PARK CITY COUNCIL WORK SESSION NOTES
SUMMIT COUNTY, UTAH
FEBRUARY 25, 2010

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

Tom Bakaly, City Manager; Mark Harrington, City Attorney, Michael Kovacs, Assistant City Manager; and Jon Weidenhamer, Economic Development Manager

Jewels Harrison, Park Silly Sunday Market (PSSM) organizer

1. Council questions/comments. Alex Butwinski reported on attending the Planning Commission meeting. Candace Erickson relayed that the Full Moon Snowshoe at the Farm is sold out. She informed members about the marketing efforts of the Chamber and discussed the great press Park City is receiving throughout the coverage of the Vancouver Winter Games. Lodging numbers have increased, but lodging rates have been discounted to attract visitors. Cindy Matsumoto shared information from the Library Board, specifically an equitable approach to provide regional library services. She also participated in a School District long-range planning meeting. Joe Kernan discussed the Summit Land Conservancy attending the inter-agency task force meeting with information about the actual costs of monitoring conservation easements.

Mayor Williams pointed out that the state has three good renewable energy bills that the City supports. He agreed with Ms. Erickson's comments about the positive effects of the Olympic coverage for our community.

2. Legislative update. Michael Kovacs relayed that the last day of the legislature is March 11. He reported on the status of pending legislation and new bills. He commented on the education redistribution bill where a number of Park City agencies have been involved and addressed a water rights bill where it is proposed that unused rights could be sold by the state. Retirement system amendments are proceeding well and Mr. Kovacs highlighted the status of renewable energy bills.

3. Park Silly Sunday Market. Jon Weidenhamer stated that PSSM's city services contract was last discussed by Council on November 19, 2009. Council members directed staff to consider a one year, or two to three year agreement. He reported that the HMBA discussed the potential of raising parking rates to fund expanding the event to upper Main Street on February 22, 2010. To fund this level of service, staff is recommending a $.50 increase per hour to the current $1 rate parking meter rate, which is estimated to generate $160,000. PSSM would be guaranteed $40,000 toward expanded programming and the HMBA $40,000 for improvements not identified in the Business Improvement District. The City's portion would go toward event operations, paid parking marketing, and to offset potential fee waivers. The HMBA Board supported the proposal contingent on a written plan and four meetings were held with all parties in the interim. He explained issues of discussion, including HMBA access to vendor booths, cross-marketing, public relations, annual reviews, demonstrated measurable success, flexibility on set-up, distribution of funds, and representation of the HMBA on the PSSM Board. Staff is recommending moving PSSM up Main Street to 5th Street, which involves closing Heber Avenue but opening 9th Street up to transit. Mr. Weidenhamer broke down the proposal as $40,000 cash for PSSM, $40,000 cash for HMBA, $55,000 in fee waivers, and $10,000 in-kind value. Of the $145,000, $25,000 is offset by the increased parking revenue, making the City's portion roughly $120,000.

Jon Weidenhamer stated that the HMBA subcommittee notified staff yesterday to relay that it is not supportive of the plan identified in the staff report and he encouraged everyone to focus on the higher goal of bringing people to Main Street without forcing it into a geographic boundary.

Jewels Harrison believed that the meetings over the past several weeks have been successful and emphasized that the plan is based on research and feedback from other event organizers. She acknowledged confusion on the definition of new and expanded programming which goes beyond its physical expression on the street and discussed introducing early bird dinner specials, drawings and announcements for prizes, etc.

Mary Black, HMBA subcommittee member, stated that on February 22, 2010 the HMBA Board unanimously voted to support raising parking meter fees contingent on approving a PSSM programming plan. The Board is not supportive of the submittal based on membership feedback. A survey was conducted last weekend and 71 responses were received; 52% were not in support of a parking meter increase and not in favor of the proposed extended closure. The HMBA membership is in favor of experimenting with alternating the location from lower to upper, but maintaining its current size. The proposal is much larger in size supported with a dramatic increase in parking fees. The HMBA is requesting time to investigate this further because this is an accelerated time table. She stated that the HMBA requests that one of its Board members have representation on the PSSM Board. The Board wants a mechanism to measure the success of PSSM and requests a first right-of-refusal of booth space for HMBA members. In return, the HMBA Board will look at planning an Oktoberfest and the 4th of July which encompasses the whole street. She continued that the HMBA has been presented with a plan by the City which includes the experimentation of closing Main Street and making it a pedestrian corridor every Sunday throughout the summer which raises many concerns that deserve more discussion and input.

The Mayor pointed out that the first right-of-refusal and seat on the PSSM Board have already been provided for in the draft city services agreement. Liza Simpson asked if the HMBA wanted something more than what the staff report proposes for measuring impacts. Ms. Black responded that the Board wants to create a questionnaire to distribute to members on Mondays following the event to evaluate its success. She acknowledged that they are on *the same page* on the first-right-of refusal for booths and the Board seat provisions. Discussion ensued on measuring the mode shift on Main Street. In response to a question from Joe Kernan, Ms. Harrison explained that they reviewed a variety of scenarios and grouping activities on the street and consulted with experts in the area of event coordination to determine the most successful configuration and even how crowds respond to cues. A stage is planned at the lower end of the event located at the Town Lift and a stage at 5th Street or Zona Rosa at the upper end. In addition, she has been polling businesses and restaurants regarding adding an extra hour to the event to bridge the dinner hour gap and to work with PSSM on marketing. Thirty-two of the 37 restaurants opened on Sundays favored the extra hour. She read the language on a petition and pointed out that the growth of the market has to be incremental so that it continues to be successful. Also, it will be easier to measure the impacts this year.

In response to a question from Cindy Matsumoto, Ms. Black stated that merchants are concerned about the closure of 5th Street to Heber Avenue. The way the market existed last summer is fine. Ms. Matsumoto understood that the closure and new plan would attract patrons further up the street, responding to complaints from upper Main Street merchants. Ms. Black stated that the HMBA is concerned about the increase in vendor mix equating to increased competition.

Jewels Harrison explained that vendor mix has been seriously considered and PSSM is offering the HMBA 15 free booth spaces. The Farmer's Market, non-profit and community outreach groups, and sponsorship booths will also be located there. The goal is to create activity on both the upper and lower sections and there will be no food vendors south of Heber Avenue. Vendor mix has been studied in detail. In response to a question from Ms. Matsumoto, Ms. Harrison believed all booths will be filled because every year, attendance, marketing, and vendor outreach has grown. There is a great response from local entrepreneurs and she discussed attracting national artists. In response to a question from the Mayor, Mary Black acknowledged that she was not aware of the vendor mix plan.

Alex Butwinski expressed concerns that some of the members of the HMBA might not truly understand what PSSM has offered. He referred to the staff report where specific measures of success and vendor mix are outlined and feels that the concerns of the HMBA have been largely addressed. Sometimes you just have to move forward and try different things. Mr. Butwinski stated that PSSM deserves the opportunity to move forward, citing that some merchants he spoke with did not realize that it is proposed to give the HMBA $40,000 for marketing from the revenues from the increase in parking meter fees, and the City agreeing to free parking from Thanksgiving to December 15. He feared that many business owners do not understand the rationale of the proposal and he encouraged people to read the report before objecting. He stated that he has even heard requests to extend the energy of the event up the street, but not to expand it. See regular meeting minutes.

Prepared by Janet M. Scott, City Recorder

PARK CITY COUNCIL MEETING
SUMMIT COUNTY, UTAH
FEBRUARY 25, 2010

I ROLL CALL

Mayor Dana Williams called the regular meeting of the City Council to order at approximately 6 p.m. at the Marsac Municipal Building on Thursday, February 25, 2010. Members in attendance were Dana Williams, Alex Butwinski, Candace Erickson, Joe Kernan, Cindy Matsumoto, and Liza Simpson. Staff present was Tom Bakaly, City Manager; Wade Carpenter, Chief of Police; Mark Harrington, City Attorney; Brian Anderson, Parking Manager; Matt Cassel, City Engineer; Francisco Astorga, Planner; Kayla Sintz, Planner; and Jon Weidenhamer, Economic Development Manager.

II COMMUNICATIONS AND DISCLOSURES FROM COUNCIL AND STAFF

Swearing-in of Police Officers Jed Hurst and Cameron Thor – Chief Wade Carpenter introduced the City's newly hired police officers and the Mayor administered the oath of office.

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

None.

IV WORK SESSION NOTES AND MINUTES OF MEETINGS OF FEBRUARY 4, AND FEBRUARY 11, 2010

Candace Erickson, "I move we approve the work session notes and minutes of the meetings of February 4 and February 11, 2010". Alex Butwinski seconded. Motion unanimously carried.

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

1. Consideration of a Master Event License and City Services Agreement with the Park Silly Sunday Market for an initial three-year term, in a form approved by the City Attorney – Also see work session notes. The Mayor opened the public hearing.

Kevin Valaka, resident, business owner, and Chairman of the Restaurant Association, stated that he supports PSSM 100%. Anything that brings people to Main Street is a good thing. The Association includes Summit County businesses and the organization produces Savor the Summit and Libation the Nation. However, he is not in favor of a 50% increase in parking fees and feels it's shocking. He would like to better understand the structure of the revenue plan and distribution of funds.

Debbie Shernberger, employee of Hilda's on Main Street, stated that the continued closing of Main Street to 5th Street every Sunday for the PSSM is not a good idea. She likes it at its current location and supports it there.

Monty Coates, owner of Main Street businesses, thanked PSSM for its outreach to the Restaurant Association and for some of the features of the plan. With regard to measuring financial impacts, he suggested selecting 20 businesses agreeing to post their sales and comparing the information on a weekly basis. He is in full support of the HMBA Board's opinion and has been involved in recent discussions. He noted that the HMBA has been blamed for changing its mind and that is not true and the group is often criticized with respect to the PSSM. But in an effort to be proactive and supportive, the Board agreed to take a look at a possible increase in parking fees contingent on seeing a plan. The funds generated would be used for programming throughout Main Street on summer Sundays. It was agreed that PSSM organizers are very good at public relations and events and to take advantage of the synergy that they have created with the current event.

He suggested that PSSM is the perfect group for marketing and programming upper Main Street and stated that it was the HMBA's hope that a win-win plan would be something that could be supported by the membership. He expected that the PSSM would provide a plan with a budget for entertainment and activities planned throughout Main Street but instead they were presented with a plan to vastly expand the current event which includes the closure of Main Street every Sunday and lining the street with competing food and retail vendors. After build-out of the three year plan, 20,000 to 30,000 square feet of retail and restaurant space will be added to Main Street every Sunday. He stated that this is no way to drive business to HMBA members. This plan will only exacerbate the negative impacts of PSSM which conflicts with the original goal. There seemed to be no interest in getting HMBA member feedback in time because the decision has been made. The HMBA Board is often characterized as not representing its members and is often a target of criticism. Members are varied in their opinions and approaches to business but members are meeting to formulate a common vision for Main Street. If given time and a seat at the table, the HMBA will endeavor to represent the membership and reach consensus.

The Mayor asked if the explanation of vendor mix changes his opinion. Mr. Coates responded that there is still a chance that the booths will be filled with competing products. By build-out, this is an enormous event with many vendors. Cindy Matsumoto asked for clarification of build-out because she understood the event is just shifting. Mr. Coates explained that the three year plan contemplates expanding all the way to the Brew Pub by the third year. Ms. Matsumoto believed that was only a possibility with HMBA support and Jon Weidenhamer agreed. Monty Coates expressed that success means different things to the PSSM and the HMBA. Jewels Harrison disagreed and stated that the whole purpose of the non-profit organization is to be a community forum. The reason Sunday was selected was based on a lot of research and PSSM is very invested in the success of merchants on Main Street which has resulted in the proposed approach this year.

Mary Black, Main Street merchant and property owner and not speaking on behalf of the HMBA, stated that the continued closure of Main Street up to 5th Street is unnecessary. She is interested in an incremental increase this summer and suggested closing the street between the Phoenix Gallery and the Post Office. PSSM can program music there and the HMBA will take all of the booth space for promotions and displays. There are ways to get people to roam the street without street closures or the expansion of PSSM with competing merchants.

Rick Anderson, HMBA and Eating Establishment, expressed his opposition of expanding PSSM, closing streets, and increasing parking meter fees. He quoted the Executive Summary from the Economic Impact Study that of the 81 respondents to the on-line survey, 19% experienced a positive impact and 43% reported that they had a negative impact from the PSSM. But 73% of the businesses indicated support of PSSM and its continuation. He pointed out that lower Main Street merchants also experience negative impacts and specifically discussed The Summit Watch Marriott. Last week's survey showed that Main Street merchants did not support further closures of the street to expand the market and a clear majority did not support raising paid parking fees to support the expansion. He maintained that any time Main Street is closed for an event, business declines and Main Street does its fair share by closing the street and holding community events. In this economy, this proposal is another impediment and by raising parking meter fees for 365 days a year for the PSSM for 15 days a year is not a good business decision. PSSM should not be expanded until it is found to have a positive impact on lower Main Street where it is currently located. He urged Council members not to approve further closures of the street or increase parking fees. He supports PSSM in its current footprint.

Jo Rathburn, Live and Life Park City, reported that she has not suffered any negative impacts from PSSM and believes it has had a positive benefit. She really likes the spirit of the event, supports it in its current form and is open to expanding it. However, raising the parking fee so dramatically is not a good idea and she suggested considering other options.

Emerson Evader, Main Street restaurant, stated that he is a great supporter of PSSM and the expansion will be good. Bringing more people to the street will generate more money for all businesses. Rather than focusing on the paid parking increase, market free parking.

Debbie Shernberger felt that the City should market the parking available to anyone at a reduced rate at the Marsac Building.

Leslie Butler, Sugar Buzz on Park Avenue, suggested installing parking meters on Park Avenue to open up parking spaces for her customers. Paid parking could be expanded to Swede Alley and some other places to collect more revenue without raising fees. Closing Heber Avenue affects her business but she is very much in support of PSSM. If PSSM is moved, people will not continue to come to Main Street and it's a great activity on Sundays. Ms. Butler indicated that they have a booth and are a sponsor.

Stephanie Johnson, Summit Watch Marriott, stated that her owners and guests are pleased to have PSSM to go to on Sundays during the summer but she suggested no more wild animals. PSSM offers something new and exciting each week, it attracts people up the street and it is really important that it continue. The Marriott has its own parking but Ms. Johnson warned that raising the parking too much during these economic times may not be advisable.

Bob Gerber, Park Meadows resident, indicated his experience in the event industry and that he read about the proposal in the paper. He encouraged Council members to study it more as it seems more than what the City has committed to do for Sundance. The economic study was neutral and he didn't feel that either side has done a good job of reaching consensus. He emphasized that this is a large commitment, take time to decide, and make it available to the public for review.

Tanner Toly Ireland, Main Street business owner, suggested that the City could collect more revenue if illegally parked cars were ticketed on Empire Avenue. Activities programmed between 5th Street and the Post Office should be the kid zone, entertainment, beer garden, and things that would bring energy to the upper part of Main Street but not more competition. Do not increase the vendor mix, but increase the energy.

With no further comments from the audience, the Mayor closed the public hearing. Mayor Williams believed selecting 20 businesses to participate in a weekly survey is a very good idea as well as selecting the right types of activities south of Heber Avenue. He admitted he has mixed emotions on the parking increase proposed.

Cindy Matsumoto thanked everyone attending tonight and the cooperative work involved to try to find a solution. She felt the merchants and the citizens want PSSM to continue and she supports its current or expanded plan and pointed out that the explanation of the new vendor mix plan may have changed some people's minds. She felt the parking fee increase is a good solution for funding and supporting Main Street; there is plenty of free parking and she didn't feel that the increase will impact use or behavior. Ms. Matsumoto supported the $1.50 increase so that the plan is successful because Main Street is important.

Candace Erickson stated that she is very proud that the Council removed the meters in Swede Alley but since employees continue to park on Main Street, those meters remained. She is not a proponent of increasing parking rates. The ultimate goal of PSSM is to make money. It is an incredible event but it is a business and she questioned whether it is the obligation of taxpayers that PSSM make money and she is having a tough time justifying the amount of money requested. The HMBA does not seem supportive of expanding past 5th Street and she is inclined to favor PSSM's current plan. There is an opportunity to grow it but it takes time and conversation between both parties and she is not sure it is the City's responsibility. PSSM is a popular event that has created a problem for many brick and mortar businesses. She supports keeping PSSM the same for this year and to continue to work with the HMBA to reach a compromise.

Joe Kernan thanked everyone for working together. PSSM has demonstrated over time that it is willing to address a variety of concerns and accept conditions of approval. He felt it is a good plan and a decision is needed now. The compensation is fair in consideration of the quality of the event and funding the program from parking revenues seems appropriate. Enhancing the vitality of Main Street will help all businesses and motivate visitors to return. Funding will also help the HMBA.

Liza Simpson stated that she favors raising the parking meter rates to $1.50 per hour. The only way PSSM is going to work for everyone is to manage the message and to market that 85% of the parking is free. The City needs to revisit parking fees in any event because they have remained the same since 1998 and $1 in 1998 equates to about $1.32 in 2008. Hangtags will not be increased and she believes that most of the locals are happy with free parking in Swede Alley. She thanked everyone for working together but is not convinced that expanding PSSM to 5th Street is a positive approach because the discussion has been so compressed. Ms. Simpson stated that she supports funding both the PSSM and HMBA this year and to further explore the expansion with the goal of implementing the plan in 2011.

Alex Butwinski stated that he agrees with Council members Kernan, Simpson and Matsumoto. The $1.50 parking fee is overdue and fair. He feels locals are aware of the free parking and use it and didn't feel that patrons of Main Street would be reluctant to pay the parking fee. He hoped there is a way to move forward tonight so that PSSM can proceed with plans for the summer; he envisioned PSSM operating within the same footprint for 2010 unless a plan can be formulated this year. He liked Ms. Black's idea about planning activities between the Post Office and the Phoenix Gallery. Mayor Williams felt that the problem is that no one on lower Main Street will be aware of the activities on the side street because no one will be able to see it. He again discussed the product mix suggested by Ms. Harrison. Mary Black explained that most of the parking is directed to the China Bridge Parking Structure forcing people to walk down the street. The closure proposed is not an incremental increase. Mayor Williams again brought up the product and activity mix which is intended to not compete with businesses but to attract customers. Ms. Black complained that even if the booths are open to the HMBA, members may not fill them and they will be sold to others.

In response to a question from Joe Kernan, Ms. Harrison explained that PSSM can operate again in its current footprint but it is doubtful whether it will bring more vitality to upper Main Street. The City approached PSSM with a request to make the event more successful for the entire street and she asked to be trusted to make decisions based on experience. She addressed vendor mix and noted that PSSM sells similar products as Mary Black, who has attested that her business is up on Sundays. The food has been an issue but several restaurants have indicated increased business on Sundays. Ms. Harrison stated that she is willing to again consider vendor mix, but the reality is that each year restaurant tax numbers are up consistently. Liza Simpson suggested that a validation program be established with paid parking.

Alex Butwinski referred to criticism that the City is subsidizing PSSM, but views this relationship as buying services like anything else. There is a benefit to *buying* a community event that lasts 15 weeks over the summer. He believes it attracts more locals to Main Street which has a value.

Tom Bakaly emphasized that there may be some confusion about the expansion. The proposal is mainly a shift because the PSSM will now start at the Town Lift area, giving up the space to the north of the pedestrian bridge and trolley turn-around. In order to address all interests, he suggested approving a plan tonight subject to ratification in two weeks. The Mayor and Council member Erickson agreed that the original space was ideal for a stage and shaded seating. Jewels Harrison explained that PSSM agreed to give up the area because of several reasons. The state is requiring electrical refrigeration for food vendors and closing both 9th Street and Heber Avenue doesn't work logistically or for transit. For safety reasons, it also makes more sense to close Heber Avenue. Liza Simpson suggested that the weekly surveys be an obligation for PSSM to work with the HMBA and Tom Bakaly felt this is a performance measure that could be included in the agreement. Mayor Williams expressed his difficulty with the survey because of other factors like the economy. There was no opposition to the existing footprint. He felt that creating a pod of activity at the Post Office will probably be ineffective.

Liza Simpson, "I move we approve a master festival license and city services agreement for the Park Silly Sunday Market for an initial three year term, in a form approved by the City Attorney in the original footprint of the Market with expansion (plans) to be approved upon by the HMBA, City, and PSSM working group hopefully in time for this season but if not, definitely by the next one". Alex Butwinski seconded but the motion was later withdrawn.

The Mayor asked if sales reporting would be a requirement and Ms. Simpson stressed that it should not be managed by the City. She added that she is comfortable with the performance measures outlined in the staff report. Joe Kernan agreed and felt that the HMBA and PSSM can gather their own information. The reason he is supporting this service is because it has broader impact than just one day a week and brands Main Street. Liza Simpson clarified her motion to be approving the recommendation in the staff report with the exception of approving a geographical expansion to 5th Street without the working group's approval.

Joe Kernan believed that conditions should be reasonable. Jon Weidenhamer interjected that the word *reasonable* can be added to contract language to provide some flexibility. The expansion was based on a series of concessions which PSSM has made like vendor mix, booth space for the HMBA, etc. Liza Simpson emphasized that Ms. Harrison explained that those components are planned for the expanded area. In response to a question from Ms. Simpson, Mark Harrington pointed out a number of conflicts with provisions directly tied to the expansion in the draft agreement.

Ms. Erickson asked if anyone else shares her concern about paying $40,000 for expanded services in an area that may not be expanded. The $40,000 may be better used by the HMBA for programming.

Ms. Simpson expressed her hope that the positive momentum would continue with a favorable motion. Jon Weidenhamer suggested giving PSSM $30,000 for marketing and reserving the last $10,000 until there is agreement on the expansion. Mark Harrington emphasized the importance of knowing what is being approved and what public funds are going toward. He admitted that the contract is complicated because negotiations have been compressed and the HMBA is not a party to the agreement. Mr. Harrington outlined several options for members and Joe Kernan suggested that the parties meet now and return to the meeting with amended language and an amended motion. With regard to financing, Alex Butwinski noted that he is fine with the $40,000. Liza Simpson withdrew her motion and made another one, "<u>I move to continue this item to the last item on the agenda</u>". Joe Kernan seconded. <u>Motion unanimously carried</u>.

2. <u>Consideration of a Resolution Amending Sections 7.10. and 7.11 of Section 7, Parking, Meter Rates, Violations, Towing and Impound Fees of the Park City Fee Resolution and replacing and repealing Resolution 15-09 in its entirety</u> – Tom Bakaly referred to the recommendation outlined in the staff report. Brian Anderson added that hangtags will remain the same price and some of the revenue from the increase will be used for marketing hangtags and transit. Significant discussion ensued on different versions of issued hangtag devices, pricing, failures, deposits, and returns and it was decided to return to Council for review of these issues. The Mayor opened the public hearing.

Kevin King, 314 Norfolk Avenue, suggested a simple credit card for purchase by locals, providing an hour or an hour and a half without the need for devices and/or batteries.

Brian Anderson explained that the City has the QuickCard, a magnetic strip credit card. The new cards have a smart chip and the City has the ability to change rates on these cards.

Andy Behrman, Treasure Mountain Inn, suggested an alternative of not raising parking fees but eliminating the choice of 15 or 20 minute increments so it would be $1 minimum to park on the street. Mr. Weidenhamer advised that this would need be studied to determine if it is financially viable. Mr. Anderson understood that Kent Cashel examined this idea and concluded that it didn't increase revenues enough to cover funding needs.

With no further comments from the audience, the public hearing was closed.

Liza Simpson, "I move we approve the Resolution Amending Sections 7.10. and 7.11 of Section 7, Parking, Meter Rates, Violations, Towing and Impound Fees of the Park City Fee Resolution and replacing and repealing Resolution 15-09 in its entirety with direction to staff to come back for a discussion of hangtag credit". Joe Kernan seconded. Motion carried.

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

3. Consideration of an Ordinance approving the extension of the 68 Prospect Street Replat, an amendment to Lots 8, 9 and 10 of Block 18 of the Park City Survey, Park City, Utah – Planner Kayla Sintz explained that the application requests combining three lots and creating two lots; an historic home currently sits across all three lots. The historic project requires a preservation plan and a financial guarantee and must be moved before the plat can be recorded. The plat amendment was originally approved in 2006 and extensions were granted in 2007 and 2008. The preservation plan has just been finalized and the financial guarantee was not fulfilled prior to the last expiration. Two additional conditions of approval have been added from the previous plat, Condition of Approval Nos. 6 and 7 and staff urges approval of a one year extension. In response to a question from the Mayor, she discussed the applicant working through issues with the adjacent neighbor. The Mayor opened the public hearing; there was none. Joe Kernan, "I move we approve the 68 Prospect Street Replat". Alex Butwinski seconded. Motion unanimously carried.

4. Consideration of an Ordinance approving a one year extension of the 313 Daly Avenue Subdivision Plat, an amendment to Parcels 1 and 2, located at 313 Daly Avenue, Park City, Utah – Planner Francisco Astorga explained that Council approved the plat amendment on May 15, 2008 and similar to the previous item, the preservation plan and design review were not finalized until November 2009 with a new expiration of May 2010. There was discussion about whether this time line is adequate and reasonable and the applicant believed it was. The Mayor opened the public hearing; there were no comments and the hearing as closed. Joe Kernan, "I move we approve New Business Item No. 4". Candace Erickson seconded. Motion unanimously carried.

5. Consideration of an Ordinance approving a one year extension of the Habitat Replat Plat Amendment, located at 154 Marsac Avenue, Park City, Utah – Mr. Astorga noted that this application is similar to the previously discussed items, but there is no

preservation plan associated with 154 Marsac Avenue. The new expiration date is June 2010. Kathy Loft, Executive Director, explained the status of the project and thanked everyone involved. The Mayor opened the public hearing; there were no comments and the hearing was closed. Alex Butwinski, "I move we approve an Ordinance approving a one year extension of the Habitat Replat Plat Amendment, located at 154 Marsac Avenue, Park City, Utah". Liza Simpson seconded. Motion unanimously carried.

6. Consideration of a Professional Services Agreement with Horrocks Engineers for design and construction management services of the waterlines from Quinns Water Treatment Plat to Wyatt Earp Way, in an amount not to exceed $228,352, in a form approved by the City Attorney – Matt Cassel pointed out that this project will meet obligations with IHC due October 2010. He discussed the bid and selection process where it was determined that this bid was in-line with the proposal. Carol Potter, Executive Director of Mountain Trails Foundation, thanked the Council for giving the Foundation the opportunity to work with the City on this project and volunteered to provide outreach to users about the Rail-Trail construction work. She also suggested that an overpass be considered for SR248. The Mayor invited public input; there was none. Liza Simpson, "I move we authorize the City Manager to execute a Professional Services Agreement with Horrocks Engineers, in a form approved by the City Attorney in an amount not to exceed $228,352". Motion unanimously carried.

7. Consideration of an Ordinance approving the 1440 Empire Avenue Subdivision, located at 1440 Empire Avenue, Park City, Utah – Planner Kayla Sintz explained that this is a request for a three-lot combination into one lot of record. The Planning Commission forwarded a positive recommendation to Council on October 14, 2009. The City Council heard this item on October 29, 2009 and remanded it to the Planning Commission on issues outlined in the staff report. The Commission heard the item again on December 9, 2010 and forwarded a positive recommendation to the City Council. There has been significant input from adjacent owners; all correspondence and minutes are provided in the meeting packet. The Mayor opened the public hearing.

Bruce Baird, attorney for appellant, stated that they don't have much to say about the plat amendment but a lot to say on the appeal of the CUP. However, he believes the plat must comply with the General Plan and Land Management Code. He disagrees with staff's analysis and stated that the Code does not allow combination of lots in a way that increases the density of the total pad beyond what the three individual parcels would support. By combining these lots, there is a potential for increasing the density by up to 50% which is not permitted by the Code.

Rick Margolis, Empire Avenue property owner and appellant, believed that the plat amendment is as important as the CUP. Staff analysis focuses more on the LMC than the General Plan. LMC 15-7 provides that plat amendments and subdivisions can not be used for something which is otherwise not allowed. The purpose and use of a subdivision, plat amendment or lot combination is to provide the most beneficial plan but there are no other alternatives presented. He pointed out that the Code reads that these regulations are not intended to interfere with, abrogate or annul any other ordinance, rule or regulation, and if any provision of these regulations conflict with any other regulations, the regulations that are most restrictive on the land shall apply. Staff conducted an analysis, partially addressing the issue. He described the floor area ratio analysis, emphasizing that the lot consolidation is allowing a use that is not more restrictive because there is more density. He feels the time is now to deal with the issues of the project, at the plat amendment stage. If the plat is not approved, the issues do not exist.

Mr. Margolis stated that when the application was initially filed, there were only two lots and a third lot was added which is adjacent to the Olsen property. A lot line combination should be conditioned so that no additional development is allowed that would otherwise be allowed on the three individual parcels. He believed square footage should be limited to 9,000 square feet avoiding conflicts with the Code. He felt that staff's analysis did not meet LMC 15-7-2(g) regarding providing the most beneficial relationship between pedestrians and vehicles and it would be difficult to make a finding that adding 48 bedrooms creates the most beneficial relationship. Section 15-7-2 describes the purpose as guiding future growth in accordance with the General Plan.

Mr. Margolis stated that the General Plan has nothing to do with what we have now but what we would like to see in the future. It is inappropriate to point to an inconsistent use in a zone that is *General Planned* for a particular use because it predates the General Plan. The General Plan establishes goals and aspirations and describes the project area as resort-based low-density residential but the applicant keeps referring to the fact that the property is in the RC Zone where a hotel is allowed but that is not the purpose of the General Plan. The General Plan addresses a transition into the Historic District and there may be overriding considerations in the General Plan like affordable housing. Mr. Margolis stated that the conversations about deed restricting this affordable housing project have disappeared and he alleged that the project is an unrestricted apartment building. The applicant is trying to get more density which is not the purpose of a lot line adjustment and further issues can be avoided now by not approving the combination and restricting development.

Rick Margolis reiterated that the General Plan describes the area as low-density residential and the subdivision code requires compliance with the General Plan. He stated that conditional use approvals require compliance with the General Plan and staff's argument about low-density residential is that it is not defined in the Code. He agreed that it is not defined but there are places to go in the Code to get an idea of the concept and he referred to definitions of low and medium density zones and associated open space requirements. He questioned why low density doesn't require more open space.

Mr. Margolis relayed that he is the owner of a real estate investment development and lending business and has never seen a project with so many violations in front of a board. There is so much here to talk about. He continued to explain that skier bed base is not defined in the Code but applies to properties east of Empire Avenue and noted that the only thing built over the last 30 years is single family. The General Plan identifies affordable housing on Lower Park Avenue as a goal; it excludes the resort base area. He read the General Plan goal for Lower Park Avenue and repeated that the project does not comply with the General Plan. He again referred to the LMC to argue not to consolidate the lots which would result in more development that would otherwise not be allowed.

Diane Newland, 1455 Woodside Avenue, stated that she lives directly below the project and is against the replat. She explained her anger when she learned the project was not going to be deed-restricted affordable housing but just an apartment building.

Attorney Bruce Baird requested that if the public hearing was closed, and discussion continued between the Council and the applicant, it would be troubling if he and his clients were not allowed an opportunity to continue to respond. With no further comments, the public hearing was closed.

In response to a question from the Mayor, Mark Harrington discussed lot combinations and stated under Mr. Baird's interpretation, the City would have the greatest land use control ever because all remnant lots in old town would have zero value and no lots could ever be combined if such resulted in greater density or a larger building area, as he understood the neighbors' lots had done and certainly the state legislature would react swiftly if we tried that interpretation. Regarding the intent of "low density," Mr. Harrington stated perhaps the neighbors' arguments were a good lesson for attention to detail when drafting new language but the term low density is referenced broader in the context of the General Plan recommendations intended to address planning goals as a whole, not parcel specific density which is governed by zoning. The intent was not to make the entire resort base non-conforming. The lot combination application complies with the current zoning and the LMC and General Plan are read consistently together. Staff finds that the projects meets the requirements of the zone and is forwarding a positive recommendation. He noted that just because the General Plan identifies affordable housing as a goal for Lower Park Avenue, it doesn't preclude it from the resort area. The requirement is not to analyze the highest and best use and only allow that. The zoning regulations do not define affordable housing as a prohibited or excluded use from the zone.

The Mayor asked if this is an affordable housing project. Architect Craig Elliott explained that there is some confusion because the application was not filed as an affordable MPD which is designed to provide incentives to increase density which is not requested in this instance. He affirmed that the intent is affordable housing. In response to a question from Cindy Matsumoto, staff explained the low-density residential map highlighted in yellow. In response to a comment from Candace Erickson, Mr. Elliott explained that the intent is to provide affordable housing under federal guidelines and they are following the same procedures as The Line

Condominiums and Snow Creek Cottages. He stated the applicant would be willing to condition the approval as necessary.

Mark Harrington advised that the reviw CUP discussion is more appropriate to address use as opposed to the lot combination. He stated by the neighbors' logic, commercially designated areas in red would be the only place for commercial uses. Clearly, that is not the intent. He pointed out that the low density areas on the map have been developed in different zoning schemes. The General Plan purpose statements can not override the more specific enabling regulations of the zoning district.

The Mayor clarified that the review criteria is the same regardless of the affordability.

Liza Simpson, "I move we approve an Ordinance approving the 1440 Empire Avenue Subdivision, located at 1440 Empire Avenue". Cindy Matsumoto seconded. Motion unanimously carried.

8. Consideration of an Appeal of the Planning Commission's December 9, 2009 approval of a Conditional Use Permit for 1440 Empire Avenue, applicant Craig Elliott AIA - Appellants David and Rosemary Olsen, Rick Margolis, and Bill and Dianne Newland – Members agreed to permit public input. Alex Butwinski, "I move we expand the scope of the appeal to include a public hearing. Candace Erickson seconded. Motion unanimously carried.

Kayla Sintz stated that on December 9, 2009, the Planning Commission approved by 4:3 vote, a conditional use permit for a multi-unit dwelling located at 1440 Empire Avenue and on December 21, 2009, the CUP approval was appealed. The Commission discussed compatibility and transitioning at its December 9 meeting and reviewed CUP criteria at the October 14, 2009 meeting. She emphasized that this project is not located in an historic zone. Staff recommends affirming the Planning Commission's decision to approve the CUP.

Liza Simpson understood this application is not being processed as an Affordable Housing MPD, but pointed out that at one time affordable housing appeared in a finding which was later removed and Kayla Sintz explained the various iterations.

Attorney Bruce Baird displayed photographs and stated that the RC area to the east serves as a transition zone to lower densities and transitioning isn't building the highest optimal density that can be crammed on the site. This area also transitions to the Historic District to Woodside Avenue. He displayed the proposed building and detailed shadow analyses and potential impacts on the Newland House. The height in the RC District is limited to 35 feet but there is a five foot exception for the roof, but it adds extra storage to the building. He asked how a building can be approved higher than the allowable height; conditional uses do not waive height restrictions and variances are not allowed. Mr. Baird displayed photos and discussed the height issue and the negative impacts to the Newland House with regard to views and light. He displayed and spoke at length about using one of Mr. Elliott's digital renderings and editing it to reflect their impression of the look of the building. There was discussion about using the same grade for consistency and Mr. Baird indicated that they don't have access to the CAD files to verify and provide more information. It's difficult to determine what the structure will look like from the applicant's drawings.

Mr. Baird argued that none of the applicant's drawings show more than one car in the parking lot and they inserted the cars on their drawing. He insisted that it is impossible to get into the parking stalls if they are full, making them useless and alleged that a motorist has to make five point turns to exit. It is unrealistic to think that 11 parking spaces can serve 48 beds. The parking plan has no detail and should be finalized. He pointed out the three snow storage areas and stated that they simply don't work with the parking configuration.

Mr. Baird alleged that Planning Commissioner Strachan indicated that he believed that the Planning Commission's role in considering the CUP was to maximize the value of what the developer can gain from the property. He argued that that is not a matter of law. Joe Kernan interjected that that is not how the minutes read and Mr. Baird argued that he was there and heard the comment. Mr. Baird continued that a conditional use must mitigate any adverse conditions. While this project maximizes the value for the applicant, it destroys value for the Newlands and the Olsens. He indicated that the Planning Commission acted like the affordable housing was a laudatory goal. Mr. Baird stated that this is not affordable housing, but simply the densest building allowed with no guarantee that it will be anything other than a profit maximizing effort. Every bit of discussion on affordability was nothing more than a red herring or a bait and switch and he believed that made a difference in the Planning Commission's vote.

Diane Newland stated that she and her husband are really going to be impacted because the project is located directly behind their residence. They have lived in Old Town for 30 years and in their current home on Woodside Avenue for 20 years. The size, scope and scale of this project are not in keeping with the surrounding homes. Other structures on Empire Avenue are single family homes set in front on the property not on the rear property line. She stated that she and her husband could have expanded their home or sold it but they haven't. They have to follow Historic District Guidelines while they are surrounded by huge projects. She began speaking about owning a home on Sampson Avenue and her experiences there and the Mayor asked that she keep on track. Ms. Newland continued to explain that this project is so large that their home will be engulfed in shadows for most of the day and it will look out of proportion with the historic homes. Because of the slope, it will be like looking at a six story building and they will not have privacy or light. Ms. Newland believed that there will be a constant turnover in tenants since it is not deed-restricted affordable housing. There could be up to four people in an apartment and there is only one parking space per unit and she believed that tenants will use her property to park. She cited a number of illegal parking violations in the neighborhood. She didn't feel long term residents should take a back seat to developers who are long gone after a project. Photos of illegal parked vehicles on Woodside Avenue were distributed.

Doug Willwright, land planning consultant for appellants, discussed his analysis of the drawings submitted by the Elliott Work Group and what they felt is more representative of the plan. He indicated that the project will be debilitating to the Newland property and suggested removing a story from the building or shifting the building to the west. Most of the buildings on Empire Avenue are located on the front of the parcel. Another technique is to step the building up the slope to reduce the street height. Joe Kernan pointed out that the camera angle can make a dramatic difference in arguing visual height impacts.

Rick Margolis again addressed the height and storage issue and did not believe the project meets Code requirements for vehicular and pedestrian circulation as stated in the Conclusions of Law. No vehicle is allowed to back up onto the street and he questioned how an emergency vehicle will access the parking lot and exit without backing up. He believed that one of the biggest issues resulting in the split vote was parking. There are 12 parking spaces for 48 beds and no spaces for visitors, deliveries or services or adequate circulation. Parking and circulation have not been mitigated. He reiterated that the General Plan represents goals and aspirations and not a picture of what is there now. The CUP process requires compliance with the General Plan contrary to the opinion of the City Attorney, despite the fact that it designates low density residential in this area. Low density means something and medium density requires 50% open space. There is no open space associated with the project and Mr. Harrington seems to be saying that there is no difference between low and high density because Shadow Ridge, a high density project, is within the low density area on the map. The goal and aspiration of new development outlined in the General Plan is low density residential and CUPs must be consistent with the General Plan but he is hearing that it doesn't matter. Allowed uses like a bed and breakfast are still subject to the CUP requirements. The lot's development potential is maximized and he questioned how that fits with low density. There is not enough parking for 48 beds and charging for parking will result in an empty parking lot. He read a comment from Commissioner Petit about her concern that overflow parking on the street can not be managed by the owner.

Dave Olsen, adjacent neighbor, felt that the owner is trying to do too much on the parcel at 10 units and 48 beds. The mention of residential in the General Plan is meaningful because single family residential is what has been built on Empire Avenue. The project is too dense in this transition zone. Additionally, the units lack storage and he spoke about people needing to park in the Empire Avenue neighborhood, parking in their driveway. Snow removal and storage is a problem. The developer should be forced to build something consistent with the General Plan and the transition zone should have projects with less impacts. Mr. Olsen spoke about the project overshadowing Ms. Newland's property.

Rosemary Olsen commented about living in Old Town at various locations and discussed at length the creative ways people park on private property. This is a real problem and there is not enough parking for the project on its property or the street. She felt that things will be stored in the carports and feared that if an owner has an illegally parked car towed away, the violator will retaliate. She complained about snow storage and that the project will create a burden for the neighborhood. This project is not compatible with historic structures, does not fit with the General Plan and will reduce property values.

Craig Elliott emphasized that they have followed the Code and have appropriately met all requirements. He reviewed elements of the parking lot and pointed out its compliance. He discussed meeting the purpose of the transition zone and pointed out related design elements. All of the multi-unit buildings in the area are much larger. Through illustration of renderings, he pointed out the massing of the building on the site and other buildings on the street. Mark Harrington asked about the accuracy of the renderings presented by the appellants, and Mr. Elliott explained that he can't comment since he doesn't have information on their point of reference. The floor area ratio of this project is less than the average single family unit in the neighborhood. He emphasized the goal of affordable housing and expressed that he is amenable to changes in the conditions of approval clarifying the commitment to the goal of providing transient housing that supports resort commercial. Mr. Elliott relayed that not all employees have cars because many are visiting from countries all over the world and their living requirements are minimal and simple.

Kayla Sintz referred to the LMC section on the height exception quoted by the appellant, which may have mislead listeners to believe the statement was worded that way in the Code. She read the actual wording of the five foot height allowance exception and the Mayor invited public input.

Bob McAllister, owner of the Woodside Inn, felt the proposal borders on the *insane*. Operating as a six bedroom bed and breakfast, the City required him to have one parking space for each bedroom, plus two for him and his wife as residents. Their underground garage is 2,200 square feet accommodating eight cars and the property has one off-street parking space. He remarked that the new Woodside Avenue sidewalk is used for parking. If this project is approved, the Council should approve parking on both sides of Empire Avenue, which will never happen.

Ruth Meintsma, resident, explained her perspective of the Planning Commission meeting where the *yeas* were for high density and affordable housing and the *nays* supported preserving historic character and she stated that she agrees wholeheartedly with both sides. The density is in keeping with the resort nature of the area but the homes to the east will be affected by the size and wall-like effect of the structure and the arguments are equally balanced but she felt there are issues that tip in favor of the historic homes. The proposed project is in a transition zone, intended to buffer the historic area from the resort's high density. This project creates more impact on historic enclaves. Owners of historic structures are asked to protect them for the benefit of the community with little support. She claimed that 1445 Empire Avenue is close to its original condition and there are very few sites designated as landmarks. She believed that with balanced arguments, the historic one must have the final advantage. Affordable housing can be reconsidered; historic character is finite and irreplaceable. She spoke about the challenge of preserving the character of historic structures when the streetscape changes dramatically. Ms. Meintsma suggested that the design be broken up into two structures and proposed developing an off-site parking plan for tenants. She reiterated that the wall effect is inconsistent with the historic area.

Attorney Bruce Baird repeated concerns about the design of the parking lot with no accommodation for deliveries, guest parking, etc. and a parking plan was not resolved. The snow storage problem is serious. The parking management plan should be part of the CUP process and subject to public comment. The way the applicant is proceeding precludes public input and solving it later in private negotiations is inappropriate and illegal. It is a provision of the CUP. He clarified that they were drawing a conclusion with the statement on the height exception provision not claiming that the language was there and argued that the design violates the LMC. He spoke about the Newland’s views being blocked by the massive building which is not transitional. Rick Margolis interjected that he feared the project would return to the Planning Commission as an Affordable Housing MPD and obtain more density.

David Olsen stated that he received an opinion that the value of his home would decrease not less than 25% if this project is built and he again addressed the density on the site.

Liza Simpsons asked if a triplex with the same footprint would be allowed on the site without a CUP and Kayla Sintz advised that single family, duplex or triplex are allowed uses. Cindy Matsumoto stated that she has reviewed the materials and visited the site and appreciates everyone’s input. Affordable housing is not an issue for her but she finds that the building mass, bulk and orientation of the building, especially as it relates to the historic buildings, are not appropriate and she felt a better structure could be designed for the site. The land owners are asked to step up to the plate and comply with Historic District Guidelines and she felt the developer should do the same and mitigate any outstanding issues. The parking needs to be solved.

Liza Simpson stated that she shares the same concerns about parking and referred to the Planning Commission minutes where there was interest in continuing the item to discuss parking further. Other than the parking, Ms. Simpson stated that she did not feel any other aspects of the appeal have merit. She suggested remanding the project to the Planning Commission on a very narrow scope to consider breaking up the rear façade stating that she did not feel that the Commission erred in any other way. The Commission did not finish its discussion on parking.

Alex Butwinski agreed with Council members Matsumoto and Simpson and relayed that it should be remanded to the Commission for another look to review the rear façade and possibly considering moving the building forward. Candace Erickson agreed. Joe Kernan interjected that he did not believe the Planning Commission erred in any way. Discussion ensued on what specific criteria to identify and Mark Harrington advised that staff will return to Council with written findings and conclusions memorializing its direction on the appeal.

Liza Simpson, "I move that we remand 1440 Empire to the Planning Commission with direction to further mitigate Criteria #8, with specific direction to review the rear façade facing the historic homes". Cindy Matsumoto seconded. Motion carried.

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

9. Consideration of a Master Event License and City Services Agreement with the Park Silly Sunday Market for an initial three-year term, in a form approved by the City Attorney (continued) – Jon Weidenhamer distributed revised agreements which contains extended hours, removes references to the expansion up to 5th Street, and allows Council to approve an expanded venue based on feedback from the HMBA as part of the review of a supplemental plan. He reviewed other sections of interest in the Agreement and pointed out provision for a mid-event review, if necessary. He stated that PSSM will receive $30,000 for marketing media and cross-promotion and $10,000 for the expanded market, if approved, special event fees will be waived, and the $10,000 in-kind value is still in place. The HMBA will receive $40,000 for programming upper Main Street. PSSM would like Council to approve the Agreement tonight and he emphasized that all parties will work together on an expansion to 5th Street during the next two weeks. If a plan does not materialize, the Agreement stands as approved. Joe Kernan, "I move that we approve the contract with the Park Silly Sunday Market, as amended by Jonathan and shown on the hand-out". Liza Simpson seconded. Motion carried.

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

VI ADJOURNMENT

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

MEMORANDUM OF CLOSED SESSION

The City Council met in closed session at approximately 3:30 p.m. Members in attendance were Mayor Dana Williams, Alex Butwinski, Candace Erickson, Joe Kernan, Cindy Matsumoto, and Liza Simpson. Staff present was Tom Bakaly, City Manager; Tom Daley, Deputy City Attorney; Michael Kovacs, Assistant City Manager; Jon Weidenhamer, Economic Development Manager; and Mark Harrington, City Attorney. Joe Kernan "I move to close the meeting to discuss property and litigation". Alex Butwinski seconded. Motion carried unanimously. The meeting opened at approximately 5:00 p.m. Liza Simpson, "I move to open the meeting". Cindy Matsumoto seconded. Motion unanimously carried.

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

Prepared by Janet M. Scott, City Recorder, City Recorder

Janet M. Scott, City Recorder