to obtain necessary construction permits. By designating small wind energy systems as a specifically permitted use, subject to certain requirements, local jurisdictions (counties, cities, townships) can effectively standardize and streamline the process of permitting small wind turbines within their jurisdiction.

Ordinances designating small wind energy systems as a permitted use typically comprise a definition of what constitutes a "small wind energy system" - e.g., listing system components and establishing the maximum rated capacity of systems that may qualify. The definition may also specify that the

system be intended primarily to reduce on-site consumption of utility power. The ordinance also defines the requirements such systems must meet. These typically include appropriate height restrictions (which may vary as a function of property size), minimum set-back, maximum noise levels, and compliance with various standards such as the Uniform Building Code, FAA regulations, and the National Electric Code.



Examples of State Zoning Laws:

See AWEA's online toolbox for links to California, Minnesota, Montana and Nebraska

www.awea.org/smallwind/toolbox/default.asp

AWEA Model Zoning Ordinance: Permitted Use Regulation for Small Wind Turbines



SECTION 1 PURPOSE: It is the purpose of this regulation to promote the safe, effective and efficient use of small wind energy systems installed to reduce the on-site consumption of utility supplied electricity.

SECTION 2 FINDINGS: The [city or county] finds that wind energy is an abundant, renewable, and nonpolluting energy resource and that its conversion to electricity will reduce our dependence on non-renewable energy resources and decrease the air

and water pollution that results from the use of conventional energy sources. Distributed small wind energy systems will also enhance the reliability and power quality of the power grid, reduce peak power demands, and help diversify the State's energy supply portfolio. Small wind systems also make the electricity supply market more competitive by promoting customer choice.

The State of _____ has enacted a number of laws and programs to encourage the use of small-scale renewable energy systems including rebates, net metering, property tax exemptions, and solar easements [as appropriate]. However, many existing zoning ordinances contain restrictions, which while not intended to discourage the installation of small



For more information, contact AWEA at windmail@awea.org or call 202-383-2500.
Visit our web site at www.awea.org, or write us at 122 C Street, NW, Washington, DC 20001.

Model Zoning Ordinance Continued...

wind turbines, that can substantially increase the time and costs required to obtain necessary construction permits.

Therefore, we find that it is necessary to standardize and streamline the proper issuance of building permits for small wind energy systems so that this clean, renewable energy resource can be utilized in a cost-effective and timely manner.

SECTION 3 DEFINITIONS:

Small Wind Energy System: A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.

Tower Height: The height above grade of the fixed portion of the tower, excluding the wind turbine itself.

SECTION 4 PERMITTED USE: Small wind energy systems shall be a permitted use in all zoning classifications where structures of any sort are allowed; subject to certain requirements as set forth below:

4.1 Tower Height: For property sizes between ½ acre and one acre the tower height shall be limited to 80 ft. For property sizes of one acre or more, there is no limitation on tower height, except as imposed by FAA regulations.

4.2 Set-back: No part of the wind system structure, including guy wire anchors, may extend closer than ten (10) feet to the property boundaries of the installation site.

4.3 Noise: Small wind energy systems shall not exceed 60 dBA, as measured at the closest neighboring inhabited dwelling. The level, however, may be exceeded during short-term events such

as utility outages and/or severe wind storms.

4.4 Approved Wind Turbines: Small wind turbines must have been approved under the Emerging Technologies program of the California Energy Commission or any other small wind certification program recognized by the American Wind Energy Association.

4.5 Compliance with Uniform Building Code: Building permit applications for small wind energy systems shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings. An engineering analysis of the tower showing compliance with the Uniform Building Code and certified by a licensed professional engineer shall also be submitted. This analysis is frequently supplied by the manufacturer. Wet stamps shall not be required.

4.6 Compliance with FAA Regulations: Small wind energy systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.

4.7 Compliance with National Electric Code: Building permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code. This information is frequently supplied by the manufacturer.

4.8 Utility Notification: No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

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For more information, contact AWEA at windmail@awea.org or call 202-383-2500. Visit our web site at www.awea.org, or write us at 122 C Street, NW, Washington, DC 20001.

Why Wind Energy?



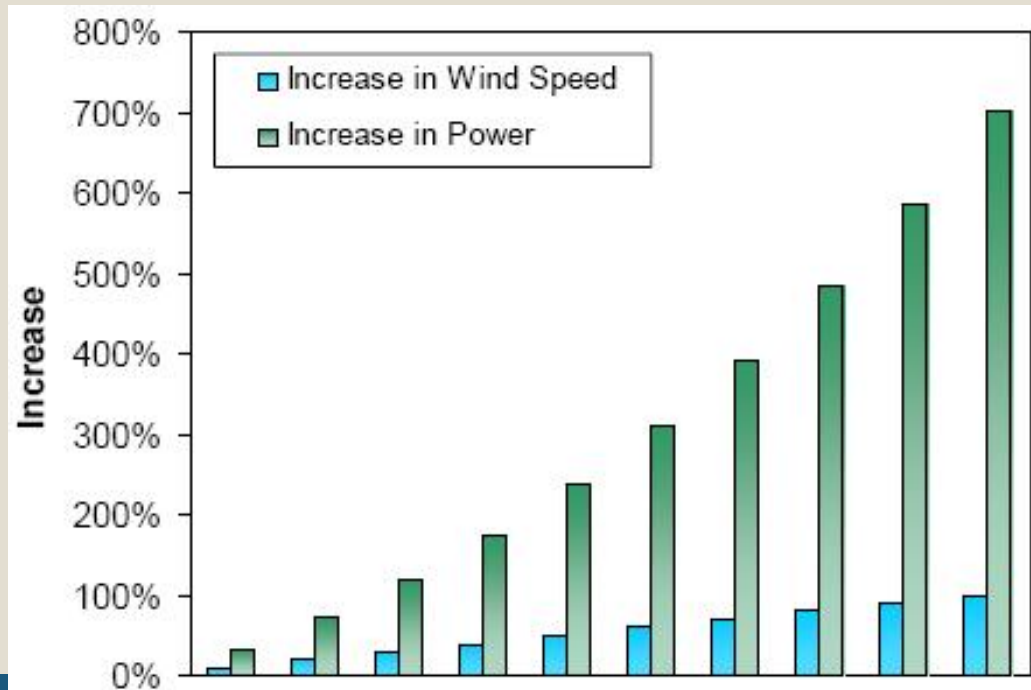
- Local economic development and jobs
- On-site generation helps reduce demand, provide backup (w/ batteries)
- Price-stable (no volatile fuel costs)
- Helps reduce utility peak demands and strain on overly-burdened grids
- Low-maintenance and reliable energy
- Inexhaustible
- Cultural icon (age-old technology)
- Conserves energy resources for future generations
- Increases energy independence



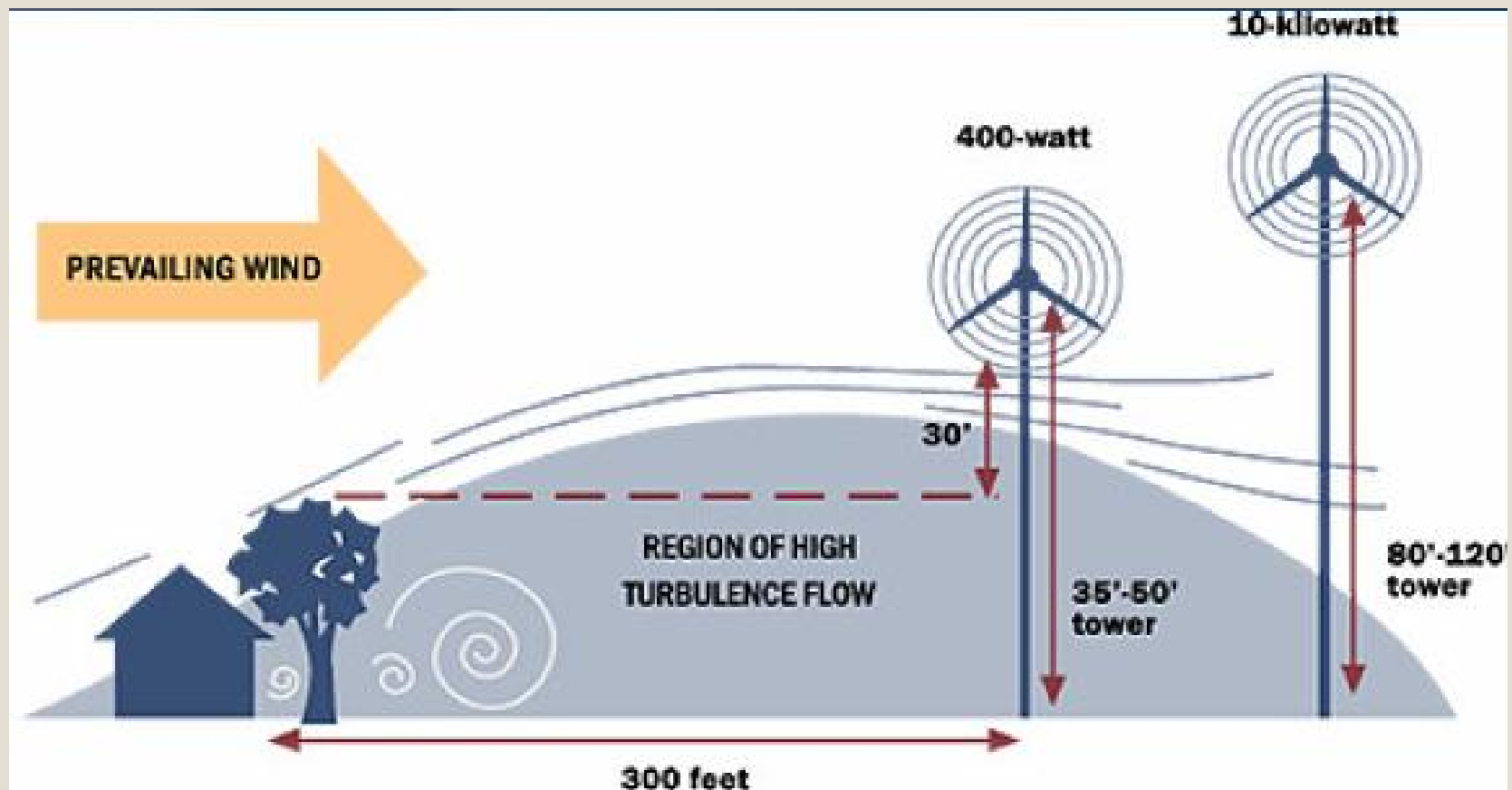
Energy in the Wind



- Energy kilowatt hours (kWh) $\sim$ wind speed³
- Wind speed comes from height...
- ...Height comes from good zoning



Turbulence Affects Wind Output



Model Wind Zoning



- Growing demand for renewable energy technologies
- Small, medium and large-scale wind
- Remove unnecessary barriers (time, cost, etc.)
- Access to quality wind resources
- Compatibility with existing land uses
- Location is #1 factor in project feasibility
- Cooperation, flexibility
- Communication, public process



Zoning Is Not the Same as Permitting



- Zoning controls ***whether you can install a wind turbine***
- Permitting controls ***how you install a wind turbine***
 - Building permit (structural safety)
 - Electrical permit (electrical safety)
 - Permitting is also done locally
 - ...but they may be “joined at the hip”
 - The procedures for zoning and permitting may be integrated at the local level
- Consider establishing a Wind Energy Development Overlay District in lieu of permitting or not permitting wind in existing zoning districts



Potential Impacts



- Visual/aesthetic
- Sound
- Safety
- Property values
- Regulators should consider:
 - Property rights
 - Community benefits of renewable energy
 - Measures available to mitigate impacts



Small Wind Systems

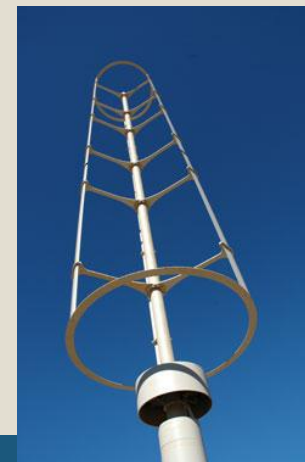
- On-site power for a single home, farm, school, or small business
- $\leq 100\text{kW}$ (most under 10kW)
- On- or off-grid
- Can be used with hydro or solar
- Different scale, impacts, market, policy needs



Small Wind – System Types



- Vertical Axis
- Horizontal Axis
- Technology advances
 - Quieter
 - More consumer choice, availability
 - Sold in every state, 120+ countries
 - Turbine life of 20-30 years
 - Professionally engineered



Medium and Commercial-Scale Wind

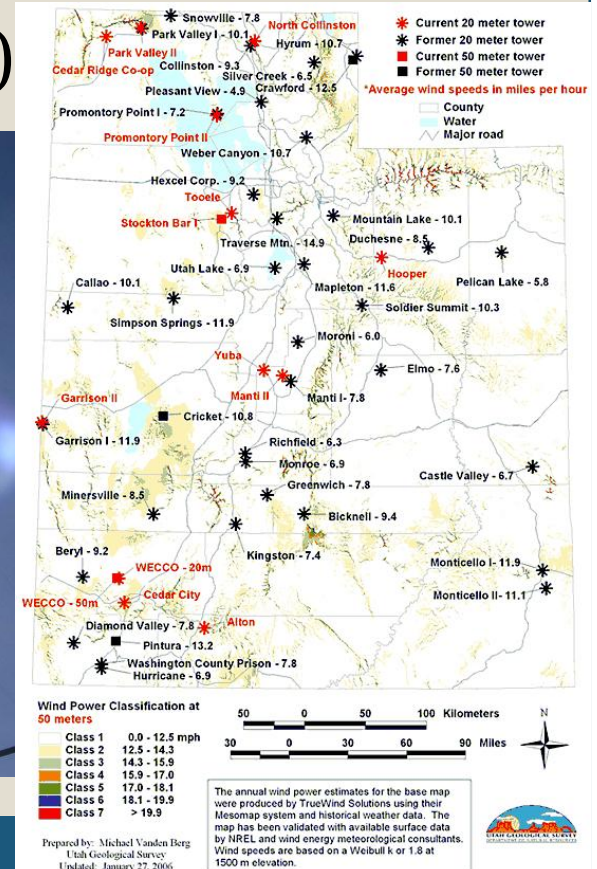


- Tower heights range from 40 meters (132 feet) to 80 meters (264 feet)
- Reliable range of 14-30 mph winds
- Open spaces most desirable
- Proximity to transmission and distribution
- Capital intensive developments involving long-term contracts
- Require wind resource assessment (anemometers)
- Designed to stop at extreme speeds (~ 50 mph)



Anemometer Towers

- Critical for assessing wind resource
- Zoning and permitting should allow for met towers
- 20 meters to 80 meters (100 meters?)



Visual Impacts



- Wind Quality dependent on height and location
- Visual impact is subjective
 - “Sleek symbol of independence and a sustainable future”
vs. “Distractive eye-sore”
- We live with similar structures everywhere: utility poles, flagpoles, street lights, transmission lines, billboards, cell towers



Aesthetic Considerations & Standards



- Require conditional use permits for special character districts (i.e., historic areas or scenic by-ways)
- Require regular maintenance & up-keep
- Don't "camouflage" in tree colors
- Restrict bright colors
- Not a sign - restrict advertising
- Requirements for removal if abandoned/inoperable after certain amount of time
- Acceptance of wind generally higher if community is involved in the process



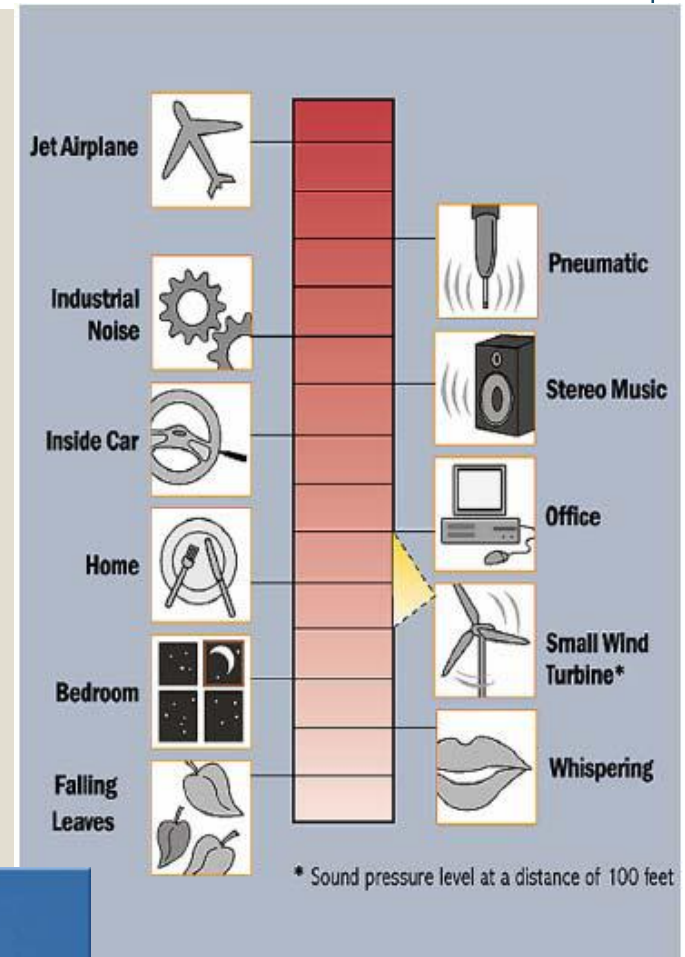
Energy Output Standards



- Do not strictly limit output to on-site use
- “Primarily” on-site = not commercial for net metering
- Excess production is a community benefit
- Flexibility in number per lot
- Little additional visual impact of 1 vs. 3 if all meet standards
- Cost per turbine, “non-commercial” production will naturally limit number
- A limit on number per acre is better, if you must

Sound Impacts

- Usually masked by ambient sounds (i.e., wind, traffic)
- Modern turbines much quieter
- Commercial turbine is about 45 dB at 825 feet
- Measure at property line
- Exponentially quieter with distance
- Less tonal than clasp on a flagpole
- See (hear) for yourself – visit an installation!



Standards: Sound



- Nuisance noise typically defined as > 65 dB
- Ambient noise levels affect perception
- Differences in turbine design, size
- Allow for unusual conditions, such as storms, and noisy settings such as near freeways or industrial uses (i.e., 65 dB or 10 dB $>$ ambient noise level)
- Acoustical studies not necessary for small wind



Safety Impacts



- One documented injury from large wind (paraglider)
- Zero reported from small wind
- Engineered Structures
- Just like lamp posts, which are allowed in parking lots near cars & people
- Attractive nuisance (climbing)
 - Depends on tower style
 - Some must be climbable
 - Utilities require access
- Structural failure is extremely unlikely
- Setback distances



Standards: Safety



- Electrical or structural
- Factory certified by an engineer – do not require costly case-by-case recertification
- Trees more likely to fall but require no setbacks
- Climbing
 - Require fencing only if has climbable features below 12' and only if required for similar uses
 - One “Danger High Voltage” sign can be very effective
- Engineering
 - Submit manufacturer’s electrical drawings with permit
- No soils studies needed
- Underground power lines
 - Costly – only necessary if cross property lines

Setbacks



- Setbacks vs. minimum lot size
- Typical Setback standards:
1.1 to 1.5 x total height (rotor + tower)
from property line,
public rights-of-way, and utility
transmission lines
- Consider alternative compliance:
 - Building inspector certify installation
 - Adjacent owners sign easements
- No need for minimum lot size if can meet setbacks, noise,
and other standards



Wildlife, Ice, and Shadows



- Wildlife impacts: “I hear they kill birds...?”
 - Housecats: kill 10,000x > large turbines; small more innocuous
 - Audubon Society supports well-sited turbines
- Ice “throw”
 - Study: risk < getting struck by lightning
- “Shadow Flicker”: strobe-like rotor shadows from slower (large) blades
 - Easily avoidable
 - Even less potential from small turbine

Birds, Bats and Wildlife

National Audubon Society president John Flicker recently stated the organization "strongly supports wind power" in the November-December issue of it's national membership magazine.

Credit: SEI Ireland



Property Value Impacts



- No formal study of small wind's impact
- Anecdotal evidence that values increase
- Sign of progressive community
- Indicates potential to install
- Infer from large-wind studies
- No evidence that being within view of turbines depresses value over the long-term



Best Practices for Zoning & Permitting Standards



- Remove Obstacles
- Define by size
(different standards apply)
- Allow for wind resource measurement devices
- Exempt from existing standards that unintentionally restrict (e.g., design standards, height limitations)
- Treat as similar uses (flag poles, cell towers)
- Overrule restrictive HOA covenants
- Allow for various approaches rather than prescribing a solution



Communities can encourage wind



- Good ordinances send a message
- Other Incentives
- Reduce or waive permit fees, development impact fees
- Expedite review periods
- Wind access rights to avoid costly/contentious hearings
- Award points in performance-based review and green and building programs

